

**CITY OF EXETER**  
**FRANCHISE AGREEMENT FOR THE COLLECTION**  
**AND SUBSEQUENT TRANSFER, TRANSPORTATION, RECYCLING, PROCESSING,**  
**AND/OR DISPOSAL OF DISCARDED MATERIALS AND PROVISION OF OTHER**  
**RELATED SERVICES**

This Exclusive Franchise Agreement for Discarded Materials Management for Single-Family, Multi-Family, Commercial and Industrial Generators (Agreement) is entered into this 1<sup>st</sup> day of January, 2022, by and between the City of Exeter, a political subdivision of the State of California (City), and Mid-Valley Disposal, LLC (Contractor), for the Collection and subsequent Transfer, Transportation, Recycling, Processing, and/or Disposal of Discarded Materials and provision of other related services.

**RECITALS**

**WHEREAS**, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (AB 939) (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 Solid Waste handling within their jurisdictions; and,

**WHEREAS**, the State of California has found and declared that the amount of Solid Waste generated in California, coupled with diminishing Disposal capacity and interest in minimizing potential 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 AB 939 and subsequent related legislation including, but not limited to: the Jobs and Recycling Act of 2011 (AB 341), the Event and Venue Recycling Act of 2004 (AB 2176), SB 1016 (Chapter 343, Statutes of 2008 [Wiggins, SB 1016]), the Mandatory Commercial Organics Recycling Act of 2014 (AB 1826), and the Short-Lived Climate Pollutants Bill of 2016 (SB 1383), directed the responsible State agency, and all local agencies, to promote a reduction in Landfill Disposal and to maximize the use of feasible waste reduction, Reuse, Recycling, and composting options in order to reduce the amount of material that must be Disposed; and,

**WHEREAS**, SB 1383 establishes regulatory requirements for Cities, Generators, haulers, Solid Waste facilities, and other entities to support achievement of State-wide Organic Waste Disposal reduction targets; and,

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

**WHEREAS**, pursuant to California Public Resources Code Section 40059(a)(2), the City Council of the City has determined that the public health, safety, and well-being require that an Exclusive Franchise Agreement for Discarded Materials Management for Single-Family, Multi-Family, Commercial and Industrial Customers (Agreement) be awarded to a qualified company for the

Collection and subsequent Transfer, Transportation, Recycling, Processing, and/or Disposal of Discarded Materials; and,

**WHEREAS**, Contractor desires to engage in the business of Collecting Discarded Materials in the City; and,

**WHEREAS**, the City wishes to utilize the Contractor's services to offer Discarded Materials Collection services to Single-Family, Multi-Family, Commercial and Industrial Generators in the City; and,

**NOW, THEREFORE**, in consideration of the promises above stated and the terms, conditions, covenants, and agreements contained herein, the Parties do hereby agree as follows:

**SECTION 1: Award of Exclusive Franchise; Scope of Work**

City hereby awards Contractor an exclusive franchise to collect all residential, commercial, and industrial solid waste, yard/green waste, food waste (organics), and recyclables originating in the City limits, and any future expansion, in the manner described in the attached Solid Waste, Green/Organics Waste, and Recyclables Collection Contract Specifications ("Specifications"), and in all respects in accordance with this Agreement and attached Specifications and Exhibits.

**SECTION 2: Term**

This Agreement shall take effect on January 1, 2022 at 12:00 midnight, and shall remain in full force and effect until December 31, 2031, at 11:59 P.M., unless earlier terminated as provided for in this Agreement or extended by the City providing written notice of extension in accordance with the option outlined in this paragraph. At the City's option, the City may grant up to two (2) five (5) year extensions by providing Contractor with a 90-day notice. Any such extension will be pursuant to the terms and conditions of this Agreement, including the pricing then in effect. If City decides to exercise this option, they will provide Contractor with written notice 90 days prior to the date specified as the termination date of the Agreement. If no written notice is received 90 days prior to the termination date, the Agreement will expire on December 31, 2031, at 11:59 P.M.

**SECTION 3: Consideration**

In consideration of the Contractor's performance of the work described in Section 1 above, the City shall pay to the Contractor the amount shown in the Specifications when and as collected, as adjusted from time to time, consistent with the provisions of this Agreement.

**SECTION 4: Notices**

All notices to be provided by one Party to the other shall be in writing and shall be delivered or mailed to the following respective addresses:

To City: City of Exeter Public Works Department P.O. Box 237 (137 N. F Street) Exeter, CA 93221	To Contractor: Mid-Valley Disposal Attn: Joseph Kalpakoff 15300 W Jensen Ave Kerman, CA 93630
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or other such respective addresses as either Party may from time to time designate in writing. Notice is duly given to another Party upon: (a) hand delivery to the other Party; (b) 3 business days after the notice has been deposited with the United States Postal Service as first class certified mail, return receipt requested, postage prepaid, and addressed to the Party at its then current address; (c) the next business day after the notice has been deposited with a reputable overnight delivery service, postage prepaid, addressed to the Party at its then-current address, with next-business-day delivery guaranteed, provided that the sending Party receives a confirmation of delivery from the delivery-service-provider; or (d) when received by the other Party if transmitted by email or facsimile, so long as such transmittal is evidenced by electronic confirmation and the notice is concurrently dispatched by one of the other three methods described above.

**SECTION 5: Attorneys' Fees and Costs**

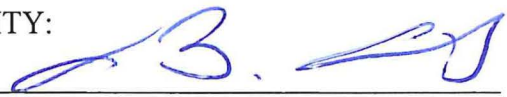
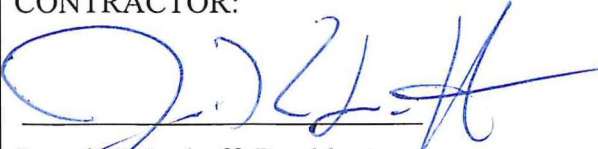
Should a lawsuit be filed to enforce this Agreement or any part thereof, the prevailing party shall be awarded its reasonable attorneys' fees and costs of suit.

**SECTION 6: Entire Agreement**

This Agreement contains all of the covenants, promises, agreements, and conditions, either oral or written, between the Parties with respect to the subject matter of this Agreement.

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**IN WITNESS WHEREOF**, the authorized representatives of the Parties have executed this Agreement by affixing their signatures in the spaces below.

CITY:  Adam Ennis, City Administrator City of Exeter	CONTRACTOR:  Joseph Kalpakoff, President Mid-Valley Disposal, LLC
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## **SOLID WASTE, GREEN WASTE, ORGANICS, AND RECYCLABLES COLLECTION CONTRACT SPECIFICATIONS**

### **SECTION 6-1          General Description.**

The Contractor shall have the exclusive right and duty for the Collection and subsequent Transfer, Transportation, Recycling, Processing, and/or Disposal of Discarded Materials and provision of other related services from residences, commercial establishments and industrial sites within the City limits of the City of Exeter as they are now or may be constituted during the period of time covered by the Agreement.

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

### **SECTION: 6-2          Discarded Materials Collection and Related Performance Obligations**

**A. Overall Performance Obligations.** The scope of services to be performed by Contractor pursuant to this Agreement shall include the furnishing of all labor, supervision, equipment, materials, supplies, and all other items necessary to perform all requirements of the Agreement. The enumeration of, and specification of requirements for, particular items of labor or equipment shall not relieve the Contractor of the duty to furnish all others, as may be required, whether enumerated or not.

The scope of services to be performed by Contractor pursuant to this Agreement shall be accomplished in a manner so that Customers are provided reliable, courteous, and high-quality Collection services and other services described in this Agreement at all times. The enumeration of, and specification of requirements for, particular aspects of service quality shall not relieve Contractor of the duty of accomplishing all other aspects in the manner generally provided in this Article for the delivery of services, whether such other aspects are enumerated elsewhere in the Agreement or not.

Contractor shall not knowingly Collect Blue, Green, or Gray Containers that include Prohibited Container Contaminants.

**B. Requirements for Parent Company and Affiliates.** Upon approval by City, Contractor, its Parent Company, and Affiliates operating under the terms of this Agreement are allowed, at their option, to use each entity's name to comply with Collection vehicle and Container labeling requirements and may use each entity's name on any education and outreach materials.

**C. Ownership of Discarded Materials.** By operation of this Agreement, ownership and the right to possession of all Discarded Materials shall be transferred to Contractor from the Person discarding the materials (Customer and/or Generator) once such materials are placed in Containers and properly placed for Collection. If Prohibited Container Contaminants are found in Containers set out for Collection, the materials shall be considered not properly placed for Collection, and Contractor shall have the right to reject Collection of the contaminated Containers pursuant to Section 12, and the ownership of materials shall remain with the Person discarding the materials (Customer and/or Generator). Except as required in the City's sole

discretion for law enforcement purposes, at no time shall the City obtain any right of ownership or possession of Discarded Materials placed for collection and nothing in this Agreement shall be construed as giving rise to any inference that City has such rights.

### **SECTION 6-3 Three-Container System (Blue, Green, and Gray Containers)**

- A. **General.** No later than January 1, 2022, Contractor shall provide a three-Container Collection program for the separate Collection of Source Separated Recyclable Materials, SSGCOW, and Gray Container Waste or as specified in this Section, using Containers that comply with the requirements of Section 14.
- B. **Source Separated Recyclable Materials Collection (Blue Container).** Contractor shall provide Blue Containers to Customers for Collection of Source Separated Recyclable Materials and shall provide Source Separated Recyclable Materials Collection service. Contractor shall Transport the Source Separated Recyclable Materials to (i) the Approved/Designated Source Separated Recyclable Materials Processing Facility, or (ii) the Approved/Designated Transfer Facility for Transfer and Transport to the Approved/Designated Source Separated Recyclable Materials Processing Facility, as specified in Section 13.

Contaminants shall not be collected in the Blue Containers. The Containers shall comply with the requirements of Section 14.

- C. **SSGCOW Collection (Green Container).**

Contractor shall provide Green Containers to Customers for Collection of SSGCOW and shall provide SSGCOW Collection service, as described in this Agreement. Contractor shall Transport the SSGCOW to (i) the Approved/Designated Organic Waste Processing Facility, or (ii) the Approved/Designated Transfer Facility for Transfer and Transport to Approved/Designated Organic Waste Processing Facility, as specified in Section 13.

Carpets, non-Compostable Paper, textiles, and Prohibited Container Contaminants shall not be collected in the Green Containers.

- D. **Gray Container Waste Collection (Gray Container).**

Contractor shall provide Gray Containers to Customers for Collection of Gray Container Waste, and shall provide Gray Container Waste Collection service, as described in this Agreement. Contractor shall Transport the Gray Container Waste to (i) the Approved/Designated Disposal Facility, or (ii) the Approved/Designated Transfer Facility for Transfer and Transport to an Approved/Designated Disposal Facility, as specified in Section 13. Contractor may allow carpets and textiles to be placed in the Gray Containers. Prohibited Container Contaminants shall not be collected in the Gray Containers. The Containers shall comply with the requirements of Section 14.

### **SECTION 6-4 Temporary Services**

Contractor shall provide Temporary Services on an on-call basis to any Customer requesting such service. Service fees for Bins and Roll-off boxes utilized in connection with Temporary Services shall not exceed the maximum rates as set forth in Exhibit "A". Temporarily placed bins and roll-off boxes shall not be placed in any public rights-of-way as to create a safety hazard. No bins or roll-off boxes may be placed in the public rights-of-way without first obtaining permission from the City for such placement. The City's decision to deny such request will be deemed final. No bins or roll-off boxes shall remain at the same address for a period that exceeds four consecutive weeks.

## **SECTION 6-5 C&D Collection**

### **Right to Collect C&D Materials**

Contractor shall Collect C&D materials from all Customers that subscribe to its C&D Collection services and Transport the C&D to (i) the Approved/Designated C&D Processing Facility, or (ii) the Approved/Designated Transfer Facility for Transfer and Transport to an Approved/Designated C&D Processing Facility, as specified in Section 13. Contractor shall provide C&D Collection and Processing services in accordance with this Agreement. Contractor shall charge Customers for C&D Collection services at City-approved Rates set pursuant to this Agreement. C&D collection of materials generated by a contractor's primary business activity, when said material is then hauled ~~that~~ by contractor in their vehicle(s), is excluded and considered contractor self-haul.

## **SECTION 6-6 Bulky Items and Reusable Materials Collection**

Contractor shall offer bulky item collection to both residential and multi-family residential customers in the City upon the customer's request. Contractor's fee for such service is included in the list of Contractor fees approved by the City.

## **SECTION 7: Provisions for Community Needs/ Special Events Collection**

At no cost to the City, Contractor agrees to provide the following services to the City:

- a. Provide Source Separated Recyclable Materials, SSGCOW, and Gray Container Waste collection services at all City parks. Containers shall be emptied as needed, but not less frequently than once weekly.
- b. Provide Source Separated Recyclable Materials, SSGCOW, and Gray Container Waste collection services for up to five (5) special City events annually during the term of the Agreement.

**Public Education Booth.** Upon request of either the City Contract Manager or the event organizer, Contractor shall staff a booth or exhibit at the event for the purpose of educating the public about the services and programs provided by Contractor under this Agreement and the benefits of source reduction/separation, reuse, Recycling, and Composting. Contractor shall comply with the non-English language requirements for the public education materials provided.

**Service at City Events and Facilities.** The Contractor may provide service for additional events/facilities at the City-approved Rate.

- c. Provide Source Separated Recyclable Materials, SSGCOW, and Gray Container Waste collection services at City-owned and operated facilities as needed.
- d. Provide roll-off bin (minimum 30-yard capacity) and collection service at the City Corporation yard for the collection of abandoned items and empty as needed.
- e. Provide at least two (2) Community Clean-up events per year, one in the Spring and one in the Fall, free to City residents. Location to be provided by the City at no charge. Clean up events must include the collection of green waste, food waste, tires, white goods (appliances), mattresses, bulky items, and general refuse with the exception of household hazardous waste.



- f. Maintain Residential Sharps Drop-off Kiosks at the Police Department and the Exeter Senior Center.
- g. Contractor shall provide an extra service for 96-gallon yard waste container upon customer's request during the fall leaf season (November and December) at no charge.
- h. All necessary refuse containers shall be owned, supplied and properly maintained by the Contractor.

It shall be the Contractor's responsibility to give written notice to the City Public Works Department of any violation of City Ordinances in respect to the condition and location of garbage containers and commercial bins. The Director shall be the sole and final judge as to such conditions and locations, in accordance with City Ordinances.

**SECTION 8: Collection Schedule**

Collection from residences (commonly called single-family dwellings, duplexes, triplexes, fourplexes and apartments) shall be conducted not less than once weekly, between the hours of 6:00 a.m. and 5:00 p.m., Tuesday through Friday unless the Director authorizes a temporary extension of hours.

Collections from commercial and industrial premises using bulk containers shall be at such frequency as is necessary to provide the services required by the customer but not less than as determined by the Director. Such collections shall be made between the hours of 5:00 a.m. and 5:00 p.m., Monday through Friday, unless the Director authorizes a temporary extension of hours. Contractor shall offer containers to the City's commercial and industrial customers equivalent to current service levels.

The Contractor will continue to divide the contract service area into areas or routes in a manner that spreads collections over the workweek. Collections shall be made from residences on a regular schedule on the same day every week. It is the City's desire to give its residents the ability to place all containers out for collection on their designated collection day. Contractor will make all necessary arrangements, including advertising and promoting any schedule changes in order to facilitate a smooth transition with minimal customer disturbance.

The Contractor shall show, on a collection map furnished by the Director, the day of the week solid waste, green waste/organics and recyclables shall be collected from each area or route. All collections for each residence shall occur on the same day. The Contractor may change the day of collection by giving notice to the Director and the customer affected at least sixty (60) calendar days prior to the effective date of such change. The form of notice to the customer shall be subject to the prior approval of the Director. The Contractor shall clearly delineate on the collection map its collection areas, single family routes, apartment routes, and mixed single family and apartment routes; shall return such map to the Director prior to beginning service under this Agreement, and shall update such map as necessary, or at the Director's request.

- a. **Holiday, Deferred, Rescheduled and Missed Collections** - When the day of regular collections falls on a Holiday, as defined in this agreement, the Contractor shall use best efforts to reschedule regular collections to be performed the following workday after said day. The Contractor shall notify the Director in writing by January 15th of each year of the Agreement of those holidays that the Contractor will not work for that

calendar year. The Director shall notify Contractor in writing of the approved holiday calendar for each year.

When disruption beyond the Contractor's control prevents collection on a scheduled day, the Contractor shall make collection on the earliest succeeding workday when collection becomes possible.

If for other than the reasons noted in the immediately preceding paragraph, the Contractor fails to collect a customer's waste and recyclables during a regular collection period, the Director, at his option may:

- i. Require the Contractor to make a special make-up collection within twenty-four (24) hours after a verbal request is given; such collection shall include excess waste and recyclables accumulated during the interval between the scheduled collection day and the special collection; or
  - ii. Authorize the Contractor to defer the collection; and authorize the customer to place a proportionally larger amount at such customer's next scheduled collection day with out any additional charge, and, to accommodate such disposal, allow the customer to use a bag or temporary container as well as additional bundles; or
  - iii. Authorize the Contractor to forego collection for the interval altogether, and make a compensatory reduction in the billing to the customer, and an equal reduction in the amount payable to the Contractor; or
  - iv. Take any combination of the actions specified in subparagraphs i, ii, or iii above.
- b. **Holidays** – Unless the holiday schedule is otherwise modified in writing, holidays shall be observed by the City and Contractor on the days observed by the Tulare County landfill. .

### **SECTION 9: Education and Outreach**

- A. **General.** In order to promote public education, Contractor shall create all public education materials and conduct education programs and activities described in this Section at its expense.
- B. **Program Objectives.** Contractor's public education and outreach strategy shall focus on improving Generators' understanding of the benefits of and opportunities for source reduction, separation, reuse, and Landfill Disposal reduction, including any and all requirements under SB 1383 Regulations.
- C. **Contractor Cooperation and/or Support for City Educational Efforts.** Contractor acknowledges that they are part of a multi-party effort to educate the public about the integrated waste management system. Contractor shall cooperate and coordinate with the City Contract Manager on public education activities to minimize duplicative, inconsistent or inappropriately timed education campaigns.

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

D. **Annual Education Plan.** Annually, Contractor shall develop and submit an annual public education plan to promote the programs performed by Contractor under this Agreement. The annual public education plan shall present the education activities for the upcoming calendar year and shall be submitted with the Contractor's annual report to the City Contract Manager. Each public education plan shall specify the target audience for services provided, include upcoming promotions for ongoing and known special events, identify program objectives, individual tasks, public education materials to be developed or updated, opportunities for expanded partnerships, and a timeline for implementation. The City Contract Manager shall be permitted to provide input on each annual public education plan, and the plan shall not be finalized or implemented without approval of the City Contract Manager. Each plan's implementation success shall be measured according to the deadlines identified and products developed. Contractor shall meet with the City Contract Manager to present and discuss the plan. City Contract Manager shall be allowed up to thirty (30) days after receipt to review and request modifications. The City Contract Manager may request, and Contractor shall not unreasonably deny, modifications to be completed prior to approving the plan. Contractor shall have up to fifteen (15) Business Days to revise the plan in response to any requested changes by the City Contract Manager.

F. **Education Requirements during Program Implementation/Roll-Out.**

1. Prepare a "how-to" flyer describing how to prepare Source Separated Recyclable Materials, SSGCOW, and Gray Container Waste for Collection and describe the acceptable materials that can be included in the Containers, as well as non-allowable materials. The flyer should emphasize any new types of Source Separated Recyclable Materials to be included in Blue Containers and the new Food Waste Collection program. Prepare separate flyers for Single-Family, Multi-Family, and Commercial Customers addressing their unique service conditions. The flyers shall be printed and distributed to each Customer, as well as made available in an electronic format through the Contractor's website. The Contractor shall provide a sufficient number of flyers to each Multi-Family property manager for their distribution to each tenant unit. Contractor may provide a Customer with an electronic version of the flyer rather than a printed version, if specifically requested by the Customer.
2. Prepare and distribute public service announcements (PSA) for local newspapers.
3. If requested by the City's Contract Manager, meet with up to four (4) business associations (such as the Chamber of Commerce or other similar organizations) in separate venues to: educate Commercial Businesses on the Collection programs, State requirements (including SB 1383 and SB 1383 Regulatory requirements) for the City and Generators; answer questions; and, provide service and Rate information.
4. All education material designed and/or distributed by the Contractor shall be submitted to the City Contract Manager for approval prior to distribution or posting on the Contractor's website.

G. **Annual and/or Ongoing Education Requirements.**

1. **Specific Annual Educational Activities- Contractor shall be responsible for meeting all educational requirements required by the State of California as well as the following:** All information shall be in English and Spanish
  - a. Annual Notice of Requirements. Not less than once per year during each Rate Year,

Contractor shall prepare and distribute to each Generator in the City a mailer that includes information specified in 14 CCR Section 18985.1(a). Such mailer shall be distributed by Contractor to all Residential and Commercial mailing addresses including individual Multi-Family Dwelling Units. Contractor shall also make this notice available in an electronic format through the Contractor's website.

- b. Billing Inserts. Contractor shall reimburse City for all applicable cost and printing of educational materials to be placed in the bill inserts. For Customers receiving electronic bills, Contractor agrees to distribute brochures, newsletters, or provide other means of communication to those customers. City must review and approve of all information proposed by Contractor to be inserted in the bills.
- c. Multi-Family and Commercial Customer Signage. Contractor shall provide all Multi-Family and Commercial Customers with Source Separated Recyclable Materials, SSGCOW, and Gray Container Waste or Mixed Waste program guidelines, including posters to be placed in Collection areas and enclosures and other community areas at each Premises or building where Discarded Materials are stored.
- d. Minimum Website Requirements. Contractor shall develop and maintain a website that is specifically dedicated to providing Generators with detailed service information. The website or webpage shall be accessible by the public, and shall include all education and outreach materials being provided, without requirement for login. Contractor shall update the website regularly so that information provided is current.
- e. Instructional Service Guide. On or before November 1, 2021, Contractor shall prepare a service guide that describes available services, including how to place Containers for Collection, which materials should be placed in each Container and prohibited materials, and provides Collection holidays and a Customer service phone number. The service guide shall be printed and delivered with each set of Containers distributed to a Generator and shall be delivered annually to all Generators. Contractor shall, at its sole expense, revise, re-print, and redistribute service guides prior to a change in the accepted or prohibited materials for any program. Contractor shall make the service guide available in an electronic format through the Contractor's website. Contractor may provide an electronic version of the instructional service guide rather than a printed version, if requested by the Customer.
- f. Annual Multi-Family Dwelling Unit Notices. At least annually, commencing no later than January 1, 2022, Contractor shall prepare and distribute notices to each Multi-Family Dwelling Unit at Multi-Family Premises serviced by Contractor. The annual notices shall include information on regulations governing Discarded Materials, Hazardous Waste, and toxic waste; City and State requirements to properly separate Discarded Materials (such as requirements of the City Code and of State statutes and corresponding regulations, including, but not limited to, AB 341, AB 1826, and SB 1383); instructions on properly separating materials; waste prevention; services available; and any other information required by the City or by State regulations (including SB 1383 Regulatory requirements for education, pursuant to 14 CCR, Division 7, Chapter 12, Article 4). As an alternative, Contractor may comply with these requirements through preparation and distribution of an annual newsletter distributed to each Multi-Family Dwelling Unit that provides the same information. Contractor shall make notices and newsletters available in an electronic format through the

Contractor's website. Contractor may provide an electronic version of the notices rather than a printed version, if requested by the Customer.

- g. Provision of Educational Materials to Non-Compliant Entities. Contractor shall provide educational materials to non-compliant entities under this Agreement, as further described in this section.
- h. Education Materials for Property and Business Owners and Tenants
- i. Contractor shall annually provide Property Owners and Commercial Business owners with public education materials in electronic format for their distribution to all employees, contractors, tenants, and Customers of the properties and businesses. The Contractor's public education materials shall include, at a minimum, information about Organic Waste recovery requirements and proper sorting of Discarded Materials. A Commercial Business or Multi-Family Property Owner may request these materials more frequently than the standard annual provision if needed to comply with the requirement of 14 CCR Section 18984.10 for Commercial Businesses and Multi-Family Property Owners to provide educational information to new tenants and employees before or within fourteen (14) days of occupation of the Premises. In this case, the Commercial Business or Multi-Family Property Owner may request delivery of materials by contacting the Contractor's customer service department not later than two (2) weeks in advance of the date that the materials are needed.
- j. Education Requirements for Commercial Edible Food Generators
  - A. On or before February 1, 2022, the Contractor shall develop a list of Food Recovery Organizations and Food Recovery Services operating within the City, maintain the list on the Contractor's City-specific website, share the list with the City if the City wants to post the list on additional City websites, and update the list annually. The list shall include, at a minimum, the following information about each Food Recovery Organization and each Food Recovery Service:
    - Name and physical address;
    - Contact information;
    - Collection service area; and,
    - An indication of types of Edible Food the Food Recovery Service or Food Recovery Organization can accept for Food Recovery.
  - B. At least annually, the Contractor shall provide Commercial Edible Food Generators with the following information:
    - Information about the City's Edible Food Recovery program;
    - Information about the Commercial Edible Food Generator requirements under 14 CCR, Division 7, Chapter 12, Article 10;
    - Information about Food Recovery Organizations and Food Recovery Services operating within the City, and where a list of those Food Recovery Organizations and Food Recovery Services can be found; and,
    - Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

- iii. The Contractor may provide the information required by subsection ii above by including it with regularly scheduled notices, education materials, billing inserts, or other information disseminated to Commercial Businesses.

H. **Minimum Content Requirements.** Prior to February 1, 2022; and annually thereafter, the Contractor shall include the following education and outreach content to Customers by incorporation of this content into the public education materials described in this Section.

Collection system description

1. Information on the Generator's requirements to properly separate Source Separated Recyclable Materials, SSGCOW, Mixed Waste, and Gray Container Waste and place such materials in appropriate Containers pursuant to this Agreement, SB 1383 Regulations, and all other Applicable Law.
2. Information on methods for the prevention of Source Separated Recyclable Materials and SSGCOW generation; managing SSGCOW on Generator's Premises through composting or other Landfill Disposal reduction activities allowed under 14 CCR Sections 18983.1 and 18983.2; sending SSGCOW to Community Composting operations; and any other local requirements regarding Discarded Materials.
3. Information regarding the methane reduction benefits of reducing the Disposal of SSGCOW, and the method(s) that the Contractor uses to recover SSGCOW.
4. Information regarding how to recover Source Separated Recyclable Materials, SSBCOW, and SSGCOW.
5. Information related to the public health and safety and environmental impacts associated with the Disposal of SSGCOW and SSBCOW.
6. Information regarding programs for donation of Edible Food;
7. For Commercial Customers, information about the City's Edible Food Recovery Collection program; Tier One Commercial Edible Food Generators and Tier Two Edible Food Generators requirements specified in 14 CCR, Division 7, Chapter 12, Article 10; Food Recovery Organizations and Food Recovery Services operating within the City, and where a list of those Food Recovery Organizations and Food Recovery Services can be found; and, information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.
8. Any other federal, State, or local requirements to properly separate Discarded Materials or other necessary actions by Generators, including applicable requirements of the City Code, AB 341, AB 1826, and SB 1383 and corresponding regulations.

I. **Material Distribution Methods**

Contractor shall use the following methods to provide education information to Customers. All materials are to be approved by the City prior to distribution.

1. **Printed materials.** Contractor shall provide printed education materials as described in Section 10. The Contractor shall be responsible for the design, printing, and distribution of these materials. All Contractor-printed public education materials shall, at a minimum, use recycled paper and/or be made of recycled material. The Contractor will use 100% post-consumer paper.

2. **Electronic materials and website content.** Contractor shall provide electronic and website content for education and outreach materials, which may include, but are not limited to: digital graphics, digital versions of print materials, social media posts, and blog posts. The Contractor shall be responsible for the design, posting, and electronic distribution of these materials.

## **J. Non-English Language Requirements**

The Contractor shall make all public education and outreach materials required in this Agreement available in English and Spanish.

### **SECTION: 9-1 Technical Assistance Program**

#### **A. Organizing and Conducting Direct Generator Outreach.**

##### **Site Visits and Waste Assessments**

Contractor will provide an outreach and technical assistance plan to City for approval identifying the site visit schedule for which to send a Contractor representative to visit each Multi-Family and Commercial Generator's Premises for the purpose of assessing how much Source Separated Recyclable Materials and SSGCOW is being Disposed; assessing the Source Separated Recyclable Materials and SSGCOW Collection Service Levels needed to meet the requirements of SB 1383 Regulations; and encouraging all Generators to establish Source Separated Recyclable Materials and SSGCOW Collection service in advance of January 1, 2022 when mandatory service is required. Contractor shall also notify Customers of opportunities to reduce costs by enrolling in Source Separated Recyclable Materials and SSGCOW Collection service and reducing Gray Container Waste/Mixed Waste Collection service. Contractor shall contact Multi-Family and Commercial Customers and provide site visits according to the City-approved schedule. Contractor will also provide a site visit to any Multi-Family and Commercial Generator that requests a site visit, even if it is ahead of schedule.

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

For each on-site waste assessment conducted by Contractor, Contractor shall include documentation of the items listed below. City reserves the right to request Contractor's

documentation of additional information and shall authorize the format for required information.

- a. Pictures of material in all Containers;
- b. Characteristics of the property, business, and Generator type;
- c. Written recommendations for the appropriate Service Level for each material type;
- d. Provision of outreach and education materials appropriate to the Generator type;
- e. Determination of signage placement;
- f. Determination of any on-going training needs;
- g. Determination of any access needs;
- h. Documentation of any special service needs (such as, but not limited to, seasonal Collection service, automated on-call compactor, etc.); and,
- i. Documentation of records of communications with the Generator.

**B. Record Keeping and Reporting Requirements.** Contractor shall maintain records of all technical assistance activities and educational materials conducted pursuant to this Section and submit reports to the City as required.

## **SECTION 9-2 Edible Food Recovery Program Support**

### **1. Education**

- a. Contractor shall create and provide educational outreach material for Tier One and Tier Two Commercial Edible Food Generators.

### **2. Option 1: Hauler Edible Food Collection Service**

Upon request, Contractor shall provide Collection service, or partner with others to provide Collection service, for Edible Food to all Customers that are Tier One Commercial Edible Food Generators, commencing no later than January 1, 2022, and Tier Two Commercial Edible Food Generators, commencing no later than January 1, 2024, in coordination with a City-directed Food Recovery program. Contractor shall partner with appropriate local Food Recovery Organizations and/or Food Recovery Services for the redistribution of Edible Food. Tonnage estimates of Edible Food recovered through these efforts shall be reported in the Contractor's monthly, quarterly, and/or annual reports.

### **3. Option 2: Hauler Identification of Tier One and Tier Two Commercial Edible Food Generators**

No later than January 1, 2022, Contractor shall identify all Commercial Customers that meet the definition of Tier One and Tier Two Commercial Edible Food Generators and provide a list of such Customers to the City, which shall include: Customer name; service address; contact information; Tier One or Tier Two classification; and, type of business (as it relates to



the Tier One and Tier Two Commercial Edible Food Generator definitions). Contractor shall update the list and provide it to the City annually.

### **SECTION 9-3 Generator Waiver Program Coordination**

#### **A. Types of Generator Waivers**

1. **General.** City may grant waivers described in this Section to Generators that impact the scope of Contractor's provision of service for those Customers. Waivers issued shall be subject to compliance with SB 1383 Regulatory requirements, pursuant to 14 CCR Section 18984.11, or other requirements specified by the City.
  2. **De Minimis Waivers.** The City may waive a Multi-Family's, Commercial Business', or its Property Owner's obligation to comply with some or all of the Source Separated Recyclable Materials and SSGCOW requirements set forth in this Agreement, SB 1383 Regulations, and the City Code, if the Multi-Family, Commercial Business, or its Property Owner provides documentation or the City has evidence demonstrating one of the following de minimis conditions:
    - a. The Multi-Family's or Commercial Business' total Solid Waste Collection service is two (2) cubic yards or more per week, and SSGCOW or SSBCOW subject to Collection in a Blue Container or Green Container comprises less than twenty (20) gallons per week, per applicable Container, of the Multi-Family's or Commercial Business' total waste; or,
    - b. The Multi-Family's or Commercial Business' total Solid Waste Collection service is less than two (2) cubic yards per week, and SSGCOW or SSBCOW subject to Collection in a Blue Container or Green Container comprises less than ten (10) gallons per week, per applicable Container, of the Multi-Family's or Commercial Business' total waste.
  3. **Physical Space Waivers.** The City may waive a Multi-Family's, Commercial Business', or its Property Owner's obligation to comply with some or all of the Source Separated Recyclable Materials or SSGCOW Collection service requirements set forth in this Agreement, SB 1383 Regulations, and the City Code, if the Multi-Family, Commercial Business, or its Property Owner provides documentation, or the City has evidence from its staff, the Contractor, licensed architect, or licensed engineer demonstrating that the Premises lacks adequate space for Blue Containers and/or Green Containers.
- B. Contractor Waiver Request on Behalf of Generator.** Upon reasonable belief that a Generator may qualify for a de minimis, physical space, or Collection frequency waiver, the Contractor may submit a request to the City to grant a waiver to the Generator, provided that adequate evidence of the de minimis, physical space, or Collection frequency waiver requirements specified in 14 CCR Section 18984.11 is included with the request. City shall review and approve or deny the waiver request. Contractor's request for consideration of a waiver shall include the Generator's name and address, type of Commercial Business or number of Multi-Family units if Customer is a Multi-Family premises, reasons Generator may be eligible for the waiver, and evidence such

as, but not limited to: Service Level data, photo documentation, weight records, and technical assistance assessment results.

**C. Contractor Review of Generator Waiver Requests.**

Generators may submit requests for de minimis waivers, physical space waivers, and Collection frequency waivers to the Contractor. Contractor shall within ten (10) days review the Generator's waiver application and inspect the Generator's Premises to verify the accuracy of the application. Contractor shall provide documentation of the inspection, including the Contractor's recommendation to approve or deny the waiver request, and send this information to the City within ten (10) days of receipt of the Generator's waiver application for the City's review and approval. The City ultimately retains the right to approve or deny any application, regardless of the Contractor's recommendation. Contractor shall report information regarding waivers reviewed on a monthly basis.

**D. Contractor Change in Customers' Service Levels.**

When the City grants a waiver to a Generator, the City shall notify the Contractor within ten (10) days of the waiver approval with information on the Customer and any changes to the Service Level or Collection service requirements for the Customer. Contractor shall have ten (10) days to modify the Customer's Service Level as needed.

**E. Waiver Reverification**

It shall be the responsibility of the Contractor to verify that the Generators with de minimis, physical space constraint, or Collection frequency waivers continue to meet the waiver requirements set forth in this Section. Contractor shall conduct such reverifications of waivers through inspection of each Generator's Premises and review of applicable records at least once every five (5) years for de minimis and physical space constraint waivers. Contractor shall maintain a record of each waiver verification and provide a monthly report to the City documenting the waiver reverifications performed and recommendations to the City on those waivers that Contractor concludes are no longer warranted. The City shall make a final determination of the waiver eligibility of Generators.

**F. Contractor Recordkeeping of Generators Granted Waivers**

Upon Contractor request, the City shall provide Contractor an updated listing of waivers approved by the City, including the Generators' names, mailing address, service address, and type of waiver. Contractor shall maintain waiver-related records and report on waiver verifications.

**SECTION 9-4 Service Waiver Program Coordination**

**A. Processing Facility Temporary Equipment or Operational Failure Waiver**

1. **Notification to the City.** The Contractor, or their Subcontractor (such as a Facility operator), shall notify the City of any unforeseen operational restrictions that have been imposed upon an Approved/Designated Facility by a regulatory agency or any unforeseen equipment or operational failure that will temporarily prevent an Approved/Designated Facility from Processing and recovering Source Separated Recyclable Materials, SSGCOW, or Mixed Waste. The Contractor or Subcontractor shall notify the City as soon as possible and no later than   24   hours from the time of the

incident. The notification shall include the following: (i) name of Approved/Designated Facility; (ii) the Recycling and Disposal Reporting System Number of the Approved/Designated Facility; (iii) date the Approved/Designated Facility became unable to Process Source Separated Recyclable Materials, SSGCOW, or Mixed Waste; (iv) description of the operational restrictions that have been imposed upon the Approved/Designated Facility by a regulatory agency or unforeseen equipment failure or operational restriction that occurred; (v) the period of time the Contractor anticipates the temporary inability of the Approved/Designated Facility to Process Source Separated Recyclable Materials, SSGCOW, or Mixed Waste; (vi) Contractor's proposed action plan to deliver materials to an Alternative Facility for Processing or Contractor's request for waiver to deliver Source Separated Recyclable Materials, SSGCOW, or Mixed Waste to the Approved/Designated Disposal Facility.

2. **Use of Alternative Facility or Waiver for Disposal of Materials.** Upon notification by Contractor or Subcontractor of an Approved/Designated Facility's inability to Process materials, City shall evaluate the notification and determine if City shall require Contractor to use an Alternative Facility or allow the Contractor to Transport the Source Separated Recyclable Materials, SSGCOW, or Mixed Waste to the Approved/Designated Disposal Facility for Disposal on a temporary basis for a time period specified by the City. Upon City's decision, the City shall notify the Contractor of its requirement to use an Alternative Facility for Processing or to use the Approved Disposal Facility for Disposal, and the period of time that the City will allow the Source Separated Recyclable Materials, SSGCOW, or Mixed Waste to be redirected to the Alternative Facility or Approved/Designated Disposal Facility. Pursuant to 14 CCR Section 18984.13, the approved Disposal period shall not exceed ninety (90) days from the date the Approved/Designated Facility's Processing restriction or failure commenced. In such case, the Contractor must receive written permission from the City Contract Manager prior to depositing any Discarded Material in a Landfill.
  3. **Record Keeping and Reporting.** Contractor shall maintain a record of any Approved/Designated Facility incidents and report this information to the City.
- B. **Disaster Waivers.** In the event of a disaster, the City may grant Contractor a waiver of some or all Discarded Materials Collection requirements under this Agreement and 14 CCR, Division 7, Chapter 12, Article 3 in the disaster-affected areas for the duration of the waiver, provided that such waiver has been approved by CalRecycle. Any resulting changes in Collection requirements shall be addressed as a change in scope.

## **SECTION 10: Service Complaints**

### **A. Documentation and procedure of Complaints.**

1. **General.** The Contractor will be responsible for addressing all complaints or concerns from the public and/or City related to services under this agreement. The Contractor agrees to provide a phone number that will directly connect the customer to a staff member of the Contractor to address complaints during normal business hours. It shall be the duty of the Contractor to take whatever reasonable steps are necessary to remedy the complaint. Failure to remedy the complaint within one (1) working day after it is reported to the Contractor by the City will result in a charge against the Contractor. The Contractor agrees to maintain a computer database log of all oral and written complaints received by Contractor from Customers, City staff, or other Persons. Contractor agrees

to document and maintain such records and provide this information to the City, in a format approved by the City, so that a complete log of all Complaints registered by Customers, City staff, and Persons is available for review by the City Contract Manager. Contractor shall record complaints received related to SB 1383 Regulatory non-compliance in its log in a manner further described in subsection A.2 below. It is hereby agreed that the City may deduct from any monies due or which may become due the Contractor, the penalty according to the following amounts:

- a. Failure to clean up spilled refuse - fifty dollars (\$50.00) for each failure.
- b. Failure or neglect to clear collection complaints within the next scheduled eight (8) working days - fifty dollars (\$50.00) for each failure.
- c. The penalties for failure to perform specified above may be appealed to the City Manager, who upon hearing evidence relating to same, shall make the final decision. Appeals shall be in writing indicating the basis for appeal.

2. **SB 1383 Regulatory Non-Compliance Complaints.**

For complaints received in which the Person alleges that an entity is in violation of SB 1383 Regulations, Contractor shall document the information specified in SB 1383 Regulations (14 CCR Section 18995.3. Contractor shall provide this information in a brief complaint report to the City for each SB 1383 Regulatory non-compliance complaint within ten (10) days of receipt of such complaint, and provide City a monthly summary report of SB 1383 Regulatory non-compliance complaints.

B. Investigation of SB 1383 Regulatory Non-Compliance Complaints.

1. **Investigation.** Contractor shall commence an investigation, within ninety (90) days of receiving a complaint in the following circumstances: (i) upon Contractor receipt of a complaint that an entity may not be compliant with SB 1383 Regulations and if City determines that the allegations against the entity, if true, would constitute a violation of SB 1383 Regulations; and, (ii) upon City request to investigate a complaint received by City, in which City determines that the allegations against the entity, if true, would constitute a violation of SB 1383 Regulations. Contractor is required to investigate complaints against Customers and Generators, but not against Food Recovery Organizations, Food Recovery Services, and other entities regulated by SB 1383 Regulations.

Contractor shall investigate the complaint using one or more of the methods:

- a. Reviewing the Service Level of the customer that may not be compliant with SB 1383 Regulations;
- b. Reviewing the waiver list to determine if the entity has a valid de minimis, physical space constraint, or Collection frequency waiver;
- c. Determining if the entity is located in a Low-Population Area and/or High-Elevation Area;
- d. Inspecting Premises of the customer identified by the complainant, if warranted; and/or,
- e. Contacting the customer to gather more information, if warranted.

2. **Reporting.** Within fifteen (15) days of completing an investigation of an SB 1383 Regulatory non-compliance complaint, Contractor shall submit an investigation complaint report that documents the investigation performed and recommends to City on whether or not the entity investigated is in violation of SB 1383 Regulations based on the Contractor's investigation. The City shall make a final determination of the allegations against the entity.

## **SECTION 11: Contamination Monitoring**

### 1. Contamination Monitoring Procedures

- A. **General.** This Section presents inspection method(s) for Prohibited Container Contaminants to be used by the Contractor in conducting contamination monitoring required in this Agreement.

- B. **Container Inspection Methods.**

Contractor shall perform contamination inspections by utilizing on-board monitoring systems or physical container inspections. For physical container inspections, Contractor's personnel shall lift the Container lid and observe the contents. For Collection vehicles equipped with a video camera and monitoring system, Contractor's personnel shall observe, via the hopper video camera and monitoring system, the contents of the Containers as the materials are emptied into the vehicle. Upon finding Prohibited Container Contaminants in a Container, Contractor shall follow the contamination noticing procedures and contaminated Container handling protocols set forth in Section 12.

- C. **Record Keeping.** The driver or other Contractor representative shall record each event of identification of Prohibited Container Contaminants in a written log or in the on-board computer system including date, time, Customer's address, type of Container (Blue, Green, or Gray Container); and maintain photographic evidence, if required. Contractor shall submit this record to the Contractor's Customer service department, and Contractor's Customer service department shall update the Customer's account record to note the event, if the documentation in the on-board computer system did not automatically update the Customer's account record.

- D. **Identification of Excluded Waste.** If Contractor's personnel observe Excluded Waste in an uncollected Container, the Contractor's personnel shall issue a non-Collection notice for this Container in accordance with Section 12 and shall not Collect the Discarded Materials that contain Excluded Waste. Contractor's personnel shall record that observation in accordance with Section 12 and immediately inform their route supervisor. Contractor shall follow protocols specified in Section 12. The route supervisor shall investigate and initiate applicable action within one (1) Business Day or sooner if the Hazardous Waste may cause immediate danger.

- E. **Courtesy Pick-Up Notices.** Upon identification of Prohibited Container Contaminants in a Customer's Container, Contractor shall provide the Customer a courtesy pick-up notice. The courtesy pick-up notification shall: (i) inform the Customer of the observed presence of Prohibited Container Contaminants; (ii) include the date and time the Prohibited Container Contaminants were observed; (iii) include information on the Customer's requirement to properly separate materials into the appropriate Containers, and the accepted and prohibited materials for Collection in the Blue Container, Green

Container, and/or Gray Container; (iv) inform the Customer of the courtesy pick-up of the contaminated materials on this occasion with information that Contractor may issue a non-Collection notice; and, (v) may include photographic evidence. Contractor shall leave the courtesy pick-up notice attached to or adhered to the Generators' contaminated Containers; at the Premises' door or gate; or, subject to City's approval, may deliver the notice by mail, e-mail, text message, or other electronic message.

Contractor shall Collect the contaminated Source Separated Recyclable Materials or SSGCOW and Transport the material to the appropriate Approved Facility for Processing; or, Contractor may Collect the contaminated materials with Gray Container Waste/Mixed Waste and Transport the contaminated materials to the appropriate Approved/Designated Facility for Disposal/ Processing.

- F. **Communications with Customer.** Whenever a Container at the Premises of a Commercial or a Multi-Family Customer is not Collected, Contractor shall contact the Customer on the scheduled Collection day or within twenty-four (24) hours of the scheduled Collection day by telephone, email, text message, or other verbal or electronic message to explain why the Container was not Collected. Whenever a Container is not Collected because of Prohibited Container Contaminants, a Customer service representative shall contact the Customer to discuss, and encourage the Customer to adopt proper Discarded Materials preparation and separation procedures.
- G. **Contractor Return for Collection.** Upon request from Customer, Contractor shall Collect Containers that received non-Collection notices within one (1) Working Day of Customer's request if the request is made at least two (2) Working Days prior to the regularly scheduled Collection Day. Contractor shall bill Customer for the extra Collection service event ("extra pick-up") at the applicable City-approved Rates only if Contractor notifies Customer of the premium Rate for this service at the time the request is made by Customer.

## **SECTION 11-1 Contamination Monitoring (Waste Evaluation Option)**

### Waste Evaluation Monitoring by Contractor

- A. **General.** Contractor shall, at its sole expense, conduct waste evaluations that comply with the requirements of this Section and meet the requirements of 14 CCR Section 18984.5(c). The City maintains the right to observe, or hire a third party to observe, the waste evaluations. Prior to March 31<sup>st</sup> of each calendar year, Contractor shall provide the City with a proposed waste evaluation methodology and a schedule of waste evaluations for the calendar year for review and approval by City. The City's Contract Manager may request and Contractor shall accept modifications to the schedule to permit observation by the City. In addition, Contractor shall provide an email notice to the City's Contract Manager no less than ten (10) Working Days prior to each scheduled waste evaluation that includes the specific time(s), which shall be within the City's normal business hours, and location(s) for the waste evaluation.
- B. **Sampling Method, Study Protocols.** The Contractor shall conduct waste evaluations for Prohibited Container Contaminants using the Standard-Compliance Approach or other

methods approved by CalRecycle at least twice per year and the studies shall occur in two distinct seasons of the year.

- C. **Contamination Response.** If the sampled weight of Prohibited Container Contaminants exceeds twenty-five percent (25%) of the measured sample for any material stream, the Contractor shall:
1. Notify the City within fifteen (15) Working Days of the waste evaluation.
  2. Within fifteen (15) Working Days of the waste evaluation, notify all Generators on the sampled Hauler Route of their requirement to properly separate materials into the appropriate Containers. The Contractor may provide this information by placing a written notice on the Generators' Containers or the gate or door of the Premises; and/or by mail, email, or electronic message to the Generators. The format of the warning notice shall be approved by the City.

OR

Within fifteen (15) Working Days of the waste evaluation, perform a targeted Hauler Route review of Containers on the Hauler Route sampled for waste evaluations to determine the sources of contamination and notify those Generators of their obligation to properly separate materials. The Contractor may provide this information to these Generators by placing a written notice on the Generators' Containers or the gate or door of the Premises; and/or by mail, e-mail, or electronic message to the applicable Generators. The format of the warning notice shall be approved by the City.

3. Upon request, Contractor shall allow a representative of the City and/or CalRecycle to oversee its next scheduled quarterly sampling of the Gray Containers.

**D. Monthly Reporting Requirements.**

Contractor shall maintain records and report to the City on a monthly basis on contamination monitoring activities and actions taken.

**SECTION 12: Transfer, Processing, and Disposal**

- A. Contractor shall Transport all Discarded Materials to Approved Facility(ies) and shall Transfer, Process, and Dispose of Discarded Materials in accordance with this Agreement. The Approved Facilities shall comply with the following requirements.
1. **Approved Transfer Facility.** Contractor's Approved Transfer Facility shall be a Transfer Facility or operation that Transfers Single-Family, Multi-Family, and Commercial Source Separated Recyclable Materials, SSGCOW, and Gray Container Waste/Mixed Waste Collected in accordance with this Agreement.
  2. **Approved Source Separated Recyclable Materials Processing Facility (Blue Containers).** Contractor's Approved Recyclables Processing Facility shall be a Facility or operation that Processes Single-Family, Multi-Family, and Commercial Source Separated Recyclable Materials to recover materials designated for Collection in the Blue Container.
  3. **Approved Organic Waste Processing Facility (Green Containers).** Contractor's Approved Organic Waste Processing Facility shall be a Facility that Processes Single-Family, Multi-Family, and Commercial SGCOW to recover Source Separated Organic Waste.

4. **Approved Disposal Facility (Gray Containers).** Contractor's Approved Disposal Facility shall be a Disposal Facility that accepts Single-Family, Multi-Family, and Commercial Gray Container Waste Collected in accordance with this Agreement for Disposal.
  5. **Approved High Diversion Organic Waste Processing Facility (Gray Containers).** Contractor's Approved High Diversion Organic Waste Processing Facility shall be a facility or operation that: (i) Processes Single-Family, Multi-Family, and Commercial Mixed Waste Collected in accordance with this Agreement; and, (ii) is a High Diversion Organic Waste Processing Facility.
- B. **Allowable Organic Waste Facilities.** If Contractor is interested in Transporting Discarded Materials to a type of Facility that is not described above, Contractor shall obtain written approval from the City Contract Manager and such Facilities or activities shall constitute a reduction in Landfill Disposal pursuant to 14 CCR Section 18983.1(b). If Contractor is interested in using a Facility, operation, or activity not listed above and not specifically identified in 14 CCR Section 18983.1(b), Contractor shall be responsible for securing the necessary approvals from CalRecycle, pursuant to 14 CCR Section 18983.2, that the Facility's process or technology constitutes a reduction in Landfill Disposal prior to the City's final approval of such Facility or activity.
- A. **Guaranteed Capacity and Facility Standards.** Contractor shall guarantee Transfer, Processing, and Disposal capacity at the Approved Facility(ies) to receive all Discarded Materials Collected by the Contractor throughout the Term of the Agreement.
- B. **Transportation and Facility Costs.** Contractor shall pay all costs for the Transport, Transfer, Processing, and/or Disposal of Discarded Materials Collected in accordance with this Agreement. Contractor's compensation for such services is included in the Rates charged to Customers.
- C. **Transportation to Non-Approved Facilities Prohibited.** Contractor shall not transport Discarded Materials to a non-approved facility without prior City approval.

**SECTION 13: Container Requirements**

A. Provision of Containers by Contractor and Color Standards

1. **General**

- a. As of the Commencement date of this Agreement, Contractor shall provide all Customers with 96 gallon (or equivalent) Collection Containers that comply with the Container color requirements specified in this Section or as otherwise specified in 14 CCR Section 18982; 14 CCR, Division 7, Chapter 12, Article 3; or other Applicable Law.
- b. Contractor may choose to utilize Collection Containers that are currently located at Customers' Premises or provide Customers with new Collection Containers. Collection Containers shall comply with the Container color requirements specified in this Section or as otherwise specified in 14 CCR Section 18982; 14 CCR, Division 7, Chapter 12, Article 3; or other Applicable Law.

2. **Blue Containers (Source Separated Recyclable Materials)**

- a. Blue Containers must have a lid and body that is blue in color. Hardware such as hinges



and wheels on the Blue Containers may be a different color.

**3. Green Containers (SSGCOW)**

Green Containers must have a lid and body that are green in color. Hardware such as hinges and wheels on the Green Containers may be a different color.

**4. Gray Containers**

Gray Containers must have a lid that is gray in color. The body may be brown or gray. Hardware such as hinges and wheels on the Gray Container may be a different color.

**5. C&D Bins and Roll-Off Boxes.** Bins and Roll-Off Boxes for Collection of C&D may be in any color, provided that the colors do not conflict with the Container color requirements of this Agreement and provided that the C&D Container colors are consistent for all C&D Containers. The C&D Container color shall be reviewed and approved by the City.

**B. Labeling Requirements**

**1. Labels on New Containers or New Lids**

Commencing on or before January 1, 2022, Contractor shall place a label on each new Container body or lid that includes language or graphic images, or both, that indicate the primary materials accepted and the primary materials prohibited in that Container. Labels shall clearly indicate items that are Prohibited Container Contaminants for each Container. Prior to ordering labels for Containers, Contractor shall submit a copy of its proposed label, proposed location(s) for placement of labels on each type of Container, and its labeling plan to the City Contract Manager for approval.

**Labels for Existing Containers**

On or before January 1, 2022, Contractor shall place a label on the body or lid of each Container that has been provided to a Customer that includes language or graphic images, or both, that indicate the primary materials accepted and the primary materials prohibited in that Container. Labels shall clearly indicate items that are Prohibited Container Contaminants for each Container. Prior to ordering labels for Containers, Contractor shall submit a copy of its proposed label, proposed location(s) for placement of labels on each type of Container, and its labeling plan to the City Contract Manager for approval.

**C. Container Replacement**

The Contractor shall maintain a minimum inventory of acceptably-sized detachable containers available for placement or replacement. Contractor agrees to provide (original delivery) containers at no additional cost and to repair or replace lost or substantially damaged containers, up to one replacement per year at no cost. Replacement value for plastic containers shall be determined by the actual cost of container and associated delivery and assembly expenses. When replacing existing residential containers, Contractor agrees to provide containers that shall bear the name of the Contractor. All metal bins delivered under this Agreement shall also bear the Contractors name and telephone number.

**D. Container Maintenance**

All commercial and industrial detachable containers supplied by the Contractor shall be kept clean, sanitary and free of graffiti. Furthermore, containers may be exchanged at the request of Customer up to a single time per year with additional cost.

## **SECTION 14: Collection Vehicles**

Vehicles used in waste and recyclables collection shall be all metal, designed to control liquids, completely enclosed "packer"-type bodies that are designed and manufactured for the collection of waste and recyclables and are capable of servicing detachable containers and automatic residential containers and the containers supplied by the Contractor. Contractor's name, local or toll-free telephone number, and a vehicle number shall be visibly printed or painted in letters not less than five (5) inches in height so as to be legible on both sides of each collection vehicle. Any other information or signage printed, painted, or displayed on Contractor's collection vehicles, when such vehicles are providing collection services within the City limits, shall be subject to approval from the City.

The number and type of collection vehicles furnished and used by the Contractor shall be sufficient for the collection of all waste and recyclables placed in containers for pickup. The Contractor shall also furnish collection equipment capable of servicing all types of the detachable containers identified in the definition of terms.

All vehicles used on this Agreement shall be operated in conformity with state and local traffic laws.

The maximum noise level of Contractor's motor vehicles during travel, or while compacting waste and recyclables shall conform to City Ordinances.

- A. **Vehicle Maintenance and Inventory.** The Contractor shall provide to the Director an inventory showing each vehicle (type, capacity, approximate age) used for performing work under this Agreement. The Contractor may change equipment from time to time and shall revise the inventory and the attachments thereto, accordingly.

## **SECTION 15: Loading**

Care shall be taken in the loading and transporting of waste and recyclables so none of the material collected is scattered or spilled either on private property or on streets or alleys. Should any waste and recyclables be spilled, it shall be immediately cleaned up. A rake, broom and a shovel shall be carried on each truck at all times for this purpose. If the Contractor fails to clean the spill within four (4) hours after verbal notice is served by the Director, then the Director may cause such work to be done and deduct the cost thereof from the monthly payments due the Contractor.

## **SECTION 16: Emergency Collections**

Adequate provisions shall be made by the Contractor to provide special collections when waste and recyclables has not been collected during the regularly scheduled trip. Special pickups for collections missed by the Contractor shall be made by the Contractor when ordered by the Director at no additional cost to the City or the occupant. If the Contractor fails to provide a special pickup for missed collection within 24 hours of notification by the Director, then the Director may cause the work to be done. City costs for each such pickup by City forces shall be deducted from the monthly payments due the Contractor.

## **SECTION 17: Sites and Methods of Disposal**

- a. **Disposal Sites** - The Contractor shall deliver all waste and recyclables collected under this Agreement to a properly permitted Landfill, Transfer Station, Disposal Site, and Material Recovery Facility. If Contractor selects an out-of-county site, then Contractor is responsible for paying all required and associated fees for that opportunity.
- b. **Disposal fees** - Shall be paid by the Contractor as required.

- c. **Ownership of Waste and Recyclables-** Waste and recyclables collected shall be the property of the Contractor, subject to the right of a customer to claim lost property of value. Hazardous material illegally placed in refuse, yard waste and or recyclable materials containers shall remain the property of those who generated the material and they shall be responsible for all cost associated with the proper handling and or disposal of said material.
- d. **Scavenging** - No "scavenging" within City limits shall be allowed. Scavenging means sorting through waste and recyclables collected, looking for items of possible value (usually by individuals without mechanized equipment) or picking out individual pieces for reuse while loading or unloading; it excludes searches by owners for valuables accidentally misplaced or that may be lost. No person performing any work under this Agreement shall engage in any scavenging.
- e. **Detachable Container Systems** - The Contractor shall maintain a minimum inventory of three percent (3%) extra containers of each size in service for which a collection fee is prescribed in the Contract Documents. When a detachable container is ordered for placement, the container shall be approved by the Director as to appearance and condition prior to such placement. Payment to the Contractor for furnishing such containers and for collection from such premises shall be the amount of the applicable unit price listed on fee schedule approved by the City.
- f. **Special Collection and Extra Service** - The Director (for a fee), may order special collections of waste and recyclables to be made from any premises in the City and the Contractor shall make a special collection, within 24 hours after its receipt of the special collection order, Saturdays, Sundays and holidays excepted. From time to time the need for additional services as agreed to by the City will need to be added to Exhibit B. When required, Contractor shall propose suggested pricing for performing said services. Suggested pricing is required to be approved in advance by the Director. City shall notify Contractor of request for the special collection or extra service. Billing for special collections shall be made by the City and upon collection from the customer and upon payment shall appear as separate items on the monthly statement to the Contractor. Billing for roll-off bin service shall be made by the Contractor directly to the customer.

### **SECTION 18: Contractor's Workers**

The employees of Contractor shall be courteous at all times, not use loud or profane language, and do their work as quietly as possible. While collecting waste and recyclables, all employees of the Contractor shall be required to wear a uniform supplied by the Contractor and approved by the Director bearing the Contractor's and employee's name.

In collecting waste and recyclables, employees shall follow the regular walks for pedestrians while on private property. They shall also replace all garbage cans and covers and close all gates opened by them.

Employees shall not trespass, loiter, cross property to adjoining premises, or meddle with property that does not concern them.

Contractor shall prohibit any drinking of alcoholic beverages or use of controlled substances by its drivers and crew members while on duty or in the course of performing their duties under this Agreement. If an employee of the Contractor is found to be under the influence of alcohol or illegal drugs while on duty or in the course of performing duties under this Agreement, then the

Contractor shall remove the employee from the employee's duties immediately unless such removal would be contrary to or in violation of any laws, rules, regulations or orders of any governmental agency or court.

The Contractor shall designate an individual to act as spokesperson in all matters concerning the crew operations under the Agreement.

The Contractor shall require its employees to wear clothing that shall always be as neat and clean as circumstances permit. Shirts shall be required at all times.

All workers employed shall be competent and skilled in the performance of the work to which they may be assigned. Failure or delay in the performance of this Agreement due to the Contractors inability to obtain workers of the number and skill required shall constitute a default of the Agreement, if such failure is not cured within the time required under Section 40.

Whenever circumstances do not allow an officer or manager of the Contractor to be contacted, then the Director may give orders to the superintendent, foremen, or other employees of Contractor who may have immediate charge thereof.

If any person employed on the work shall refuse or neglect to obey the direction of the Director, or in the reasonable opinion of said Director, shall be considered incompetent, disorderly, intoxicated or otherwise unsatisfactory, such employee shall, upon the order of the Director, be at once, removed from the job and not again employed upon any part of the work, unless such removal would be contrary to or in violation of any laws, rules, regulations, or orders of any governmental body or court.

#### **SECTION 19: Administration**

- a. **Record Keeping** - Contractor shall maintain a complete and accurate record of services delivered under this Agreement, including but not limited to services rendered, materials generated, quantity and types of services requests and performance.
- b. **State and Local Mandated Reporting** - Contractor shall maintain accurate and complete records relating to the amount of waste and recyclable materials collected under this Agreement, including, but not limited, to solid waste, organic waste, yard waste, C&D material, and recyclables. Contractor will maintain all State and local required records and complete State and local reporting requirements. Furthermore, upon City's request Contractor will submit on behalf of City all State and Local required diversion and disposal reporting.
- c. **CERCLA Defense Records** - City views the ability to defend against the Comprehensive Environmental Response, Compensation and Liability Act and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for Disposal, as well as where it was not taken, to be matters of concern. Contractor shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify City's City Manager, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Contractor shall provide copies of such records to City. The requirements of this Section shall survive the expiration of the Term of this Agreement.

- d. Customer Service- Contractor shall maintain a toll-free telephone number for communication with the public that at a minimum will be answered in person from 8:00 a.m. to 5:00 p.m. Monday through Friday, holidays excepted. Both English and Spanish speaking personnel will be available during said hours to assist Customers with telephonic inquiries. Contractor's telephone system shall be adequate to handle the volume of calls typically experienced on the busiest days. Contractor shall provide City with a 24-hour emergency telephone number to a live person, not voice-mail, for City staff inquiries. In addition, Contractor will log all complaints and service requests and how and when said complaints and requests were resolved.

#### **SECTION 20: Bills of City Departments**

The Contractor shall pay all bills deemed owing against it by any City Department. If the Contractor shall fail to pay any such bill within thirty (30) calendar days after the submittal, the Director may pay such bills and deduct the amount thereof from monthly payments due the Contractor.

#### **SECTION 21: Payment**

The City agrees to bill all customers having Residential and Commercial Waste and recyclables Pickup Service required under the City Ordinances each month. except for roll off (Industrial) bin service, which shall be billed by Contractor directly to the customer. The amount of each such Billing shall be based upon, in the case of residential use customers, the unit determined by referring to the customers and services supplied and a list of each billing shall be given to the Contractor for its approval of the basis for the charge. The Contractor's failure to object to the list supplied for a period of ten days after receipt shall constitute waiver of any error or objection to the billing. The City bills the residential users at the end of each month.

A list of each billing showing the name of the customer and billing amount will be supplied to the Contractor after each billing. A failure to object for a period of ten days after receipt shall constitute a waiver of any error or defect in the billing.

The City upon issuing the charges for waste collection service, including special collections, extra services, and the like, shall deduct therefrom the sums identified in the Agreement for the Franchise Fees identified below, and any other deductions and offsets allowed under this Agreement, and the balance shall be deposited in the refuse fund for accumulation and payment to the Contractor. The Contractor's portion shall be based upon amounts billed by the City, and paid to Contractor when and at the time convenient to the City but not less frequently than monthly.

Contractor acknowledges that price for service, other than specified adjustments, shall include all fees necessary for performing said service, including, but not limited to, refuse disposal fees, equipment, labor, materials, taxes, etc. No additional compensation outside of specified prices listed in Exhibit B less applicable percentage deducted above, will be considered.

All sales taxes, excise taxes, disposal fees or other fees and taxes which might lawfully be assessed in connection with Contractor's performance of services under this Agreement are to be paid by the Contractor from the monies obtained in the satisfaction of this Agreement, it being understood by the Parties that the bid prices submitted shall include the cost of such fees and taxes existing as of the date of such bid prices were submitted.

#### **SECTION 22: Franchise and Billing Fee Schedule**

For receiving the exclusive franchise to provide the services identified in this agreement, the

service provider will pay to the City a franchise fee of Twenty Two Percent (22%) of amounts collected from Residential, Commercial, and Industrial customers, including roll off (Industrial) bin service, to pay the City's estimated costs in administering the services supplied to the contractor including utility billing, accounting, collection, City's liability, attorney's fees, and other miscellaneous costs. The Contractor acknowledges that the above percentages are accumulative of all accounts and shall apply to all future rate increases.

**SECTION 23: Service Fee Increases**

After two years of service under this Agreement, the Contractor may request an inflationary adjustment, by March 31<sup>st</sup>, to the service fees as listed in Exhibit B. Inflationary adjustments to service fees may be requested annually, to take effect each July 1, beginning July 1, 2023, and shall be based on the percentage increase in the annual Consumer Price Index (CPI) for all urban consumers for the San Francisco, Oakland, San Jose area. An example of the CPI adjustment for the year 2021 is shown below:

Annual CPI-U 2019:	295.004
Annual CPI-U 2020:	300.084
Change:	5.080
% Increase:	1.72% (5.080 ÷ 295.004)

CPI Adjustment Cap – The annual inflationary service fee increase shall be capped at 5.0% in any given year. Any unused amounts above 5.0% shall be carried forward and included in subsequent years so long as the adjustment for any given year shall not be more than 5.0%.

- a. Discretionary Adjustments- Contractor may petition the City for service fee adjustments to cover the Contractor's increased costs associated with unforeseen events or circumstances outside the Contractor's control, including, but not limiting to, changes in law, increases in tipping fees at designated disposal or processing facilities, increases in taxes and other regulatory changes. Such request shall be prepared in a form acceptable to the City with support for assumptions made by contractor. The City Council shall review Contractor's request and, in the City Council's sole judgement and unfettered discretion, make the final determination as to whether an adjustment to the maximum rates will be permitted. This request for a rate increase shall never include costs that are included and/or are used as factors in calculating the Contractor's annual CPI adjustment, including, but not limited to, increases in the costs of labor, insurance, workers compensation insurance, fuel, and energy.
  
- b. Service Fee Reduction- In addition, City shall have the right to petition Contractor for service fee reductions should changes in law or regulatory changes reduce Contractor's mandatory performance and service levels.

Service Fee increases shall follow legal process as required by law.

**SECTION 24: Contractor to Make Examination**

The Contractor has made its own examination, investigation and research regarding the proper method of doing the work, and all conditions affecting the work to be done, and the labor, equipment and material needed thereon, and the quantity of work to be performed. The Contractor agrees that it has satisfied itself by its own investigation and research regarding all of such conditions, and that its conclusion to enter into this Agreement is based upon such investigation

and research, and that it shall make no claim against the City because of the estimates, statements or interpretations made by any officer or agent of the City which may prove to be in any respect erroneous.

The Contractor assumes the risk of all conditions foreseen or unforeseen and agrees to continue the work without additional compensation under whatever circumstances may develop other than as provided in this Agreement.

#### **SECTION 25: Verbal Agreements**

No verbal agreement or conversation with any officer, agent or employee of the City, either before or after execution of this Agreement, shall affect or modify any of the terms or obligations contained in this Agreement. Any such verbal agreement or conversation shall be considered as unofficial information and in no way binding upon the City or the Contractor.

#### **SECTION 26: Quantities Furnished to Contractor**

It is understood that the quantities of service (residential, commercial and industrial) that now exist may change from time to time. The Contractor's cost of service and amounts paid on a monthly basis will increase or decrease on the actual number of containers in use at the time. Payment shall be made only in the manner shown in Section 12 (Payment) above.

#### **SECTION 27: Permits and Licenses**

The Contractor shall take out and pay for all permits or licenses required by ordinances of the City, including, but not limited to, business licenses.

The Contractor shall be obligated to protect public and private utilities whether occupying the street, public, or private property. If such utilities are damaged by reason of the Contractor's operations, it shall repair or replace same, or, failing to do so promptly, the Director shall cause repairs or replacement to be made, and the cost of doing so shall be deducted from monthly payments due the Contractor.

#### **SECTION 28: Assignment of Monies by the Contractor**

Contractor shall make no assignment or pledge of the monies to become due under this Agreement without the prior written approval and the consent of the Director being first obtained and endorsed thereon. Such assignment or pledge, however, shall not release the Contractor or its sureties from any obligations or liabilities arising under or because of this Agreement.

#### **SECTION 29: No Assignment or Subletting of Agreement**

No assignment or subletting of all or any portion of the work under these specifications shall be permitted without the prior written approval of the City. If Contractor's business is acquired by another entity, and if the City approves the assignment of this Agreement to that entity, then Contractor shall pay City a onetime sum of \$50,000.

#### **SECTION 30: Insurance**

The Contractor shall secure and maintain, throughout the duration of this Agreement and subsequent renewals, insurance of such types not less than the amounts listed below. Insurance coverage will be considered acceptable when provided in one of the following methods:

### **2 Commercial General Liability**

- a. Contractor shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than five million dollars (\$5,000,000) per occurrence for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. Contractor's general liability policies shall be primary and shall not seek contribution from the City's coverage, and be endorsed using Insurance Services Office forms CG 20 10 and CG 20 37 (or their equivalent) to provide that City and its officers, officials, employees, and agents shall be additional insureds for ongoing and completed operations under such policies.
  - b. Any failure to comply with reporting provisions of the policies by Contractor shall not affect coverage provided the City.
  - c. Coverage shall state that Contractor insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
  - d. Coverage shall contain a waiver of subrogation in favor of the City.
- 3. Business Automobile Liability**
- a. Contractor shall provide auto liability coverage for owned, non-owned, and hired autos using ISO Business Auto Coverage form CA 00 01 (or equivalent) with a limit of no less than five million dollars (\$5,000,000) per accident.
- 4. Workers' Compensation and Employers' Liability**
- a. Contractor shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000). Contractor shall submit to City, along with the certificate of insurance, a waiver of subrogation endorsement in favor of City, its officers, agents, employees, and volunteers.
- 5. Pollution Liability Insurance**
- a. Pollution Coverage shall be provided for liability arising out of sudden, accidental and gradual pollution and remediation. The policy limit shall be no less than two million dollars (\$2,000,000) per claim. All activities contemplated in this agreement shall be specifically scheduled on the policy as "covered operations." The policy shall provide coverage for the hauling of waste to the final disposal location, including non-owned disposal sites.
  - b. The policy shall be endorsed to include the City, its officers, employees, and agents as additional insureds.
- 6. All Coverages**
- a. Each insurance policy required by the agreement shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice has been given to the City, except that ten (10) days' prior written notice shall apply in the event of cancellation for nonpayment of premium.
  - b. All self-insurance, self-insured retentions, and deductibles must be declared and approved by the City.
  - c. Evidence of Insurance - Prior to commencement of work, the Contractor shall furnish the City with certificates, including copies of additional insured endorsements, and waivers of subrogation evidencing compliance with the insurance



requirements above. The Contractor must agree to provide complete, certified copies of all required insurance policies if requested by the City.

- d. Acceptability of Insurers - Insurance shall be placed with insurers admitted in the State of California and with an A.M. Best rating of A- VII or higher.

Subcontractors and Consultants - A category of risk and the applicable insurance requirements will be determined on a “per subcontractor” or “per consultant” basis, considering the particular work to be done by the subcontractor or consultant and the interrelationship of that work to other work being conducted by the Contractor.

**SECTION 31: Indemnity**

To the fullest extent permitted by law, Contractor shall indemnify and hold harmless the City and its officers, officials, employees, agents, and volunteers from and against all claims, damages, losses, and expenses, including attorneys' fees, arising out of the performance of the work under this Agreement, caused in whole or in part by any negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, to the fullest extent permitted by law, except where and to the extent solely caused by the active negligence or willful misconduct of the City. The Contractor shall, indemnify and hold harmless the City and all its officers, officials, employees, agents, and volunteers for or on account of any claim or amount recovered for royalty or infringement by Contractor of patent, trademark, or copyright.

The City shall defend, indemnify and hold harmless the Contractor and its directors, officers, affiliates, employees and representatives from any and all claims, risks and losses, damages, demands, suits, judgments and attorneys' fees and other expenses of any kind connected with or existing from the City's use of Contractor's material or equipment hereunder, in the event of a takeover upon default as set forth in Section 27(A).

**SECTION 32: Performance Security**

As security for its satisfactory performance of this Agreement, the Contractor shall Contemporaneously with the execution of the Agreement, deposit funds payable to the City in the form of surety bond or other financial instrument to guarantee performance to the satisfaction of the City. This instrument will be used if required to provide service to customers in the event of nonperformance by the selected proposer. The size and type of performance guarantee shall be in the sum of one hundred and fifty thousand dollars (\$150,000.00).

**SECTION 33: Payment for Labor and Materials**

The Contractor shall perform this Agreement according to the terms, conditions and stipulations herein, and shall pay as they become due, all just claims for all work and labor performed on or about said work, and all skill or labor and materials and equipment purchased for or furnished in the execution of the Agreement; and further, shall comply with all the provisions of the State laws and with all the requirements of the municipal code and ordinances of the City and the amendments thereto.

**SECTION 34: Contractor Responsible for Work Done**

The Contractor shall furnish for the prices as proposed, all skills, labor, equipment and materials required for the complete performance of the Agreement and shall fully perform the work in accordance with the specifications.

**SECTION 35: Local Improvements**

The City Council reserves the right to construct any improvement or to permit any such construction or other work or permit any other interference whatsoever in any street or alley in such manner as the City may direct, which may have the effect for a time of preventing the Contractor from traveling its accustomed route or routes for collection. Contractor shall, however, by whatever method it elects, continue to collect the waste and recyclables to the same extent as though no interferences existed upon the street or alleys formerly traveled. This shall be done without extra cost to the City.

**SECTION 36: Disagreements**

To prevent all disputes or litigation, it is understood that all questions arising as to the proper interpretation, performance, and the amount of work to be paid for under this Agreement shall be subject to the decision of the Director, subject to the right of the Contractor to appeal to the City Administrator, whose decision shall be final and binding.

**SECTION 37: Default of Contractor; City's Use of Contractor's Property upon Default**

- a. **Contractor in Default.** If Contractor fails to perform any material obligation under this Agreement and fails to correct such failure within thirty (30) days after receipt of written notice from the City, then the Director may request the City Attorney to declare the Contractor in default. If the Director does so request, the proceeding under this Section shall apply.

Proceedings under this section are cumulative and in addition to other remedies available to the City for breach of the Agreement. To initiate proceedings under this section, the Director shall first request the City Attorney to declare the Contractor in default.

After its receipt of such a request, the City Attorney shall give notice to the Contractor and the Director of the location, time, and date within the following seven- (7) calendar days of a public hearing before the City Council at which the Contractor shall show cause as to why it should not be declared in default.

If the Contractor fails to show cause, to the satisfaction of the City Council, as to why the Contractor should not be declared to be in default, then the City Council shall declare that a default exists.

In declaring the Contractor to be in default under the Agreement, the City Council may also order the Contractor to discontinue further performance of work under the Agreement and declare full or partial forfeiture of the Performance Security (Section 22).

If the City Council orders the Contractor to discontinue further performance of work under the Agreement and the Performance Security has been declared forfeited to the City, then the Contractor shall be deemed to have leased, subleased or otherwise licensed the City to use all, or whatever portion is desired by the City, of the materials and equipment described on the most recent inventory submitted to the Director pursuant to this Agreement, for collection purposes for a period of up to six months following the date of the declaration of default by the City Council, without requiring the City to execute any other document whatsoever to accomplish such lease, sublease, or license, upon the condition that the City pay for the equipment and materials actually used for such collection at fair market value or market rental that is no greater than the monthly lease, if such property is being acquired under a purchase contract; or the periodic interest and principal, if such property is being acquired under a financing arrangement;

provided that under no circumstances shall the City be liable during its use of such property for any arrearages, balloon payment, accrued interest, accelerated charges if of a default or other extraordinary payment; nor shall the satisfaction thereof be a condition of the City's interim use of such property.

In its discretion, the City may terminate the Agreement in the circumstances described above and re-bid the work covered by this Agreement. If the City secures the performance of work under a new agreement at a lesser cost than would have been payable to the Contractor had the Contractor performed the same, then the City shall retain such difference; but if such cost to the City is greater, then the Contractor shall be liable for and pay the amount of such excess to the City or may deduct such excess from the Performance Security.

All payments due the Contractor at the time of default, less amounts due the City from the Contractor, shall be applied by the City against damages suffered and expense incurred by the City by reason of such default; any excess shall be paid to the Contractor except as provided in the Specifications.

Notwithstanding the provisions of this section, a delay or interruption in Contractor's performance of all or any part of the Agreement resulting from changes ordered due to the occurrence of any "Force Majeure" (as defined by Section 50) shall not be deemed to be a default and the rights and remedies of the City provided for herein shall be inapplicable.

- b. Breach of Contract.** If the Contractor persistently fails to be at work at the time specified, disregards State law, City ordinances or instructions of the Director, or repeatedly fails to provide sufficient workers and reserve equipment to assure completion of waste collection by 5:00 pm each day, or performs the work unsatisfactorily or fails to collect waste and recyclables on a regular schedule, or discontinues the prosecution of the work without authorization by the City, or becomes insolvent or declares bankruptcy or commits any act of bankruptcy or insolvency, or allows final judgment against it arising out of performance of the Agreement to remain unsatisfied for a period of ten (10) days, then the Director must consider such action a breach of contract and give notice, in writing by certified mail, to the Contractor of such breach. Thereafter, Contractor shall have thirty (30) days to cure such breach.
- c. Termination.**

  - 1. If the Contractor has not cured a contract breach or default within the timeframe shown above in Section 40 a and b, then the City may, but is not required to, terminate this Agreement. For purposes of continuity, City may allow Contractor to assign the Agreement to an acceptable third party and in this event, City will grant to Contractor a 45-day window to complete this assignment.
  - 2. Other than as provided herein, this Agreement may be terminated without cause only by mutual written agreement of the Parties.
  - 3. The City may immediately suspend this Agreement in whole or in part by written notice where, in the reasonable determination of City, the contractor's actions or inactions pose an imminent and substantial threat to the public health and safety or to the environment.
  - 4. The City may, at its sole option, terminate this Agreement at the end of any City Fiscal Year for reason of non-appropriation of funds. In such event, the City will give

Contractor at least thirty (30) days written notice that payments due under this Agreement will not be funded for the next fiscal period.

5. This contract will terminate at the end of the term if not extended per Section 2 of the Agreement. There is no automatic extension.

**d. Deduction from Payments Because of Contractor's Failure to Make Waste Collections.**

If the Contractor, for any reason, fails to perform the waste collections called for in the Agreement for any period, with the result that any portion of the scheduled collection is not completed within a given calendar week, then the Contractor shall not be paid for the work not performed. Whenever such failure occurs, the Director shall deduct, for such nonperformance, a reasonable amount from the Contractor's next monthly payment(s), which amount shall be based on the number of accounts from which waste collections have not been made, the unit price applicable to each type of account affected by such failure, the additive and deductive adjustments that would have been made to such prices had the collections been made, with the exception of any event of Force Majeure, as defined by Section 37.

**SECTION 38: No Waiver**

No waiver of full performance by either Party shall be construed, or operate, as a waiver of any subsequent default. Any payment or acceptance of compensation for any period after a default shall not be deemed a waiver of any right or acceptance of defective performance.

**SECTION 39: Applicable Law; Venue**

The laws of the State of California and Ordinances of the City shall govern the validity, construction, and effect of this Agreement. The venue for any claims, litigation, or causes of action between the Parties shall be the Superior Court of California, County of Tulare.

**SECTION 40: Measuring Time**

Time is of the essence for this Agreement and all its terms and conditions.

**SECTION 41: Amendments**

No modification or amendment of terms hereof shall be effective unless written and signed by the authorized representatives of the Parties.

**SECTION 42: Cumulative Remedies**

Rights under this Agreement are cumulative; failure to exercise on any occasion any right shall not operate to forfeit such right on another occasion. Each Party shall also have any other remedy given by law. The use of one remedy shall not be taken to exclude or waive the right to use another.

**SECTION 43: Joint and Several Liability**

If the Contractor is comprised of more than one individual, corporation or other entity, then each of the entities comprising the Contractor shall be jointly and severally liable under this Agreement.

**SECTION 44: Binding Effect**

The provisions, covenants and conditions in this Agreement apply to bind the Parties, their legal heirs, representatives, successors and permitted assigns.

**SECTION 45: Invalidity of Particular Provisions**

Should any terms, provision, condition or other portion of this Agreement or the application thereof be held to be inoperative, invalid or unenforceable, then the remainder of this Agreement or the application of such term of provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and shall continue in full force and effect.

**SECTION 46: Previous Agreements Superseded**

The terms and conditions of this Agreement supersede the terms, obligations and conditions of any existing or prior agreement or understanding, written or oral, between the Parties regarding the work to be performed, compensation to be paid, and all other matters contained.

**SECTION 47: Force Majeure**

Neither Party shall be considered in default in the performance of its obligations under this Agreement (not including the obligation to make payments) to the extent that such performance is prevented or impaired by the occurrence of Force Majeure. As used in this Agreement, the term "Force Majeure" shall mean events or causes that are not reasonably within the control of the Party whose ability to perform under this Agreement is impaired, prevented, including, without limitation, acts of God, landslides, lighting, storms, floods, earthquakes, forest fires, civil disturbances, acts of the public entity, wars, blockades, public riots, explosions, accidents to machinery, pipelines or materials, power failure, government restraint, pandemic, labor strikes, or other causes, whether of the kind enumerated or otherwise, which are not reasonably within the control of the Party whose ability to perform under this Agreement is impaired or prevented by the Force Majeure event. The obligations under this Agreement of the affected Party shall be suspended, other than for payment of monies due, during the period during which the event of Force Majeure exists and the term of this Agreement shall be extended for a period commensurate with such period. Notwithstanding the exclusion of payment obligations, this Section shall not be construed to require payment by the City for services that are not being received due to the occurrence of Force Majeure.

**SECTION 48: Meaning of Terms**

The meaning of terms and words used in this Agreement are as follows:

1. DEFINITIONS AND TERMS: Wherever the following definitions and terms or pronouns in place of them are used in these Specifications, or other Contract Documents, the intent and meaning shall be interpreted as specified in this section or the EXETER Municipal City Code.

**AB 341**

“AB 341” means the Assembly Bill approved by the Governor of the State of California on October 5, 2011, which amended Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, and added Sections 40004, 41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded and replaced from time to time.

**AB 876**

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

**AB 901**

“AB 901” means Assembly Bill approved by the Governor of the State of California on October 10, 2015, which amended Section 41821.5 of, amended, renumbered and added Section 41821.6 of, and added Sections 41821.7 and 41821.8 to, the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time.

**AB 939**

“AB 939” means the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq.), as amended, supplemented, superseded, and replaced from time to time.

**AB 1594**

“AB 1594” means the Assembly Bill approved by the Governor of the State of California on September 28, 2014, which amended Sections 40507 and 41781.3 of the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time.

**AB 1826**

“AB 1826” means the Assembly Bill approved by the Governor of the State of California on September 28, 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time.

**ADDENDUM:** An addendum is a formal written notice from the Director of addition, deletions, modifications or explanations of other Contract Documents.

**Applicable Law**

“Applicable Law” means all Federal, State, County, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirement of any governmental agency having authority over the City concerning the Collection, Transportation, Processing, and Disposal of Discarded Materials that are in force on the Effective Date and as may be enacted, issued, or amended during the Term of this Agreement. Applicable Law includes, but is in no way limited to, AB 939, AB 341, AB 1826, and SB 1383 and corresponding regulations.

**Blue Container**

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

**Bulky Items**

Items of rubbish either too large or too heavy to fit in a cart or bin or safely be loaded in waste collection vehicles. Bulky items shall be able to fit on the back of flatbed vehicle and shall require no more than two (2) people to load. Bulky item pickup service will be subject to additional charges to be determined by the Contractor and listed on the cost schedule. In the event a question arises as to whether a specific item, or category of items meets the definition of Bulky Items, City shall

be responsible to determine whether said definition shall apply, which determination shall be final and binding on the Parties.

### **California Code of Regulations (CCR)**

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

### **CalRecycle**

“CalRecycle” means California's Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations on Cities and other regulated entities.

**CHANGE ORDER:** A Change Order is a written order issued by the Director for changes in the work. Such Change Orders will be prepared on a standard form issued by the City and will list the nature of the change and the method of payment.

**CITY:** City shall mean the City of EXETER, a charter law municipal corporation of the State of California.

**CITY CONTRACT MANAGER:**

**COLLECTION:** Removal and transportation of waste and recyclables from its place of storage to its place of processing or disposal.

**COMBINED REFUSE:** Refuse containing garbage, rubbish and recyclables.

### **Commercial Business (Commercial)**

“Commercial Business” or “Commercial” means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, or industrial facility, or as otherwise defined in 14 CCR Section 18982(a)(6), with the exception that Multi-Family is excluded from the definition of Commercial Business for the purposes of this Agreement.

### **Commercial Edible Food Generators**

“Commercial Edible Food Generators” includes Tier One Commercial Edible Food Generators and Tier Two Commercial Edible Food Generators, or as otherwise defined in 14 CCR Section 18982(a)(7). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators, or as otherwise specified by 14 CCR Section 18982(a)(7).

**COMMERCIAL WASTE COLLECTION SERVICE:** Waste and recyclables collection services provided to commercial and industrial properties, as well as waste and recyclables collection services provided to multiple residential properties using commercial bins.

**CONTRACT OR CONTRACT DOCUMENTS:** Contract and Contract Documents have the same meaning. The Contract consists of the following: The Agreement, these Specifications, and any Insurance Forms, Change Orders, and any other attachments or appendices which have been attached hereto or incorporated by reference in any of the contract documents.

environment, cause a nuisance or otherwise create or expose Contractor or City to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe Collection, Processing, Recycling, treatment, and Disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code.

**EXTRA WORK:** Extra work is work over and above that called for in the Agreement.

**Facility(ies)**

“Facility(ies)” means any plant, site, or operation used for the purpose of handling Discarded Materials, including, but not limited to, Disposal, Transfer, Recycling, composting, and Processing facilities or operations.

**Food Recovery**

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

**Food Recovery Organization**

“Food Recovery Organization” means an entity that primarily engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities, including, but not limited to:

- A. A food bank as defined in Section 113783 of the Health and Safety Code;
- B. A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,
- C. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this Agreement.

**Food Recovery Service**

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

**Food Scraps**

“Food Scraps” means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells.

**Food-Soiled Paper**

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

**Food Waste**

“Food Waste” means Source Separated Food Scraps, and Food-Soiled Paper. Food Waste is a subset of SSGCOW. Edible Food separated for Food Recovery shall not be considered Food Waste.



**C&D:** Commonly referred to as Construction and Demolition material or waste, which includes, but is not limited to, paper, plastic/ cardboard, stucco, wood, metal, concrete and dry wall generated at housing and or construction sites.

**DETACHABLE CONTAINERS:** Residential and commercial bins or waste and recyclables containers, which shall be made of rubber or plastic for residential use; and rubber, plastic or metal for commercial and industrial use.

**DIRECTOR:** Shall mean the City's Director of Public Works Department or the Director's duly authorized representative.

**DISABLED VETERAN:** means a veteran of the military, naval, or air service of the United States, including, but not limited to, the Philippine Commonwealth Army, the Regular Scouts, "Old Scouts," and the Special Philippine Scouts, "New Scouts," who has at least a 10-percent service connected disability, as declared by the United States Veterans' Administration, and who is the primary resident of a single family or multi-family residence within the City.

**Discarded Materials**

“Discarded Materials” are a form of Solid Waste, and shall be regulated as such. For purposes of this Agreement, material is deemed to have been discarded, without regard to whether it is destined for Recycling or Disposal, and whether or not it has been separated from other Solid Wastes, in all cases where a fee or other compensation, in any form or amount, is directly or indirectly solicited from, or, levied, charged, or otherwise imposed on, or paid by, the Generator or Customer in exchange for handling services. As used herein, handling services include, without limitation, the Collection, removal, Transportation, delivery, and Processing and/or Disposal of the material. Discarded Materials do not include Edible Food that is recovered for human consumption and is not discarded. For the purposes of this Agreement, Discarded Materials include Source Separated Recyclable Materials, SSBCOW, SSGCOW, Food Waste, Gray Container Waste, and C&D once the materials have been placed in Containers for Collection.

**DWELLING UNIT:** Any group of rooms located within a dwelling, and forming a single habitable unit with facilities, which are used, or are intended to be used, for living, sleeping, cooking and eating.

**Edible Food**

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

**Excluded Waste**

“Excluded Waste” means Hazardous Substance, Hazardous Waste, Infectious Waste, Designated Waste, volatile, corrosive, Medical Waste, infectious, regulated radioactive waste, and toxic substances or material that Approved/Designated Facility operator(s) reasonably believe(s) would, as a result of or upon acceptance, Transfer, Processing, or Disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be Disposed of in Class III Landfills or accepted at the Facility by permit conditions, waste that in Contractor’s reasonable opinion would present a significant risk to human health or the

**FRANCHISE FEES:** means those fees denominated in Section 24 as franchise fees, which constitute part of Contractor's consideration paid to City for the award of this Agreement.

**GARBAGE:** Putrefactive animal or vegetable wastes resulting from the handling, preparation, cooking, serving or consumption of food; and non-putrefactive solid wastes consisting of combustible and noncombustible waste materials from residential apartment, commercial, industrial and institutional establishments, including yard wastes and items commonly referred to as trash.

**Generator**

“Generator” means any Person whose act first causes Discarded Materials to become subject to regulation under City Code or under federal, State, or local regulations.

**Gray Container**

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

**Gray Container Waste**

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

**Green Container**

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

**GREEN WASTE or YARD WASTE:** Organic materials consisting of yard clippings, leaves, brush, and twigs. Can also refer to food scraps if allowed by the City.

**GROSS RECEIPTS:** Include all revenues received by Contractor, including charges, surcharges, line-items, and any and all other billed items related to services and/or financial obligations of the Contractor as established in the Agreement.

**Hauler Route**

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

**High Diversion Organic Waste Processing Facility**

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

**HOUSEHOLD REFUSE:** Refuse, as defined below, shall be limited to those solid wastes normally generated inside the dwelling unit or household and shall include such items as food wastes, Styrofoam, soiled napkins, textiles, cans, and other non-recyclable or compostable materials.

**Incompatible Materials**

“Incompatible Material” or “Incompatibles” mean(s) human-made inert material, including, but not limited to, glass, metal, plastic, and also includes organic waste for which the receiving end-

user, facility, operation, property, or activity is not designed, permitted, or authorized to perform Organic Waste recovery activities as defined in 14 CCR Section 18983.1(b), or as otherwise defined by 14 CCR Section 17402(a)(7.5).

**INDUSTRIAL REFUSE or SOLID WASTE:** Refuse or Solid Waste, as defined below, shall be limited to those solid wastes normally generated by large industrial generators, including, but not limited to, manufacturing facilities, warehouses and job and/or construction sites. Contractor has exclusive franchise rights for all refuse services for 0 - 9 cubic yards as well as roll-off services which range between 10 to 50 cubic yards.

### **Inerts**

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

### **Large Venue**

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

### **Mixed Waste**

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

### **Mixed Waste Organic Collection Stream**

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

### **Multi-Family or Multi-Family Dwelling Unit**

“Multi-Family” means of, from, or pertaining to residential Premises with four (4) or more dwelling units. Multi-Family Premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses. References to “Multi-Family Dwelling Unit” refer to an individual residential unit of the Multi-Family Premises.

### **Non-Organic Recyclables**

“Non-Organic Recyclables” means non-putrescible and non-hazardous recyclable wastes including, but not limited to, bottles, cans, metals, plastics, and glass, or as otherwise defined in 14 CCR Section 18982(a)(43). Non-Organic Recyclables are a subset of Source Separated Recyclable Materials.

## **Organic Waste**

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

## **Paper Products**

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

## **Process, Processed, or Processing**

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

## **Prohibited Container Contaminants**

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

## **Recycle/Recycling**

“Recycle” or “Recycling” means the process of Collecting, sorting, cleansing, treating, and reconfiguring materials for the purpose of returning them to the economic mainstream in the form of raw material for new, Reused, or reconstituted products that meet the quality standards necessary to be used in the marketplace. Recycling includes processes deemed to constitute a reduction of Landfill Disposal pursuant to 14 CCR, Division 7, Chapter 12, Article 2. Recycling does not include gasification or transformation as defined in Public Resources Code Section 40201.

**RECYCLABLES:** Those materials that by way of collecting, sorting, cleansing, treating, and reconstituting materials would otherwise become solid waste, and by processing can be returned to the economic main stream in the form of raw materials for new, reused, or reconstituted products. Recyclables include, but are not limited to, newsprint, mixed paper, aluminum, plastics, glass, metal card board, chip board, junk mail, magazines, newspaper, books, computer paper, and the like.

**REFUSE CONTAINERS:** Receptacles used by any person to store waste and recyclables during the interval between waste and recyclables collections.

**Remnant Organic Material**

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

**Renewable Natural Gas (RNG)**

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

**Residual (or Residue)**

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

**RESIDENTIAL GARBAGE:** Garbage produced at houses, apartments or other dwelling units.

**RESIDENTIAL SOLID WASTE (REFUSE):** Waste resulting from the maintenance and operation of houses, apartments or other dwelling units.

**RESIDENTIAL SOLID WASTE COLLECTION SERVICE:** Removal and transportation of waste and recyclables from residential properties, utilizing Contractor-owned and provided collection containers.

**SB 1383**

“SB 1383” means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

**SB 1383 Regulations**

“SB 138 Regulations” or “SB 1383 Regulatory” refers to the Short-Lived Climate Pollutants (SLCP): Organic Waste Reductions regulations developed by CalRecycle and adopted in 2020 that

created Chapter 12 of 14 CCR, Division 7 and amended portions of regulations of 14 CCR and 27 CCR.

**Self-Hauler (or Self-Haul)**

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

**Single-Family or Single-Family Dwelling (SFD)**

“Single-Family” or “Single-Family Dwelling” or “SFD” means any residential Premises with less than four (4) units.

**Solid Waste**

“Solid Waste” has the same meaning as defined in PRC Section 40191, which defines Solid Waste as all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes, with the exception that Solid Waste does not include any of the following wastes:

1. Hazardous waste, as defined in PRC Section 40141.
2. Radioactive waste regulated pursuant to the Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code).
3. Medical waste regulated pursuant to the Medical Waste Management Act (Part 14, commencing with Section 117600, of Division 104 of the Health and Safety Code). Untreated medical waste shall not be disposed of in a solid waste Landfill, as defined in PRC Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to PRC, Division 30.

**SOURCE REDUCTION AND RECYCLING ELEMENT (SRRE):** The planning tool that has been adopted by the City, which defines programs to be implemented to meet the mandates of AB939.

**Source Separated**

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

Collection such that Source Separated materials are separated from Gray Container Waste and other Solid Waste for the purposes of Collection and Processing.

**Source Separated Blue Container Organic Waste (SSBCOW)**

“Source Separated Blue Container Organic Waste” or “SSBCOW” means Source Separated Organic Waste that can be placed in a Blue Container that is limited to the Collection of those Organic Wastes and Non-Organic Recyclables as defined in 14 CCR Section 18982(a)(43); or as otherwise defined by 14 CCR Section 17402(a)(26.7). The accepted types of SSBCOW and process for modifying the accepted types of SSBCOW are specified in Article 5.

**Source Separated Green Container Organic Waste (SSGCOW)**

“Source Separated Green Container Organic Waste” or “SSGCOW” means Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate Collection of Organic Waste by the Generator, excluding SSBCOW, carpets, Non-Compostable Paper, and textiles. The accepted types of SSGCOW and process for modifying the accepted types of SSGCOW are specified in Article 5. SSGCOW is a subset of Organic Waste.

**Source Separated Recyclable Materials**

“Source Separated Recyclable Materials” means Source Separated Non-Organic Recyclables and SSBCOW. The accepted types of Source Separated Recyclable Materials and process for modifying the accepted types of Source Separated Recyclable Materials are specified in Article 5.

**Split Container or Split-Container**

“Split Container” or “Split-Container” means a Container that is split or divided into segregated sections, instead of an entire Container, or as otherwise allowed pursuant to 14 CCR, Division 7, Chapter 12, Article 3.

**SPECIFICATIONS:** The Specifications are the complete directions, provisions, and requirements contained within the Agreement. Addenda, Change Orders and Supplemental Agreements as may be necessary to describe the work, and the service, which is to be furnished under the Agreement.

**STREET OR ALLEY:** The whole area within the legally established street or alley right-of-way.

**SUB-CONTRACTOR:** Subcontractor is any individual, firm, partnership, corporation, or association licensed or otherwise authorized by law to do business in the City of EXETER, to whom the Contractor, with written consent of the City, sublets a part of the work.

**Tier One Commercial Edible Food Generators**

“Tier One Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following, each as defined in 14 CCR Section 18982:

- A. Supermarket.
- B. Grocery Store with a total facility size equal to or greater than 10,000 square feet.
- C. Food Service Provider.
- D. Food Distributor.
- E. Wholesale Food Vendor.

If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator

differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this Agreement.

**Tier Two Commercial Edible Food Generators**

“Tier Two Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following, each as defined in 14 CCR Section 18982:

- A. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- B. Hotel with an on-site food facility and 200 or more rooms.
- C. Health facility with an on-site food facility and 100 or more beds.
- D. Large Venue.
- E. Large Event.
- F. A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
- G. A local education agency with an on-site food facility.

If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this Agreement.

**Ton** - “Ton” or “Tonnage” or “Tons” means a unit of weight equal to 2,000 pounds (907.18474 kg).

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

**UNIT PRICE:** The unit price is the monthly compensation for the waste and recyclables service for each specified container at each residential, commercial or industrial site. For determining the unit price for residential sites, Contractor shall also include a single organics and recycling container, commonly referred to as a set.

**WASTE:** means solid waste, green waste, construction and demolition waste, special waste, white goods, bulky items, garbage, refuse, and non-conforming material.

**WORK OR THE WORK:** Work shall mean the furnishing of all labor, materials, equipment and other incidentals necessary for the successful completion of the Agreement.

**WORKING HOURS:** Working hours shall be those hours between 5:00 a.m. and 5:00 p.m. for commercial service and 6:00 a.m. and 5:00 p.m. for residential service.

**ZONE OF COLLECTION MAP:** The zone of collection includes the entire area within the City limits as now or hereafter constituted.



**EXHIBIT "A"**  
**Exeter Solid Waste Rates 2022**

	<b>Rates</b>
<b>Residential:</b>	
Residential 3-Cart Service	\$26.65
Extra Grey	\$13.75
Extra Blue	\$8.00
Extra Green	\$12.00
<b>Commercial Trash Rates:</b>	
96Gal Cart, serviced 1 time per week	\$26.00
96Gal Cart, serviced 2 time per week	\$49.00
2 yd x 1	\$98.70
2 yd x 2	\$158.00
3 yd x 1	\$123.00
3 yd x 2	\$202.00
4 yd x 1	\$158.00
4 yd x 2	\$256.50
6 yd x 1	\$197.50
6 yd x 2	\$395.00
<b>Commercial Recycling Rates:</b>	
96Gal Cart, serviced 1 time per week	\$12.00
96Gal Cart, serviced 2 time per week	\$23.00
2 Yard Bin container, serviced 1 time per week	\$44.50
2 Yard Bin container, serviced 2 times per week	\$74.00
3 Yard Bin container, serviced 1 time per week	\$64.00
3 Yard Bin container, serviced 2 times per week	\$108.50
6 Yard Bin container, serviced 1 time per week	\$103.50
6 Yard Bin container, serviced 2 times per week	\$189.00
<b>Commercial Organics Rates:</b>	
96Gal Cart, serviced 1 time per week	\$21.00
96Gal Cart, serviced 2 time per week	\$35.00
2 Yard Bin container, serviced 1 time per week	\$74.00
2 Yard Bin container, serviced 2 times per week	\$121.40

<b>Other Fees:</b>	
Call-back or extra pickup - green, grey, or blue cart	\$15.00
Replacement for lost or destroyed cart*	\$65.00
*lids and wheels replaced at no charge	
Special Haul - Bulky item Collections	\$50.00
# of Bulky Items Allowed for Each Collection	2 yds bagged
	or 2 bulky items
Cart Contamination Charge (1st warning)	\$0.00
Cart Contamination Charge (2nd warning)	\$15.00
Cart Contamination Charge (3rd warning)	\$30.00
<b>Roll Off: (Does not include Franchise Fees)</b>	
Residential Clean-up Roll-Off Box	\$200.00
Roll Off Disposal Charge	\$50.00 per ton
Roll Off Rental Charge	\$10.00/day after 10 days
ROLL OFF CONTAINER (20 to 40 cubic yards) PER PICK-UP	\$390.00
MAXIMUM WEIGHT IN TONS	4 tons
PER TON CHARGE FOR OVERAGE	\$50.00
BLUE RECYCLE ROLL OFF CONTAINER (20 to 40 cubic yards) PER PICK-UP	\$200.00 + Tonnage
GREEN WASTE ROLL OFF CONTAINER (20 to 40 cubic yards) PER PICK-UP	\$200.00 + Tonnage
<b>Special Services:</b>	
SELF LOCKING MECHANISM FOR BINS	\$25.00 Per Month
REPLACEMENT BIN LOCK	\$15.00
REPLACEMENT COST FOR DAMAGED/BURNED BIN	\$175.00
CLEANING FOR BIN	\$50.00
CLEANING FOR ENCLOSURE	\$50.00
<b>SPECIAL EVENTS OR SHORT TERM SERVICE:</b>	
SHORT TERM BIN - DELIVERY/ONE DUMP/REMOVAL CHARGE	\$100.00
SHORT TERM BIN PER EXTRA DUMP	\$40.00
SPECIAL EVENTS - 3 YARD BINS (1-3 BINS)	\$70.00 each
SPECIAL EVENTS - 3 YARD BINS (4-10 BINS)	\$50.00 each
SPECIAL EVENTS - 96 GALLON CONTAINERS	\$20.00
SPECIAL EVENTS - 96 GALLON CONTAINERS (MORE THAN 6)	\$15.00 each