



Agenda Report

Date: January 12, 2016
To: Jeffrey W. Collier, City Manager
From: Hye Jin Lee, Acting Director of Public Works
Subject: Solid Waste Collection Franchise

RECOMMENDATION

It is recommended the City Council:

1. Hold a public hearing in consideration of granting an exclusive franchise agreement to Arakelian Enterprises, Inc. (dba Athens Services) to provide solid waste and recycling services in the City of Whittier;
2. Conduct second reading of the franchise ordinance and adopt Ordinance No. 3047; and
3. Authorize the City Manager to sign the franchise agreement on behalf of the City.

BACKGROUND

Current solid waste franchise agreements with Consolidated Disposal Services and Waste Management Inc. expire on June 30, 2016 and no additional term extensions are provided for under the agreements. The California Public Resources Code (PRC) Sections 40000 et seq. gives cities broad authority over solid waste matters, including, but not limited to, frequency of collection, means of collection and transportation, level of services, charges and fees, and nature, location, and extent of providing solid waste handling services. In addition, a local agency can provide solid waste services by means of non-exclusive franchise, exclusive franchise, contract, license, permit or otherwise.

The Whittier City Charter Article XIV authorizes the City to grant a franchise for solid waste collection services not exceeding 25 years after first adopting a resolution of intention setting a public hearing, publishing the resolution of intention, and then granting the franchise by ordinance. The Whittier Municipal Code (Section 8.12.100.C) authorizes the City Council to enter into contracts, with or without competitive bidding, for solid waste collection services.

Several months ago, the City received an unsolicited proposal from Athens Services for an exclusive franchise agreement. However, the City Manager determined to recommend the City pursue a request for proposals procurement process. Other providers of solid waste management services had also expressed interest in submitting proposals on the City's solid waste collection service. Sloan-Vazquez, a consulting firm specializing in solid waste collection, was retained by the City Attorney's office.

At the May 12, 2015 meeting, the City Council received and filed an agenda report detailing the solid waste collection procurement process and approved issuing a Request for Proposals (RFP) to enter into an exclusive solid waste franchise agreement. Prior to receiving the RFP each proposer was required to sign and submit a Proposer's Code of Conduct prohibiting ex parte communication with Council Members related to the RFP process, giving gifts or compensation of any kind to Council or City staff, and collusive activities. On June 3, 2015 RFPs were issued to five qualified collectors (both publicly traded and privately held) of sufficient size and financial strength with good track records in the region that could meet the City's long term needs. Those collectors were Republic, Waste Management, Burrtec/EDCO, CR&R and Athens Services. All but one of the collectors submitted responsive proposals by the deadline of July 28, 2015. Waste Management did not submit a proposal.

On October 13, 2015 the City Council considered the four proposals at length but did not come to a consensus to select a firm for negotiations. The regular meeting of October 13, 2015 was adjourned to October 20, 2015 to complete deliberations and render a decision. At the October 20, 2015 meeting, the City Council selected Arakelian Enterprises, Inc. (dba Athens Services) and directed the City Manager to negotiate the final terms of the franchise agreement. One written comment was received after the October 20, 2015 meeting and prior to the preparation of this report. The letter supports awarding the franchise to Republic Services. (Attachment C).

At the December 8, 2015 meeting, the City Council adopted Resolution No. 8747 declaring its intent to grant Arakelian Enterprises (dba Athens Services) a franchise to provide solid waste and recycling services. The City Council also introduced and conducted a first reading of the franchise ordinance, and set a public hearing for January 12, 2016. The summary ordinance was published in the Whittier Daily News on December 22, 2015 (Attachment A).

DISCUSSION

According to Whittier City Charter Article XIV, after hearing and considering all protests during the public hearing the City Council may grant the franchise ordinance according to the terms and conditions specified in the resolution of intention. If the City Council determines that changes should be made in the terms and conditions of the proposed franchise, a new resolution of intention and public hearing would need to be held.

The City Manager has negotiated with Arakelian Enterprises, Inc. (dba Athens Services) and the final franchise agreement is included as part of the ordinance (Attachment B). The franchise agreement is for a period of ten years commencing on July 1, 2016. There is an option to extend the franchise for an additional six year term at the sole discretion of the City.

The City Attorney has reviewed the ordinance and franchise agreement and has concluded they comply with Proposition 218 legal requirements. Since the customers fees are decreasing (approximately 3%) from current fees, a Proposition 218 notice and

public hearing are not required. A single-family residential customer is currently charged \$23.28 per month including street sweeping. Under the new agreement, the same customer will be charged \$22.55 per month. Low income customers who qualify for the Utility User's Tax exemption will continue to receive \$5 per month discount. Residents with disabilities will receive free roll-out service. Under the new agreement an additional 10% discount will be given to active military personnel and seniors at least 62 years of age and are head of the household.

The franchise agreement will provide the following enhanced services that are not currently provided:

- Larger black trash cart (increased from current 64-gallon to a 96-gallon cart)
- Free service to City facilities and City-sponsored events
- Free service to bus stop and public containers
- Free annual cleaning of bins for commercial customers
- One compost giveaway annually
- Four Reuse Workshops and Repair Cafes annually hosted by the Whittier Free Store
- Four bulky waste & E-waste collection events annually for residential and multi-family premises
- Twelve bulky item or e-waste collection pick-ups annually from residential and multi-family premises (currently we offer 4 pick-ups annually with a maximum 2 items per pick-up)
- Free residential and multi-family sharps discard program
- Free pickup of abandoned bulky waste and other solid waste from the public right-of-way
- Organic recycling program to meet standards required under AB 1826

Displaced City employees will receive the following benefits from Athens Services:

- Guaranteed employment
- \$20,000 first year bonus payment (original offer of \$10,000 was increased to \$20,000 during negotiations)
- Current rate of pay
- Current seniority for wages, schedule of rate increases and vacation
- Health, dental and vision medical benefits for employee and employee's family at no cost
- Safety bonuses and quarterly recognition

FISCAL IMPACT

The franchise agreement includes the following one-time payments to the City:

- Procurement reimbursement payment to help cover the cost of consultants hired to manage the procurement process- \$150,000
- Signing fee to purchase the City's solid waste collection enterprise - \$5 million

- Equipment procurement to purchase the City solid waste collection vehicles and equipment - \$1.2 million

The franchise agreement includes the following annual payments to the City:

- Franchise Fee Payment (10% of Gross Receipts for Residential; 13% Commercial - approximately \$1 million annually)
- Solid waste collection program fee to cover ongoing City expenses that were previously covered by the solid waste collection enterprise revenue - \$900,000 annually
- Recyclables materials payment - \$73,397 annually

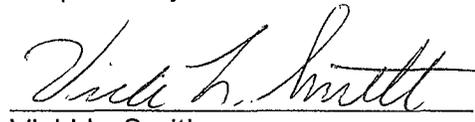
The franchise agreement includes the following annual community contributions:

- City's Social Services Commission to fund non-profit organizations - \$25,000
- Whittier City Employees Association - \$5,000
- Contribution to the Community Engagement Fund - \$20,000
- Scholarships to Whittier students - \$5,000

Submitted by:

Prepared by:


Hye Jin Lee
Acting Director of Public Works


Vicki L. Smith
Public Works Manager

Attachments: A – Proof of Summary Publication
 B – Franchise Ordinance
 C – Written Comment

Whittier Daily News

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5007878

CITY OF WHITTIER
ATTN: CITY CLERK/MARSHA MORALES
13230 E PENN STREET
WHITTIER, CA 90602

FILE NO. No. 3047
PROOF OF PUBLICATION
(2015.5 C.C.P.)

STATE OF CALIFORNIA
County of Los Angeles

I am a citizen of the United States, and a resident of the county aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the printer of WHITTIER DAILY NEWS, a newspaper of general circulation which has been adjudicated as a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California, on the date of October 10, 1960, Case Number 369393. The notice, of which the annexed is a true printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

12/22/2015

I declare under the penalty of perjury that the foregoing is true and correct.

Executed at West Covina, LA Co. California
On this 23th day of December, 2015.



Signature

Legal No. **0010749787**



ORDINANCE NO. 3047

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, GRANTING TO ARAKELIAN ENTERPRISES, INC. (dba ATHENS SERVICES) AN EXCLUSIVE FRANCHISE TO PROVIDE SOLID WASTE COLLECTION AND RECYCLING IN THE CITY OF WHITTIER

WHEREAS, pursuant to Resolution No. 8747 adopted on December 8, 2015, the City Council declared its intention to grant a franchise to Arakelian Enterprises, Inc.(dba Athens Services) (hereinafter "Franchisee") under and pursuant to Article XIV of the Whittier Charter, relating to the granting of franchises, for the purpose of providing solid waste collection and recycling services in the City of Whittier;

WHEREAS, it is specifically the intent of the City Council not to supersede its authority as a Charter City, in granting the within franchise, to deviate from the Franchise Act of 1937, but to utilize the provisions of such Act as specifically referenced herein or only to the extent not in conflict with the City's own Charter, code or other provisions relating to franchises;

WHEREAS, the City issued a Request for Proposals on June 3, 2015 to enter into an exclusive solid waste and recycling service franchise agreement to five qualified collectors and four of the five qualified collectors submitted proposals;

WHEREAS, consulting firm, Sloan-Vazquez, evaluated and scored the proposals and Arakelian Enterprises, Inc. (dba Athens Services) scored highest according to the City's goals and objectives listed in the Request for Proposals;

WHEREAS, at the October 20, 2015 meeting, City Council selected Arakelian Enterprises, Inc. (dba Athens Services) and directed the City Manager to negotiate the final terms of the final franchise agreement;

WHEREAS, at its December 8, 2015 Council meeting, the City Council reviewed the Franchise agreement with Arakelian Enterprises, Inc. (dba Athens Services), introduced the herein ordinance to award the franchise and passed a resolution of intent;

WHEREAS, pursuant to Resolution No. 8747 a public hearing was duly noticed and held on January 12, 2016 at 6:30 p.m. to consider objections to said franchise;

WHEREAS, this City Council conducted and concluded a duly noticed public hearing on its intention to grant said franchise and it is now the desire of this City Council to grant said franchise, in accordance with the terms and conditions specified in this Ordinance;

WHEREAS, all legal prerequisites to the enactment of this Ordinance have occurred;

WHEREAS, the City Council finds that publication of the entire text of this ordinance in a newspaper of general circulation would cost significantly more than the cost of publishing other ordinances;

WHEREAS, pursuant to subdivision (c) of Section 36933 of the California Government Code, the City Council may publish a general nature summary of this ordinance in lieu of the entire text; and

WHEREAS, the City Clerk posted a certified copy of the full text of this ordinance in the City Clerk's Office at least five (5) days prior to the date of the City Council meeting at which time the ordinance was adopted.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds that all the facts, findings, and conclusions set forth above in this Ordinance are true and correct.

SECTION 2. The City Council hereby finds and determines that it can be seen with certainty that there is no possibility the granting of the franchise contemplated herein will have a significant effect on the environment. Accordingly, pursuant to the provisions of § 15061(b)(3) of Division 6 of Title 14 of the California Code of Regulations, the adoption of this Ordinance is not subject to the requirements of the California Environmental Quality Act of 1970, as amended.

SECTION 3. The City Council hereby awards a ten (10) year solid waste collection and recycling franchise agreement to Arakelian Enterprises, Inc. (dba Athens Services) for the City of Whittier, pursuant to the terms, conditions, restrictions and service area defined in the Exclusive Franchise Agreement for the Provision of Solid Waste Services ("Agreement") between Arakelian Enterprises, Inc. and the City of Whittier, attached hereto as Exhibit 1.

SECTION 4. The franchise granted hereunder shall not become effective until the effective date of this ordinance.

SECTION 5. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Whittier hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

SECTION 6. The Mayor shall sign and the City Clerk-Treasurer shall attest to the passage of this Ordinance. The City Clerk-Treasurer shall cause a summary of the

same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective 30 days from its adoption.

ADOPTED AND APPROVED this _____ day of _____ 2016.

FERNANDO DUTRA, Mayor

ATTEST:

KATHRYN A. MARSHALL
City Clerk-Treasurer

Attachment: Exhibit 1 - Exclusive Franchise Agreement for the Provision of Solid Waste Services

CITY OF WHITTIER – SOLID WASTE SERVICES AGREEMENT

**AN EXCLUSIVE FRANCHISE AGREEMENT FOR THE PROVISION OF
SOLID WASTE SERVICES**

**Executed Between the City of Whittier
and
Arakelian Enterprises, Incorporated
(DBA Athens Services or “Athens”)**

This _____ day of December, 2015

CITY OF WHITTIER – SOLID WASTE SERVICES AGREEMENT

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CITY OF WHITTIER – SOLID WASTE SERVICES AGREEMENT

THIS SOLID WASTE SERVICES AGREEMENT (herein "Agreement") is made and entered into this ____ day of _____, 2015, by and between the **City of Whittier**, charter city & municipal corporation (hereinafter referred to as "City"), and Arakelian Enterprises, Incorporated (DBA Athens Services or "Athens")., a California corporation, (herein "Contractor"). Now, therefore, in consideration of the mutual covenants, Agreements and consideration contained herein, the City and Contractor hereby agree as hereinafter set forth:

CITY OF WHITTIER – SOLID WASTE SERVICES AGREEMENT

ARTICLE 1. DEFINITIONS

For the purpose of this Agreement, the definitions contained in this Article shall apply unless otherwise specifically stated. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Use of the masculine gender shall include the feminine gender. The meaning of terms or words not defined herein shall be as commonly understood in the solid waste Collection Services industry when the common understanding is uncertain. Wherever any term used in this Agreement has been defined by the Municipal Code by the City of Whittier (“Municipal Code”) or Division 30, part 1, Chapter 2 of the California Public Resources Code, the definitions in the Municipal Code or Public Resources Code shall apply unless the term is otherwise defined in this Agreement.

1.01 AB 341

“AB 341” means Assembly Bill 341 from the 2011-1012 Regular Session of the California Legislature (Chapter 476, Statutes 2011).

1.02 AB 939

“AB 939” means the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code Section 40000 et seq., as it may be amended from time to time.

1.03 AB 1826

“AB 1826” means Assembly Bill 1826 from the 2013-1014 Regular Session of the California Legislature (Chapter 12.9, Commencing with Section 42469.8), Statutes 2014).

CITY OF WHITTIER – SOLID WASTE SERVICES AGREEMENT

1.04 AFFILIATE

“Affiliate” means all businesses (including corporations, limited and general partnerships and sole proprietorships) which are directly or indirectly related to Contractor by virtue of direct or indirect ownership interest or common management. An Affiliate shall include a business in which Contractor owns a direct or indirect ownership interest, a business which has a direct or indirect ownership in Contractor and/or a business which is also owned, controlled or managed by any business or individual which has a direct or indirect ownership interest in Contractor. For purposes of determining whether an indirect ownership interest exists, the constructive ownership provisions of Section 318(a) of the Internal Revenue Code of 1986, as in effect on the date of this Agreement, shall apply.

1.05 AGREEMENT

“Agreement” means this Solid Waste Services Agreement and all amendments hereto.

1.06 AGREEMENT YEAR

“Agreement Year” means each twelve (12) month period from July 1 to June 30, beginning July 1, 2016.

1.07 ANNUAL DIVERSION REPORT

“Annual Diversion Report” means the annual report submitted by the Contractor to the City describing the previous year’s diversion activities, diversion percentages and associated calculations and the description of the diversion activity planned for the upcoming year, if applicable. The Annual Diversion Report shall be prepared in a manner that directly corresponds to the reporting requirements of the California Department of Resources Recycling and Recovery (CalRecycle) and the California Integrated Waste Management Act, as amended.

CITY OF WHITTIER – SOLID WASTE SERVICES AGREEMENT

1.08 BILLINGS

“Billings” or “Billing” or “Bill” means the statement(s) of charges provided to Customers for services rendered by Contractor.

1.09 BIN

“Bin” means a detachable metal or plastic container with a capacity of less than ten (10) cubic yards, equipped with a lid, and designed for mechanical pick-up by collection vehicles.

1.10 BIN SERVICE

“Bin Service” means Solid Waste Services in which a Bin is used for the Collection of Solid Waste.

1.11 BIOHAZARDOUS OR BIOMEDICAL WASTE

“Biohazardous or Biomedical Waste” means any waste which may cause disease or reasonably be suspected of harboring pathogenic organisms; included are waste resulting from the operation of medical clinics, hospitals, and other facilities processing wastes which may consist of, but are not limited to, human and animal parts, contaminated bandages, pathological specimens, hypodermic needles, sharps, contaminated clothing and surgical gloves.

1.12 BULKY WASTE

“Bulky Waste” means an item too large to fit in the container on the premises, including but not limited to household appliances (including refrigerators with and without Freon, ranges, washers, dryers, water heaters, dishwashers, plumbing, small household appliances, and other similar items commonly known as “white goods”); furniture (including chairs, sofas, mattresses, and rugs); Electronic Waste (including discarded electronic equipment such as, but not limited to, television sets, computer monitors, central processing units (CPUs), laptop computers, and peripherals (e.g., external computer hard drives, computer

CITY OF WHITTIER – SOLID WASTE SERVICES AGREEMENT

keyboards, computer mice, and computer printers), and other similar items commonly known as “brown goods” and “e-waste”); residential wastes (green waste larger than four (4) inches in diameter or four (4) feet in length, such as tree stumps, trunks or branches not exceeding one cubic yard per Collection); clothing; and tires. Bulky Waste does not include car bodies, Construction and Demolition Debris or items requiring more than two persons to remove. In the event a question ever arises as to whether a specific item or category of items meets the definition of Bulky Waste, City shall be responsible to determine whether said definition shall apply, which determination shall be final and binding on the Parties. Bulky Waste does not include items herein defined as Exempt Waste. Bulky Waste must have been generated on the Customer’s Premises in order to qualify for removal.

1.13 CALRECYCLE

CalRecycle is the California Department of Resources Recycling and Recovery.

1.14 CART

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

1.15 CITY

“City” means the City of Whittier, California, within its jurisdictional boundaries.

1.16 CITY COUNCIL

“City Council” means the City Council of the City of Whittier, California.

1.17 CITY FACILITIES

“City Facilities” means those City properties listed in Exhibit 4 which is attached to and included in this Agreement, as such Exhibit 4 now exists or may subsequently be amended by City.

CITY OF WHITTIER – SOLID WASTE SERVICES AGREEMENT

1.18 CITY MANAGER

“City Manager” means the City Manager of the City of Whittier or the City Manager’s designee.

1.19 COLLECTION

“Collection” means the process whereby Solid Waste is removed and transported from within the City.

1.20 CONTRACTOR

“Contractor” means the “Solid Waste Contractor” as defined in the City of Whittier Municipal Code and is the entity entering into this Agreement with the City, as identified in the introductory paragraph of this Agreement.

1.21 COMMERCIAL PREMISES

“Commercial Premises” means all premises in the City, other than Residential Premises, where Solid Waste is generated or accumulated. The term “Commercial Premises” includes, but is not limited to, Multi-Family Premises, stores; offices; industrial plants; private schools; school district offices, special districts and water districts (to the extent permitted by law); restaurants; rooming houses; hotels; motels; manufacturing, processing, or assembly shops or plants; hospitals, clinics, convalescent centers and nursing homes (non-medical waste only).

1.22 COMMERCIAL SERVICE

“Commercial Service” means Solid Waste Services performed at or for Commercial Premises.

CITY OF WHITTIER – SOLID WASTE SERVICES AGREEMENT

1.23 COMPACTOR

“Compactor” refers to any mechanical apparatus that serves to compact the content of a refuse or recycling collection bin, regardless of size, whether stationary or mobile.

1.24 CONSTRUCTION AND DEMOLITION DEBRIS

“Construction and Demolition Debris” means solid waste material resulting from building, construction, alteration, repair or demolition, including brick, stone, cement, lumber, plaster, and drywall; packaging; rubble resulting from construction, remodeling, repair and demolition operations on pavements, residential and commercial buildings and other structures.

1.25 CONTAINER

“Container” means commercial size Bins, Roll-Off Box or residential size Carts approved and provided by the Contractor for accumulation and Collection of Solid Waste, Recyclable Materials and Green Waste, or other source-separated material, from any Premises within the City.

1.26 CONTRACT MANAGER

“Contract Manager” means the person, or his designee, designated by the City to administer and monitor the provisions of this Agreement.

1.27 COUNTY

“County” means Los Angeles County, California.

1.28 CPI

“CPI” means the Consumer Price Index for All Urban Consumers (CPI-U), Los Angeles – Riverside – Orange County, all items index.

CITY OF WHITTIER – SOLID WASTE SERVICES AGREEMENT

1.29 CUSTOMER

“Customer” means a Person receiving Solid Waste Services from Contractor pursuant to the terms of this Agreement.

1.30 DISALLOWED COSTS

“Disallowed Cost(s)” means any expenditure incurred by Contractor in connection with or arising from Contractor’s provision of Collection Services under, and in compliance with, this Agreement that shall not be recoverable from the revenues generated from the charges for providing Collection Services but shall be the sole responsibility of Contractor and may be funded from other sources such as owners’ equity, retained earnings, sale of recyclable materials, and interest on investments, etc.

Disallowed Costs shall not be passed through to the Customers and shall not be used to calculate the cost of providing service for rate setting under Article XIII C and D of the California Constitution (Proposition 218).

1.31 DISPOSAL

“Disposal” means the ultimate disposition of Solid Waste Collected by Contractor at a landfill or otherwise in full regulatory compliance.

1.32 DISPOSAL SITE(S)

“Disposal Site(s)” means the Solid Waste facility or facilities utilized for the ultimate Disposal of Solid Waste collected by Contractor.

1.33 ELECTRONIC WASTE OR E-WASTE

“Electronic Waste” means “Covered Electronic Wastes” as defined in the Act (Section 42463 of Public Resources Code) including discarded electronic equipment such as, but not limited to, television sets, computer monitors, central processing units (CPUs), laptop computers, and peripherals (e.g., external computer hard drives, computer keyboards, computer mice, and computer

CITY OF WHITTIER – SOLID WASTE SERVICES AGREEMENT

printers), and other similar items commonly known as “brown goods” and “e-waste”.

1.34 EXEMPT WASTE

“Exempt Waste” means Biohazardous or Biomedical Waste, Hazardous Waste, Sludge, Stable Matter, Green Waste or lumber that is more than four (4) feet in length in its longest dimension or two (2) feet in diameter, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, and those wastes under the control of the Nuclear Regulatory Commission.

1.35 FORCE MAJEURE

Contractor shall not be in default under this Agreement in the event that its ability to provide Collection Services, in compliance with its obligation to do so hereunder, is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, strikes or other labor disturbances lasting five (5) days or less, explosion, natural disasters such as floods, earthquakes, landslides, and fires, or "other catastrophic events" which are beyond the reasonable control of Contractor. The term "other catastrophic events" does not include: (i) the financial inability of Contractor to perform; (ii) failure of Contractor to obtain any necessary permits or licenses from other governmental agencies; (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Contractor; or (iv) strikes or other labor disturbances lasting longer than five (5) days.

1.36 FRANCHISE

“Franchise” means the exclusive right and privilege granted by this Agreement.

CITY OF WHITTIER – SOLID WASTE SERVICES AGREEMENT

1.37 FRANCHISE FEE

“Franchise Fee” means the fee imposed by the City on the Contractor solely because of its status as party to this Agreement.

1.38 GREEN WASTE OR YARD WASTE

“Green Waste” or “Yard Waste” means leaves, grass clippings, brush, branches and other forms of organic waste generated from landscape and garden maintenance. Green Waste includes plant debris, such as grass clippings, leaves, pruning, weeds, branches, brush, Holiday trees, and other forms of organic waste that is generated at the Premises wherein the Green Waste is collected. Green Waste excludes yucca and palm fronds, which should be collected as Solid Waste. Green Waste does not include items herein defined as Exempt Waste or materials not normally produced from gardens or landscape areas, such as brick, rock, gravel, large quantities of dirt, concrete, sod, non-organic wastes, oil, and painted or treated wood products.

1.39 GROSS RECEIPTS

“Gross Receipts” means the actual monies remitted to Contractor by Customers, which shall be determined in accordance with Generally Accepted Accounting Principles.

1.40 HAZARDOUS WASTE

“Hazardous Waste” means any waste material or mixture defined as a “hazardous waste pursuant to California law under Public Resources Code § 40141 or under federal law under 42 U.S.C. § 6903 (RCRA), or defined as a “hazardous substance” under 42 U.S.C. §§ 9601 (CERCLA), or as a “hazardous material” under California Health & Safety Code Section 25260, as such statutes may be amended from time to time.

CITY OF WHITTIER – SOLID WASTE SERVICES AGREEMENT

1.41 HOUSEHOLD BATTERIES

“Household Batteries” means disposable or rechargeable dry cells (e.g., A, AA, AAA, B, C, D, 9-volt, button-type) commonly used as power sources for household or consumer products including, but not limited to, nickel-cadmium, nickel metal hydride, alkaline, mercury, mercuric oxide, silver oxide, zinc oxide, nickel-zinc, nickel iron, lithium, lithium ion, magnesium, manganese, and carbon-zinc batteries, but excluding automotive lead acid batteries.

1.42 HOUSEHOLD HAZARDOUS WASTE (HHW)

“Household Hazardous Waste” means hazardous waste generated at a residential property.

1.43 MATERIALS RECOVERY FACILITY (“MRF”)

“Materials Recycling Facility” or “MRF” means a fully permitted facility where Solid Waste, Recyclable Materials, and other materials are processed, sorted or separated for the purposes of recovering reusable or Recyclable Materials, processing or composting.

1.44 MULTI-FAMILY PREMISES

“Multi-Family Premises” or “Multi-Family Units” means those residential units such as apartments, condominiums and town homes, each with separate cooking and bathing facilities, with three (3) or more units.

1.45 NON-COLLECTION NOTICE

“Non-Collection Notice” is a form developed and used by the Contractor, as approved by the City, to notify Customers of the reason for non-collection of materials set out by the Customer for Collection by Contractor pursuant to this Agreement.

CITY OF WHITTIER – SOLID WASTE SERVICES AGREEMENT

1.46 OCCUPANT

“Occupant” refers to a person who occupies Premises.

1.47 ON-CALL COLLECTION

“On-Call Collection” means Collection of Solid Waste, Recycling Materials, Green Waste, or other Source-Separated material by Contractor that is not regularly scheduled or is scheduled more than twenty-four (24) hours in advance. On-Call Collection is initiated by a Customer by calling, emailing, or requesting the service in person at Contractor’s office.

1.48 ORGANIC WASTE

“Organic Waste” means food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper that is mixed in with food waste.

1.49 OWNER

“Owner” means the Person holding legal title to the real property constituting the Premises to which Solid Waste service is to be provided under this Agreement.

1.50 PERSON

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

1.51 PREMISES

“Premises” means any single or multi-family residential property, industrial, retail, institutional or commercial properties of any kind, or any other dwelling, building or vacant property where solid waste is generated or accumulates for disposal.

CITY OF WHITTIER – SOLID WASTE SERVICES AGREEMENT

1.52 RATE PERIOD

“Rate Period” means a 12-month period, commencing July 1 and concluding June 30, except that Rate Period 1 shall commence on the Commencement Date and conclude June 30, 2017.

1.53 REBUILT VEHICLE

For purposes of this Agreement, “rebuilt” means, at a minimum, replacement of worn parts and reconditioning or replacement of hydraulic systems, transmissions, differentials, electrical systems, engines, and brake systems. In addition, the rebuilt vehicle must be repainted and its tires must have at least eighty-five percent (85%) of tread remaining.

1.54 RECYCLING

“Recycling” means the processing of Recyclable Materials for the purpose of returning them to the economy in the form of raw materials for new, reused, or reconstituted products. The Collection, transportation or Disposal of Solid Waste not intended for, or capable of, reuse is not Recycling. Recycling does not include use of Solid Waste for conversion to energy.

1.55 RECYCLABLE MATERIALS

“Recyclable Materials” means materials, which are source-separated from other solid waste for the purpose of recycling, such as, but not limited to, paper, newsprint, printed matter, pasteboard, paper containers, cardboard, glass, aluminum, polyethylene terephthalate and other plastics, beverage containers, compostable materials and such other materials designated by the City Manager or CalRecycle as recyclable. Polystyrene foam and film plastic, including plastic bags are specifically excluded from collection and processing.

CITY OF WHITTIER – SOLID WASTE SERVICES AGREEMENT

1.56 RECYCLING BIN

“Recycling Bin” means a metal container, with a capacity of two (2) cubic yards up to and including six (6) cubic yards, designed or intended to be mechanically dumped into a loader packer-type recycling truck, that is approved for such purpose by the City and is appropriately labeled as a Recycling Bin.

1.57 REFUSE

“Refuse” means putrescible and non-putrescible Solid Waste.

1.58 RESIDENTIAL PREMISES

“Residential Premises” means a detached building, or each unit of multi-family dwelling, which utilize Carts for Residential Service.

1.59 RESIDENTIAL SERVICE

“Residential Service” means Solid Waste Services performed at and for Residential Premises.

1.60 ROLL-OFF BOX

“Roll-Off Box” means a metal container with a capacity of (10) or more cubic yards that is normally loaded onto a motor vehicle and transported to an appropriate facility.

1.61 ROLL-OUT SERVICE

“Roll-Out Service” shall include, but not be limited to, moving Containers manually, mechanically or by a specialized “scout” truck, from their storage location to the Collection location, and returning them to their storage location.

1.62 SERVICE AREA

“Service Area” means the corporate limits of the City of Whittier.

CITY OF WHITTIER – SOLID WASTE SERVICES AGREEMENT

1.63 SINGLE-STREAM RECYCLING

“Single-Stream Recycling” Single-Stream Recycling is the commingled collection of Source-Separated materials which are transported to a facility for additional separation into individual commodities that are baled or bundled in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products.

1.64 SOLID WASTE

“Solid Waste” means all “solid waste” as defined under California Public Resources Code § 40191, as such may be amended from time to time and includes discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including Refuse, Construction and Demolition Debris, Bulky Waste, Recyclable Materials, and Green Waste, or any combination thereof which are permitted to be disposed of in a Class III landfill, and which are included in the definition of “Non-Hazardous Solid Waste” set forth in the California Code of Regulations.

1.65 SOLID WASTE SERVICES

“Solid Waste Services” means the Collection, transfer, transport, Recycling, processing and Disposal of Solid Waste.

1.66 SOURCE-SEPARATED

“Source-Separated” means the separation by the Waste Generator of materials that would otherwise become Solid Waste (such as glass bottles, metal cans, newspapers, cardboard, plastic containers, etc.) into separate Containers(s) to allow the separated materials to be collected together for the purpose of Recycling of such materials.

CITY OF WHITTIER – SOLID WASTE SERVICES AGREEMENT

1.67 SPECIAL ITEMS

“Special Items” means any bulky or heavy objects that require bin service and are not Bulky Waste, including, but not limited to, dirt, sod, brick, manure, waste from any poultry yard or stable, and Construction and Demolition Debris.

1.68 TEMPORARY SERVICE

"Temporary Service" shall mean Solid Waste Service provided by Contractor on an as-needed and temporary basis to any Premises within the City in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Roll-Off Boxes.

1.69 TRANSFORMATION

“Transformation” means incineration, pyrolysis, distillation, gasification, or biological conversion other than composting.

1.70 TRANSFER STATION

“Transfer Station” means a facility that receives Solid Waste from collection vehicles and transfers the material to larger vehicles for transport to landfills and other destinations. Transfer Stations may or may not also include MRFs, transferring residual Solid Waste (Solid Waste left after the recovery of Recyclable Materials) to landfills; and Recyclable Materials, including Green Waste, Construction and Demolition Debris, and Organics, to processors, brokers or end-users.

1.71 UNIVERSAL WASTE OR U-WASTE

“Universal Waste” or “U-Waste” means all waste defined by Title 22, Subsections 66273.1 through 66273.9 of the California Code of Regulations. These include, but are not limited to, batteries, fluorescent light bulbs, mercury switches, and Electronic Waste.

CITY OF WHITTIER – SOLID WASTE SERVICES AGREEMENT

1.72 WASTE GENERATOR

“Waste Generator” means any Person as defined by the Public Resources Code, whose act or process produced Solid Waste as defined in the Public Resources Code.

1.73 WHITE GOODS

“White Goods” means inoperative and discarded refrigerators, microwave ovens, ranges, water heaters, freezers, and other similar household appliances.

1.74 WORK DAY

“Work Day” means any day, Monday through Saturday that is not a holiday as set forth in Section 7.01.2 of this Agreement.

ARTICLE 2. TERM OF AGREEMENT

2.01 EFFECTIVE DATE; COMMENCEMENT OF SERVICES

This Agreement shall become effective on the effective date of the Franchise Ordinance (the "Effective Date"). Both parties agree to execute the Franchise Agreement on or before the Effective Date. Except where specified, the obligations of the parties hereunder, and the provision of Solid Waste Services and other services by Contractor, shall commence on July 1, 2016 (the "Commencement Date"). Contractor understands and agrees that the time between the Effective Date and the Commencement Date, is intended to provide Contractor with ample and sufficient time to, among other things, order equipment, prepare necessary routing schedules and route maps, obtain any permits and licenses, establish/build facilities, obtain required service agreements, and begin the public awareness campaign as part of Contractor's transition program as specified in this Agreement.

2.02 TERM & EXTENDED TERM

Unless earlier terminated in accordance with Article 13 of this Agreement, this Agreement shall continue in full force and effect until from and after July 1, 2016, and through and including the close of business on June 30, 2026. City reserves the right, in its sole and unfettered discretion, to extend the term of this Agreement, under its then-existing terms and conditions, for a maximum of one (1) six-year extended term. City shall give notice of its intention to extend the term, or any extended term, of this Agreement in writing not later than six (6) calendar months prior to expiration of the term or any extended term of the Agreement. Notwithstanding, if prior to June 30, 2018, City extends the term of this Agreement for an additional (1) six-year extended term, the Contractor shall pay the City five million dollars (\$5,000,000) within 10 days of such approval. The aforementioned payment for the extension of the term of the Agreement

CITY OF WHITTIER – SOLID WASTE SERVICES AGREEMENT

herein shall be provided at the sole cost of the Contractor as a Disallowed Cost for “Proposition 218” purposes.

ARTICLE 3. SCOPE OF AGREEMENT

3.01 GRANT OF AUTHORITY TO CONTRACTOR AGREEMENT

Except as otherwise provided in this Agreement, the Contractor is herein granted the exclusive right to provide Solid Waste Services in the Service Area. No other solid waste or recycling services shall be exclusive to the Contractor. As a material inducement to the City entering into this Agreement, Contractor represents and warrants that Contractor is a provider of first class work and services and Contractor is experienced in performing the work and services contemplated herein and, in light of such status and experience, Contractor covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be of good quality, fit for the purpose intended. For purposes of this Agreement, the phrase “highest professional standards” shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

3.02 LIMITATIONS ON SCOPE OF AUTHORITY TO CONTRACTOR

The right granted to the Contractor is exclusive, except for the categories of Solid Waste listed below. The granting of this right does not preclude the categories of Solid Waste listed below from being delivered to, collected by, and transported by others, provided that no Person is excused from obtaining from the City any authorization that is required by law. Contractor may, but is not obligated to, provide the services described below on a non-exclusive basis.

- a) Source-Separated Recyclable Materials that the Waste Generator sells to, or otherwise receives compensation from other Persons in a manner resulting in a net payment to the customer after consideration of collection, handling, or processing costs;

CITY OF WHITTIER – SOLID WASTE SERVICES AGREEMENT

- b) Solid Waste, including Recyclable Materials, Green Waste and Bulky Waste, which is removed from any Premises by the Waste Generator, and which is transported personally by such Generator (or by its full-time employees) to a processing or disposal facility in a manner consistent with all applicable laws and regulations;
- c) The donation of Source-Separated materials to any Person or entity;
- d) Containers delivered for recycling under the California Beverage Container Recycling Litter Reduction Act, Sections 14500, et seq., California Public Resources Code;
- e) Green Waste removed from Premises by a gardening, landscaping, or tree trimming company using its own equipment and employees as an incidental part of a total service offered by the company, as opposed to a hauling service;
- f) Construction and Demolition Debris that is incidentally removed from an Owner's Premises by a duly-licensed construction or demolition company, as part of a total service provided by the licensed company to the Owner for a development project permitted by the City, and where the licensed company uses its own equipment and employees;
- g) The Collection, transfer, transport, Recycling, processing, and Disposal of animal waste and remains from slaughterhouse or butcher shops for use as tallow;
- h) The Collection, transfer, transport, Recycling, processing, and Disposal of Hazardous Substances, Hazardous Waste, and radioactive waste regardless of its source;
- i) The Collection, transfer, transport, Recycling, processing, and Disposal of Solid Waste by City through City officers or employees in the normal course of their employment; and,
- j) Solid Waste Services for governmental agencies other than City, which may have facilities in City, but over which City has no jurisdiction in connection with the regulation of Solid Waste.

CITY OF WHITTIER – SOLID WASTE SERVICES AGREEMENT

3.03 RECYCLABLE MATERIALS, BULKY WASTE, OR HOLIDAY TREE DISPOSAL BY WASTE GENERATOR

Nothing in this Agreement shall be construed as requiring Customers to set out Recyclable Materials, Bulky Waste or Holiday Trees for Collection by Contractor. Customers may dispose of Recyclable Materials, Bulky Waste or Holiday Trees by other appropriate means, including but not limited to, taking Recyclable Materials, Bulky Waste or Holiday Trees to drop-off facilities and donating or selling such items to private or public entities.

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ARTICLE 4. COLLECTION SERVICES

4.01 GENERAL

The professional services to be rendered by Contractor pursuant to this Agreement shall include, but not be limited to, the furnishing of all labor, supervision, equipment, materials, supplies, and all other items necessary to perform the services required. The enumeration of, and specification of requirements for, particular items of labor or equipment shall not relieve Contractor of the duty to furnish all other items as may be required, whether enumerated elsewhere in the Agreement or not.

The professional services to be rendered by Contractor pursuant to this Agreement shall be accomplished in a thorough and professional manner so that all Customers are provided reliable, courteous and high-quality Solid Waste Services 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 provided in this section, whether such other aspects are enumerated elsewhere in the Agreement or not.

4.02 SOLID WASTE COLLECTION

4.02.1 Residential Premises Solid Waste Collection

Contractor shall provide automated Collection of Solid Waste to all Residential Premises, once per week from Contractor-provided Carts. Contractor shall provide each Customer with a ninety-six (96) gallon Cart as the default service. Customers may request to substitute the ninety-six (96) gallon Cart with either a thirty-two (32) gallon or a sixty-four gallon Cart. No discount will be given for using smaller carts.

Customers that regularly require more than 96 gallons of Solid Waste Cart capacity may request additional Solid Waste Carts for an additional charge per

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Cart per month in accordance with the rates set forth in Exhibit 1 or as may be adjusted under the terms of this Agreement.

Contractor shall provide Solid Waste Collection from Carts at curbside unless the Customer has requested Roll-Out Service and has agreed to pay the applicable premium service Rate. In such case, Contractor shall retrieve Carts for Collection, and return Carts to the alternative service location (such as the side yard or back yard) specified by the Customer.

Collection of Green Waste, Source-Separated, Commingled Recycling, and Solid Waste from Residential Premises shall occur on the same day each week.

4.02.3 Multi-Family and Commercial Premises Solid Waste Collection

Contractor shall provide Collection of Solid Waste to Multi-Family and Commercial Premises as frequently as scheduled by Customer, but not less than once per week and more frequently if required to handle the waste generated at the Premises where the Bins are located. The Contractor shall provide Containers as part of the Collection service at rates set forth in Exhibit 1. The size of the container and the frequency (above the minimum) of Collection shall be determined between the Customer and the Contractor but shall include Bin sizes of 1, 2, 3, 4, and 6 cubic yard capacity as well as 96-gallon Carts. Size and frequency shall be sufficient to provide that no Solid Waste need be placed outside the Container.

Specifically, the Contractor shall offer the following Collection Service methodologies to Commercial Customers:

1. Individual Bin or Cart Service. Contractor shall allow each Multi-Family and Commercial Premises to use 96-Gallon Carts, Bins, Compactors, or Roll-Off Boxes for Collection of Solid Waste.

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2. Centralized Bin or Cart Service. Contractor shall allow each Multi-Family and Commercial Premises to use Bins or Carts for Collection of Solid Waste that are shared by the Occupants of two or more adjacent Commercial Premises. In such case, Contractor shall provide one or more Carts or Bins as requested by the Customer(s) provided that capacity shall be sufficient to provide that no Solid Waste need be placed outside the Container(s).
3. 300 Gallon Container Service: Contractor shall provide Collection Service to all locations using 300-gallon containers upon Commencement of this Agreement using an automated side-loader Collection vehicle. Contractor may continue use of 300 gallon containers or may propose an alternative collection methodology that conforms to the space limitation, safety considerations and service requirements for those customers. Any change to the Collection methodology must be approved by the City prior to implementation.
4. Shared Compactor Service: Upon Commencement of this Agreement, Contractor shall take ownership of shared Compactors identified in Exhibit 6 and shall add additional Compactors as may be required to provide Collection Services. Contractor shall inspect each Compactor site and will interview Customers to determine container requirements and collection schedule. Initially, Contractor will provide Collection Service twice per week and will adjust the Collection schedule as needed. Contractor shall be responsible for the proper functioning of shared Compactors, and shall perform preventative maintenance, such as checking fluid levels, lube/grease, and wiring, or replacement when necessary. Contractor may charge Customers for shared Compactor Collection Service in accordance with the rates set forth in Exhibit 1.
5. Permanent Roll-Off Boxes and Compactors. Contractor shall allow a Customer to use a Roll-Off Box or Compactor for Collection of Solid Waste to meet the Customer's permanent Solid Waste Collection needs. In such

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case, Contractor shall provide Customer with a choice of Container capacities including ten (10), twenty (20), thirty (30) and forty (40) cubic yards. Contractor shall offer Customers the option to purchase or lease Compactors through either the Contractor or an outside vendor. Regular maintenance of Compactors shall be provided by Contractor (or outside vendor) as frequently as needed to keep the Compactors in good working order and functioning at high compaction levels.

6. Roll-Out Service. Contractor shall be required to service bins stored within 50 feet of the public right-of-way if egress to the bins is paved and the slope is less than 7%. Otherwise, Customer may put bin out for access or subscribe to Roll-Out Service. Contractor shall provide Roll-Out Service as requested by the Customer for an additional charge per bin per month in accordance with the rates set forth in Exhibit 1 or as may be adjusted under the terms of this Agreement.

4.02.4 City Facilities Solid Waste Collection

Contractor shall provide Collection of Solid Waste to City Facilities including park, sidewalk and bus stop container service, as frequently as scheduled by the City, but not less than once per week. City Facilities will be provided Collection of Solid Waste at “no charge”. Contractor shall allow each City Facility to use Carts, Bins, locks, Compactors, or Roll-Off Boxes for Solid Waste Collection, as determined by City. The cost for the services provided to City Facilities herein shall be provided at the sole cost of the Contractor as a Disallowed Cost for “Proposition 218” purposes.

4.03 RECYCLING COLLECTION

4.03.1 Residential Premises Source-Separated, Single-Stream Recycling Collection

Contractor shall provide Automated Source-Separated, Single-Stream Recycling Collection to all Residential Premises once per week from Contractor-provided

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Carts. Contractor shall provide each Customer with a ninety-six (96) gallon Cart as the default service. Customers may request to substitute the ninety-six (96) gallon Cart with either a thirty-two (32) gallon or a sixty-four (64) gallon Cart. Customers that regularly require more than 96 gallons of Cart capacity for Recycling may request additional Carts. No extra fee may be charged for Collection of Recycling or additional Carts, and no discounts given for using smaller carts.

Contractor shall provide Collection of Recycling from Carts at curbside unless the Customer has requested Roll-Out Service and has agreed to pay the premium service rate. In such case, Contractor shall retrieve Carts for Collection and return Carts to the alternative service location (such as the side yard or back yard) specified by the Customer.

4.03.2 Multi-Family and Commercial Premises Source-Separated, Single-Stream Recycling Collection

Multi-Family and Commercial Customers shall have the option to voluntarily subscribe to Collection of Source-Separated, Single-Stream Recycling and shall pay Contractor for such service in accordance with applicable Rates. Contractor shall provide Collection of Source-Separated, Single-Stream Recycling from Multi-Family Residential Complexes and Commercial Premises that have subscribed to such service as frequently as scheduled by Customer, but not less than once per week. Contractor shall allow Multi-Family and Commercial Customers to select a Collection service method that best suits the needs of its Premises. Specifically, the Contractor shall offer the Containers and service choices that are similar to those offered for Collection of Commercial Solid Waste pursuant to Section 4.02.3. Contractor shall provide Collection service at the location agreed upon by Contractor and Customer. The designated Collection location, if disputed by Customer or Contractor, shall be determined by the City.

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4.03.3 City Facilities Source-Separated, Single-Stream Recycling Collection

Contractor shall provide Collection of Source-Separated, Single-Stream Recycling materials to City Facilities, as frequently as scheduled by the City, but not less than once per week, at “no charge”. The cost for the services provided to City Facilities herein shall be provided at the sole cost of the Contractor as a Disallowed Cost for “Proposition 218” purposes. Contractor shall allow each City Facility to use Carts, Bins, locks, Compactors, or Roll-Off Boxes for Solid Waste Collection, as determined by City.

4.03.4 Marketing and Sale of Recyclable Materials

Contractor shall be responsible for marketing and sale of all Recyclable Materials Collected pursuant to this Agreement. Contractor may retain revenue from the sale of Recyclable Materials and shall provide the City with an annual portion of the sales as specified in Section 8.06.

4.03.5 Compliance with AB 341

Contractor shall offer and provide a recycling program that at a minimum meets the standards required under AB 341. Contractor shall be responsible for ensuring that the recycling program achieves the required diversion rates specified in this Agreement and may be required to modify its program from time to time, at no additional cost to the City or Customers, to meet such diversion requirements.

Contractor shall produce, keep current, and provide public information specifically outlining its recycling program, which shall specifically include the annual publication and distribution of a brochure describing this service to all applicable Customers in City.

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4.04 GREEN WASTE RECYCLING COLLECTION

4.04.1 Residential Premises Green Waste Collection

Contractor shall provide automated Collection of Source-Separated Green Waste to all Residential Premises, once per week from Contractor-provided Carts. Contractor shall provide each Customer with a ninety-six (96) gallon Cart as the default service. Customers may request to substitute the ninety-six (96) gallon Cart with either a thirty-two (32) gallon or a sixty-four (64) gallon Cart. No discounts will be given for using smaller carts or no carts.

Customers that regularly require more than 96 gallons of Green Waste Cart capacity may request additional Green Waste Carts at no additional charge for the first additional cart and at an additional charge for each additional cart beyond the first two (2) carts per month in accordance with the rates set forth in Exhibit 1 or as may be adjusted under the terms of this Agreement.

Contractor shall provide Collection of Green Waste from Carts at curbside unless the Customer has requested Roll-Out Service and has agreed to pay the applicable premium service rate. In such case, Contractor shall retrieve Carts for Collection, and return Carts to the alternative service location (such as the side yard or back yard) specified by the Customer.

4.04.2 Multi-Family and Commercial Premises Green Waste Collection

Multi-Family and Commercial Customers shall have the option to voluntarily subscribe to Collection of Source-Separated Green Waste, and shall pay Contractor for such service in accordance with applicable Rates. Contractor shall provide Collection of Source-Separated Green Waste from Multi-Family Residential Complexes and Commercial Premises that have subscribed to such service as frequently as scheduled by Customer, but not less than once per week. Contractor shall allow Multi-Family and Commercial Customers to select a Collection Service method that best suits the needs of its Premises. Specifically,

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the Contractor shall offer the Containers and service choices that are similar to that offered for Collection of Solid Waste pursuant to Section 4.02.3. Contractor shall provide Collection of Source-Segregated Green Waste at the location agreed upon by Contractor and Customer. The designated collection location, if disputed by Customer or Contractor, shall be determined by the City.

4.04.3 Annual Holiday Tree Recycling Collection

Annually, commencing the day after December 25 and ending the third Saturday in January, the Contractor shall collect Holiday Trees from Residential and Multi-Family Premises. Residential Customers are required to place the Holiday Trees curbside on the scheduled day for Collection of Solid Waste. Holiday Trees must be cut into lengths no longer than six feet (6'), be free of ornaments, garlands, tinsel and flocking, and stands must be removed. Holiday Trees from Multi-Family Premises will be collected on Customer's normal collection days at Customer's collection location for Solid Waste. Contractor shall deliver the collected Holiday Trees to an appropriate facility for processing. This annual service shall be provided at no additional charge.

Notwithstanding the above, in accordance with Section 3.03, Customers may dispose of Holiday Trees by other appropriate means.

4.04.4 City Facilities Source-Separated Green Waste Collection

Contractor shall provide Collection of Source-Separated Green Waste to City Facilities, as frequently as scheduled by the City, but not less than once per week, at "no charge". Contractor shall allow each City Facility to use Carts, Bins, locks, Compactors, or Roll-Off Boxes for Solid Waste Collection, as determined by City. The cost for the services provided to City Facilities herein shall be provided at the sole cost of the Contractor as a Disallowed Cost for "Proposition 218" purposes.

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4.05 ON-CALL BULKY WASTE & E-WASTE COLLECTION

4.05.1 Residential and Multi-Family Premises On-Call Bulky Waste & E-Waste Collection

The Contractor shall provide Collection of Bulky Waste and E-Waste to all Customers at Residential and Multi-Family Premises in the Service Area. Contractor shall provide four (4) Collection events per year. Customers at Residential and Multi-Family Premises are entitled to the Collection of twelve (12) total items per dwelling unit per year, in any combination of collection days and items, at no additional charge.

Customers will be instructed to set-out Bulky Waste and E-Waste items within three (3) feet of the curb, swale, paved surface of the public roadway, closest accessible roadway, or other such location agreed to by the Contractor and Customer, that will provide safe and efficient accessibility to the Contractor's Collection crew and vehicle.

4.05.2 Commercial Premises On-Call Bulky Waste & E-Waste Collection

Contractor shall provide On-Call Collection of Bulky Waste and E-Waste to Commercial Customers using a method suitable for the commercial Premises and agreed upon by the Customer or property manager. Contractor may charge a fee for service in accordance with the rates set forth in Exhibit 1 or as may be adjusted under the terms of this Agreement.

4.05.3 City Facilities On-Call Bulky Waste & E-Waste Collection

Contractor shall provide On-Call Bulky Waste and E-Waste Collection to City Facilities within 24-hour notice, at no charge. The cost for the services provided to City Facilities herein shall be provided at the sole cost of the Contractor as a Disallowed Cost for "Proposition 218" purposes.

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4.05.4 Bulky Waste Collection Restrictions

The following applies to items Collected under this Section:

- No single item that cannot be handled by two workers will be accepted.
- The following items will not be picked up: Hazardous Substances and Hazardous Waste. Waste oil, antifreeze, Universal Waste and Electronic Waste shall be collected and disposed of in accordance with Section 4.07.
- Vehicles used for Collection of Bulky Waste shall not use compactor mechanisms or mechanical handling equipment that may damage reusable goods or release Freon or other gases from pressurized appliances.

4.05.5 Bulky Waste Containing Freon

In the event Contractor collects Bulky Waste that contains Freon, Contractor shall handle such Bulky Waste in a manner such that the Bulky Waste is not subject to regulation as hazardous waste under applicable state and federal laws or regulations.

4.05.6 Maximum Reuse and Recycling

Contractor shall dispose of Bulky Waste collected from Customers pursuant to this Agreement in accordance with the following hierarchy:

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

Contractor shall not landfill such Bulky Waste unless the Bulky Waste cannot be reused or recycled. Contractor shall record by class and weight (in tons) the Solid Waste Collected under this Section 4.05, and shall record the kinds and weights (in tons) of Solid Waste diverted, if any, from landfilling through Recycling, reuse, Transformation or other means of diversion.

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4.05.7 City Direction of Bulky Waste

City reserves the right to direct Contractor to take Bulky Waste collected pursuant to this Section to a designated site or sites for the purpose of permitting Persons who will reuse or recycle such Bulky Waste to obtain the Bulky Waste at no cost. Contractor shall have no obligation to dispose of the Bulky Waste or Bulky Waste residue remaining at the directed site or sites after reusers and recyclers have removed reusable or recyclable Bulky Waste.

4.06 TEMPORARY SERVICES

Contractor shall provide Temporary Services on an on call basis to any Customer requesting such service pursuant to the following conditions:

- A. Bins and Roll-Off Boxes utilized in connection with Temporary Services shall meet the minimum standards set forth herein.
- B. No charges excepting rates not exceeding the maximum rates set forth in the attached Exhibit 1 related to Bins or Roll-Off Boxes utilized in connection with Temporary Services shall be imposed by Contractor, unless approved in accordance with Section 8.8 (Special Services).
- C. Temporarily placed three (3) cubic yard Bins may be used for small cleanup type projects at Residential and Multi-Family Premises; provided, however, Bins used for such purposes shall not remain at the same address for a period that exceeds four consecutive weeks. Bins used for Temporary Service shall not remain in any public rights-of-way for a period exceeding two consecutive weeks. Bins may not be placed in any public rights-of-way so as to create a safety hazard or so as to block any right-of-way to a degree that it is not reasonably usable. Bins placed in City's rights-of-way shall be subject to such requirements as may be imposed by City, and at a minimum shall be equipped with reflectors, reflective tape, reflective paint, or other reflective devices which, to the satisfaction of the City Manager, make such Bins reasonably visible to vehicle traffic at night.

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- D. Contractor shall work with Customers requesting construction and demolition debris Collection services to ensure that requirements under the City's ordinance regulating the recycling and disposal of construction and demolition waste are met, including, but not limited to, ensuring that each covered project meets the minimum required diversion level. Contractor agrees to comply with all provisions of the ordinance, as may be amended from time to time, and to provide services for construction contractors in City as may be contemplated by any such ordinance at no charge (such as assistance in preparing plans for the collection, recycling and disposal of construction and demolition waste in accordance with this Agreement and providing data for reporting to the City).
- E. In addition to complying with any related requirements that may exist in any ordinance which may be in effect in City regulating construction and demolition waste, including specific diversion levels that may be required by any such ordinance, Contractor shall make all reasonable efforts to recycle all construction and demolition waste it Collects, especially to the degree such loads contain clean inert materials. Towards this end, Contractor shall make available to Customers involved in construction separate containers within which to Collect different types of marketable materials, such as dirt, steel, concrete and wood.

4.07 HOUSEHOLD HAZARDOUS WASTE, UNIVERSAL WASTE & E-WASTE

4.07.1 Residential Premises and Multi-Family Premises

Contractor will provide, either directly, or through a City-approved subcontractor, two (2), annual citywide Household Hazardous Waste Collection Events at no additional charge. Electronic Waste will be accepted at each annual citywide Household Hazardous Waste Collection events at no additional charge. The dates and locations of the Events will be coordinated with City. Customers from Residential and Multi-Family Premises will be allowed to drop off unlimited items

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at the two events and the acceptable items will include, at a minimum the items listed on the following page.

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ACCEPTABLE WASTE:

Garden Chemicals

- Insect sprays
- Weed killers
- Other poisons
- Fertilizer

Swimming Pool Chemicals

- Pool acid
- Chlorine: tablets, liquid

Automotive Waste

- Motor oil
- Antifreeze
- Waxes
- Polishes
- Cleaners
- Brake fluid
- Gasoline
- Used oil filters
- Oily rags
- Transmission fluid
- Windshield washer fluid
- Hydraulic fluid
- Automotive batteries

Paint Products

- Oil-based paint
- Latex paint
- Spray paint
- Stripper
- Stains
- Caulking
- Wood preservative
- Glue
- Thinner

Household Cleaners

- Bleach
- Cleaning compounds
- Floor stripper
- Drain cleaner
- Tile remover and cleaners
- Rust remover

E-Waste

- Consumer electronics such as TVs, CRTs, computer monitors, CPUs, laptop computers and peripherals.

Misc. Household

- Household batteries-thermometers
- Fluorescent tubes
- Thermometers
- Hobby glue
- Artist's paint

Pharmaceuticals and medicines (non-controlled)

Sharps

UNACCEPTABLE WASTE:

Ammunition

Appliances (larger than microwave)

Asbestos

Biological waste

Commercial chemicals (for business use)

Construction materials

Driveway sealer (more than five gallons)

Radioactive materials

Explosives

Fire extinguishers

Leaking containers

Liquid mercury

Pressurized cylinders

Smoke detectors

Tires

Trash

Unknowns (must be tested)

Waste in 6-gallon or larger container

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4.07.2 Commercial Premises

Contractor shall provide, either directly, or through a City-approved subcontractor, an on-call E-Waste and Universal Waste Collection Service to Commercial Premises in accordance with rates set forth in Exhibit 1 or as may be adjusted under the terms of this Agreement. Acceptable items for collection are as follows;

1. Electronic devices: Includes any electronic device that is a hazardous waste (with or without a Cathode Ray Tube (CRT)), including televisions, computer monitors, cell phones, VCRs, computer CPUs and portable DVD players.
2. Batteries: Most household-type batteries, including rechargeable nickel-cadmium batteries, silver button batteries, mercury batteries, alkaline batteries and other batteries that exhibit a characteristic of a hazardous waste
3. Electric lamps: Fluorescent tubes and bulbs, high intensity discharge lamps, sodium vapor lamps and electric lamps that contain added mercury, as well as any other lamp that exhibits a characteristic of a hazardous waste. (e.g., lead).
4. Mercury-containing equipment: Thermostats, mercury switches, mercury thermometers, pressure or vacuum gauges, dilators and weighted tubing, mercury rubber flooring, mercury gas flow regulators, dental amalgams, counterweights, dampers and mercury added novelties such as jewelry, ornaments and footwear.
5. CRTs: The glass picture tubes removed from devices such as televisions and computer monitors.
6. CRT glass: A cathode ray tube that has been accidently broken or processed for recycling.
7. Non-empty aerosol cans

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4.07.3 City Facilities

Contractor shall provide, either directly, or through a City-approved subcontractor, an on-call E-Waste and Universal Waste Collection Service to City Facilities within twenty-four (24) hours notification at no additional charge. Acceptable items for collection will include, at a minimum, the items listed in the table entitled “Acceptable Waste” in Section 4.07.1. The cost for the services provided to City Facilities herein shall be provided at the sole cost of the Contractor as a Disallowed Cost for “Proposition 218” purposes.

4.08 RESIDENTIAL SHARPS COLLECTION PROGRAM

For Residential and Multi-Family Premises, the Contractor shall provide a Sharps discard program, in accordance with applicable laws, at no additional charge to the City or customer.

4.09 CITY-SPONSORED EVENTS

Contractor shall provide Collection of Solid Waste and Source-Segregated Recycling, as well as a community education booth and outreach materials, for City-sponsored events at no additional charge. The cost for the services provided for said events herein shall be provided at the sole cost of the Contractor as a Disallowed Cost for “Proposition 218” purposes. Customers will be provided Solid Waste, Recycling and Green Waste capacity at the appropriate service levels for each venue or event, as determined by City. When requested by event organizers, Collection of Solid Waste and Recycling, special event boxes and liners and signage to promote recycling and/or indicate the location of recycling containers will be provided for each venue or event. Contractor will assist the venue and event organizers with developing recycling plans and reporting data. Available cart sizes will include 64 and 96 gallons. Available bin sizes include 2, 3, 4 and 6 cubic yards. Available Roll-Off Box sizes include 10, 20, 30 and 40 cubic yards. Collection frequency will be provided as needed by the Customer.

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The following is a list of events for which services shall be provided:

- Police Department Open House/Health Fair
- Summer Concerts in the Park (six at Central Park and six at Parnell Park)
- Eggstravaganza
- Annual Community Theatre Clean-Out

Additionally, the Contractor will participate in all City-sponsored events with a community education and outreach materials booth for distribution of materials, recycling games and prizes, educational handouts, newsletters, promotions and other materials available and approved by the City, at no additional charge.

4.10 LARGE VENUE EVENTS RECYCLING

Contractor shall recycling services at special events or large venue events. Contractor shall assist City in the planning, coordination and implementation of the recycling programs for such events. Contractor shall be responsible for the preparation and submittal to City of a “waste reduction and recycling plan” prior to such events, and within 30 days following each such event shall submit a waste characterization report listing the amount of each material collected for disposal and recycling at the event.

4.11 ABANDONED BULKY WASTE PICKUP

Contractor will provide Collection of abandoned Bulky Waste and other Solid Waste from the public right-of-way areas, resulting from illegal or unauthorized dumping, or other code enforcement matters occurring within the City within twenty-four (24) hours of notification by City, Monday through Friday at no additional charge. Calls received on Friday after 2:00 p.m. shall have the bulky waste picked up on Monday.

4.12 BUS STOPS AND PUBLIC CONTAINER COLLECTION

Contractor shall collect Solid Waste of all bus stops and other public service Containers located throughout the City, at no charge to the City. The cost for the

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services provided herein shall be provided at the sole cost of the Contractor as a Disallowed Cost for “Proposition 218” purposes. The locations requiring Solid Waste collection are provided in Exhibit 9. The locations, number of containers and frequency of Collection shall be determined by the City’s Public Works Director.

4.13 ALLEY COLLECTION

Contractor shall provide alley Collection to designated areas of the City. The designated areas for alley Collection are provided in Exhibit 5 and are subject to modification only with prior approval by the City.

4.14 HARD TO SERVICE AREAS & ACCESS TO PRIVATE PROPERTY

Contractor will provide all equipment and labor necessary to provide Collection Service to the City’s hard-to-service areas which may include steep hills, narrow streets, one-way streets, dead-ends, courts, alleys, private streets, etc. Necessary equipment may include specialized Collection Vehicles designed to provide Collection Services in a safe and timely manner. Collection Services to hard-to-service shall be provided in accordance with the rates set forth in Exhibit 1 or as may be adjusted under the terms of this Agreement.

4.15 SPECIAL SERVICES

Contractor may provide special Collection procedures or services in addition to the services described herein for Customers who request or require such services at reasonable rates established by Contractor, which rates are subject to approval by the City Manager. Contractor shall notify the City Manager of any such services prior to such time as they are provided in order to allow the City an opportunity to conduct necessary inspections, review the proposed rate, and impose appropriate regulations.

**ARTICLE 5. DISPOSAL, PROCESSING AND DIVERSION
REQUIREMENTS**

5.01 SOLID WASTE DISPOSAL

Contractor shall Transport to and Dispose of all Solid Waste Collected in Service Area to a Transfer Station, MRF, Transformation Facility or Disposal Site. Contractor shall pay all costs associated with the Transfer/Transport and Disposing of Solid Waste. Contractor shall maintain accurate records of the quantities of Solid Waste Transported to the Transfer Station, MRF, Transformation Facility or Disposal Site and will cooperate with the Contract Manager in any audits or investigation of such quantities or their composition. Contractor shall cooperate with the operator of the Transfer Station, MRF, Transformation Facility or Disposal Site with regard to operations therein, including for example, complying with directions from the operator to unload Collection vehicles in designated areas, accommodating to maintenance and operations and construction of new facilities, cooperating with Hazardous Waste exclusion and load checking programs, and so forth.

5.02 SOLID WASTE “PUT OR PAY” REQUIREMENT

During the Term of this Agreement, Contractor may use the City owned and operated Savage Canyon Landfill for the Disposal of all Solid Waste originating within the City, and for disposal of foreign waste.

The Contractor may also use any other Disposal Site selected by the Contractor, However, Contractor shall deliver 335 tons of solid waste per day to Savage Canyon Landfill, Monday through Friday and on any Saturday during which an observed holiday falls on a work day, or compensate the City for any quantity less than the 335 tons per day. The put-or pay daily tonnage requirement will not apply on non-holiday Saturdays. On the Commencement Date of this agreement, Contractor shall pay \$43.32 per ton for all tons subject to 335 per day put or pay

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requirement. A discounted tipping fee of \$31.00 per ton will apply to daily tonnage greater than 335 tons per day and up to the permitted amount of 350 tons per day. The tipping fee rates at Savage Canyon Landfill will be subject to adjustment, annually. The Landfill is not equipped to receive transfer trailers. Delivery of Solid Waste shall be limited to Collection vehicles.

5.03 STATUS OF DISPOSAL SITE

Any Disposal Site used by Contractor must be designed and constructed in accordance with 23 California Code of Regulations Section 2510 et seq. ("Subchapter 15"). Contractor shall ensure that any such landfill (other than the Designated Disposal Location) has been issued all permits from federal, state, regional, county and municipal agencies necessary for it to operate as a Class III Sanitary Landfill and is in full compliance with those permits at all times. Contractor shall provide copies of notices of violation or permit modifications to the Contract Manager within five (5) Business Days of receipt.

5.04 GREEN WASTE PROCESSING SERVICES

Contractor shall deliver all Collected Green Waste to a fully permitted Green Waste Processing Facility or a fully permitted Green Waste transfer station. All expenses related to Green Waste processing and marketing will be the sole responsibility of Contractor. Contractor shall ensure that all Green Waste collected pursuant to this Agreement are diverted from the landfill in accordance with the Act and any subsequent or other applicable legislation and regulations. Contractor shall ensure that the Green Waste collected pursuant to this Agreement is not disposed of in a landfill, except as a residue resulting from processing. Contractor must provide end uses for Green Waste that maximize diversion credits for City according to regulations established by CalRecycle. Green Waste may be used as Alternative Daily Cover to the extent that the City will get full diversion credit for its use. Contractor is responsible for monitoring how the Green Waste will be diverted at selected facilities and for selecting

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alternative facilities if necessary to ensure full diversion credit. Failure to do so places the Contractor in default. City has the option, but not obligation, to direct Contractor where to deliver the material.

5.05 MINIMUM RECYCLING REQUIREMENTS

Contractor shall recycle or divert from landfilling sufficient waste to ensure that the City meets current state law requirements for diversion Citywide. For calendar year 2016, Contractor shall be considered to have met this requirement under this Agreement if the City's annual report to CalRecycle shows a greater than 50% diversion rate and if CalRecycle approves the City's reports as having a greater than 50% diversion rate in connection with efforts to meet the State-mandated diversion mandate.

Beginning with calendar year 2017, if the annual report the City submits to CalRecycle reflects a diversion rate of less than the State-mandated rate, or if such a report is later revised to reflect a rate less than the State-mandated rate, the Contractor shall be liable for liquidated damages in accordance with Section 13.06 for failure to meet this mandate. If a report is revised and approved by CalRecycle to reflect a diversion rate higher than the State-mandated rate of diversion, City will reimburse Contractor any liquidated damages that had been submitted based upon that year's report. As reports to the CalRecycle lag the actual collection period reported on, this requirement and liability for liquidated damages will extend beyond Contractor's provision of Collection Services under this Agreement.

If the State increases waste diversion requirements, or the City increases waste diversion requirements, Contractor may request a rate adjustment pursuant to Section 14.07 for the additional waste diversion requirements services that may be required, and the provisions of this Section will apply using the higher State-mandated diversion rate.

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5.06 FAILURE TO MEET MINIMUM REQUIREMENTS

Upon Contractor's failure to meet the minimum waste diversion requirements set forth above in Section 5.05, and if the City determines that the Contractor has not met waste diversion from the services and programs contemplated under this Agreement, the Contractor agrees to implement programs and provide equipment necessary in order for the City to meet State-mandated diversion requirements. Such programs and equipment may include additional public education efforts, on-site business waste audits, additional recycling carts or bins at multi-family complexes, high grading of commercial loads, secondary processing of commercial solid waste, and processing of Construction and Demolition Debris from Roll-Off Boxes.

5.07 OWNERSHIP OF SOLID WASTE

City and Contractor understand and agree that it is Contractor, and not City, who will arrange to collect Solid Waste, that City has not, and, by this Agreement does not, instruct Contractor on its Collection methods, nor supervise the Collection process; nor do the Parties intend to place title to Solid Waste collected by Contractor in City. Rather, the Parties intend that whatever, if any, title in and to the Solid Waste that is collected by Contractor which otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Contractor; and further that if Contractor gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. At no time does City obtain any right of ownership or possession of Solid Waste or Recyclable Materials placed for Collection, and nothing in this Agreement shall be construed as giving rise to any inference that City has any such rights. City and Contractor agree that, for the purposes of the Uniform Commercial Code and all other laws imposing liability for defective products, it is Contractor, and not City which is to be considered the merchant of goods recycled pursuant to this Agreement. Subject to the provisions of this Agreement, and unless City exercises its rights to direct the location for Disposal and processing of Solid

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Waste, Contractor shall have the right to retain, Recycle, process, dispose of, and otherwise use Solid Waste collected pursuant to the terms hereof in any lawful fashion or for any lawful purpose; and, further, shall have the right to retain any benefit resulting from its right to retain, Recycle, process, dispose of, or reuse the Solid Waste which it collects.

5.08 FLOW CONTROL – RESERVATION OF RIGHTS

City reserves the right, as and if necessary, to exercise “flow control” i.e., the right to select disposal facilities and materials recovery facilities to which the Solid Waste to be collected pursuant to this Agreement is to be taken. In the event City directs Contractor to transport Solid Waste to a particular disposal or other facility, City and Contractor agree to use their best efforts to obtain indemnification against CERCLA, RCRA and related claims from the operator of the landfill or other destination to which Solid Waste collected pursuant to this Agreement is taken for disposal. In the event that City selects a transfer or disposal facility, Contractor shall be entitled to a rate adjustment to offset for any substantiated increase or decrease in expenses resulting from the City’s exercise of flow control.

5.09 CONSTRUCTION AND DEMOLITION MATERIAL PROCESSING AND DIVERSION

City has adopted the 2013 California Building Standards Code including Part 11 California Green Building Standards Code which provides, among other requirements, 50% diversion from all Construction and Demolition materials generated at a Construction and Demolition site.

Contractor shall comply with the requirements of the California Building Standards Code, as adopted by the City, related to diversion of Construction and Demolition Debris Materials which requires 50% diversion from landfills all Construction and Demolition Debris Materials that are generated by covered projects in the City either by source-separated recycling or by processing at a

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facility or facilities that cause not less than 50 percent of those materials to be diverted from landfills. Contractor agrees to transport all Construction and Demolition Debris Materials collected within the Service Area to a C&D materials processing facility for processing and recovery of recyclable materials resulting in a minimum 50% diversion from landfill disposal. The cost per ton for processing Construction and Demolition material will be in accordance with the rates set forth in Exhibit 1 or as may be adjusted under the terms of this Agreement.

5.10 DEVELOPMENT OF ORGANIC WASTE RECYCLING PROGRAM TO COMPLY WITH AB 1826

Contractor will develop and provide an organic waste recycling program that at minimum meets the standards required under AB 1826.

Contractor shall be responsible for ensuring that the organics waste recycling program meets the requirements of AB 1826 and may be required to modify its program from time to time.

Contractor shall provide organics and food scrap recycling to all Commercial, Multi-Family Dwellings (“MFD”) and City facilities subject to the requirements of AB 1826.

Contractor shall conduct customer surveys and onsite waste assessments within 30 days of the Commencement of this Agreement. Contractor shall identify Customers that create large amounts of green waste, such as hotels, business parks, and those with significant landscaping. Contractor shall also target Customers that have food service operations such as restaurants, grocery stores, hospitals, hotels, corporate cafes, bakeries, etc. Contractor personnel shall conduct outreach to introduce the program and conduct initial assessments of onsite needs. Contractor shall conduct visual waste audits of Commercial and MFD to evaluate the organics service requirement and service level needs.

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Contractor shall train employees such as servers, food preparers, hospitality and maintenance, taking into consideration employee turnover and shift changes.

Contractor shall provide the initial outreach to participating customers:

- Provide Recycling and Organics Tool Kit including Step by Step process; Power Point; guidelines for new employee training; “do’s and don’ts of separation; signage examples; source reduction suggestions; links to online City programs/resources, Good Samaritan Law definition; information on environmentally preferable purchasing policies; and resource list of sustainability programs and toolkits from trade organizations like the National Restaurant Association and US-Composting Council Curb to Compost Toolkit and/or government agencies like the EPA toolkit for Reducing Food Waste and Packaging and FTC Guidelines on compostable and degradable claims.
- Provide indoor and outdoor container options and signage
- Help identify customer’s “startup team” to implement the program and provide long term support
- Conduct free, comprehensive, in-house, bilingual trainings with kitchen and janitorial staff.
- Follow-up and monitor to ensure successful participation, which shall be visual audits and additional training when necessary.
- Create solutions for the identified challenges and waste stream specifics.
- Connect Customers with food donation programs where applicable.

Community Workshops

Contractor shall provide outreach and education to the community at large regarding organic and food waste reduction, recovery, and collection for home or business. Workshops shall be available for residents, community organizations,

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civic groups, business groups, club associations, and others. Contractor shall utilize the community based, compost giveaway events to educate the public.

Contractor shall produce, keep current, and provide public information on AB 1826 specifically outlining a recycling plan and identification of who is affected by the legislation. The information shall be available on Contractor's website, mailed in annual publication and included in the Contractor's brochure. Every Commercial and MFD Customer shall receive information on AB 1826 and how to recycle organics. The availability of organics collection and recycling shall be promoted through Contractor's website, phone app, mailers, billing inserts, email content, online announcements, brochures distributed at community events, annual distribution of Contractor's brochure, and/or commercial businesses, city facilities, and MFDs.

Contractor shall work with MFD's to provide or confirm AB 1826 compliance. For MDF or commercial customers that self-haul organics through a third party, Contractor shall provide information on compliance requirements and options for compliance. Contractor shall develop and implement a food scrap recycling pilot program for Multi-Family Dwellings.

Contractor shall offer organic waste collection in accordance with the rates set forth in Exhibit 1 or as may be adjusted under the terms of this Agreement.

Contractor shall produce, keep current, and provide public information specifically outlining its organics waste recycling program, which shall specifically include the annual publication and distribution of a brochure describing this service to all applicable Customers in City.

ARTICLE 6. OTHER SERVICES

6.01 RESPONSIBILITY FOR SERVICE BILLING AND COLLECTION

The Contractor shall be responsible for the billing and collection of payments for all Customers within the Service Area. Notwithstanding the proceeding provision, the Contractor shall not bill for Collection Services provided to City Facilities.

6.01.1 Billing Service Requirements

Billing Audits

The Contractor shall be required to conduct billing audits of all Commercial, Multi-Family and Residential Customers, every four years of the Agreement. The City shall maintain the right to engage a third party to conduct an independent audit.

Records

Contractor shall maintain, for inspection by the City, copies of all billings and receipts, in chronological order, for a period of five (5) years after the date of service. Contractor shall maintain those records in electronic format. City staff or representatives shall be given access to such records upon one (1) business day notice.

Annual Rate Notification

Contractor must annually, within 60 days prior to the effective date of a rate change, prepare and distribute a notice to each Customer setting forth the Contractor's rates, annual holiday schedule, recycling programs offered, and a general summary of services required to be provided and optional services that may be furnished by Contractor. Notice may be included as part of the Contractor's public education plan described in Section 6.03.

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Residential Billing

The Contractor will bill all Residential Customers directly on a quarterly basis, in advance. All bills must carry a due date, not “due upon receipt.” Charges must be itemized, but may not designate that portion of the customer’s bill attributable to the franchise fee as a separate item. Customers may, on an individual basis, request annual payment schedules, and Contractor will work in good faith with individual Customers to reasonably satisfy such requests. Contractor will have the right to bill and collect for its services in advance of the rendition of services but shall refund any unused portion equal to two months or more of the amount collected in the event of disruption, revision, or termination of services, or when Residential Premises are vacant for at least a three-month period and prior written notice of such vacancy has been given to the Collector.

Residential Billing Discount

The following discounts are available to Customers:

Residential Customers who apply and qualify for the Utility Users’ Tax Exemption (UUR Exemption Qualified Discount in accordance with the Whittier Municipal Code Section 3.24.110.A.2, shall be entitled to a discount on Solid Waste Collection fees.

Senior citizens and active members of the military are eligible for a rate reduction of 10%. The senior citizen must be the head of the household of the residential premises which receives collection services, at least sixty-two (62) years of age, and must receive supplemental social security benefits. An active member of the military may be stationed away from home for periods of time. This rate reduction will apply to the property so long as the military member maintains the property as his or her permanent residence. This discount does not apply to charges for additional carts, temporary bin service, or temporary roll-off service.

Residents with disabilities shall receive Roll-out Service at no additional charge. To qualify for this service, customers provide a written letter from their physician

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indicating that they are physically unable to roll out carts used for residential refuse recycling and green waste, or must have been issued a handicap placard from the Department of Motor Vehicles.

The subsidy for the aforementioned rate discounts and Roll-out service shall be provided at the sole cost of the Contractor as a Disallowed Cost for “Proposition 218” purposes.

Multi-Family and Commercial Billing

Bills must be itemized by type of service, but may not designate that portion of a customer’s bill attributable to the franchise fee as a separate line item. All bills must carry a due date, not “due upon receipt.” Bill must be itemized, but may not designate that portion of a customer’s bill attributable to the franchise fee as a separate item. Contractor will bill all customers directly on a monthly basis, 30 days in advance. To start service, new customers will pay a pro-rated first month’s service in advance.

Roll-Off Box and Temporary Bin Customers

For individually serviced Customers who request Roll-Off Box (including temporary bin) service, the Contractor will accept major credit cards for payment. Individually serviced customers who do not use credit cards may be required to post a security deposit or to pay on a “Cash on Delivery” (C.O.D.) basis. For all other Roll-Off Box customers, the Contractor will invoice monthly or semi-monthly in arrears with payment due within 15 days from the invoice date.

Street Sweeping Billing

Contractor shall bill for street sweeping service on behalf of the City and shall remit street sweeping fees to the City on a monthly basis. Street sweeping charges must be itemized on the customer’s bill with a description indicating charge is for street sweeping service. Street sweeping fees collected by Contractor shall not be subject to franchise fees.

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Automated Billing Payment

In an effort to reduce paper waste, Contractor shall make available to all Customers an automated billing and payment system at no additional charge. This system will be website based and allow customers to view and pay bills through Contractor's website. Through the Contractor's website, Customers may request to cease paper billing and receive all bills through e-mail and/or Contractor's website. Contractor will ensure that the electronic billing and payment website conforms to industry-standard practices for electronic commerce security. Contractor must ensure that these customers are compiled in a list to ensure that billing inserts are mailed directly. Contractor shall promote the website-based billing and payment system on all paper bills sent to Customers.

Rates

The maximum rates for the types of services provided shall be as described in Exhibit 1 and as adjusted annually pursuant to Section 9. Contractor shall bill and collect at rates that do not exceed the maximum rates established by this Agreement.

Partial Month Service for Multi-Family and Commercial Premises

If, during a month, service is added to or deleted from a Multi-Family or a Commercial Premises, the Contractor's billing shall be pro-rated based on the weekly service rate [weekly service rate shall be the monthly service rate divided by the number of actual weeks in the month that service was provided to the Customer.

Delinquent Service Accounts

Contractor may pursue collection of delinquent accounts by every means reasonably available to Contractor, including delinquency letters, telephone calls, employment of collection agencies, and small claims court.

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Once payment is 30 days past due, Contractor must send to the Customer a notice that service will be suspended if payment is not made within an additional 30 days. Contractor may charge a late fee for delinquent accounts in accordance with the rates set forth in Exhibit 1 or as may be adjusted under the terms of this Agreement. Service may only be suspended after these minimum time periods and notice. City will not be responsible for or assist with the collection of delinquent accounts.

6.02 CUSTOMER SERVICE

All service inquiries and complaints shall be directed to the Contractor. Per Section 7.04.1, the Contractor will establish a local office to serve as a call center and as an administrative office. A representative of the Contractor shall be available to receive the complaints during normal business hours. The local office shall be open from 8:00 a.m. to 5:00 p.m., Monday through Friday, and 8:00 a.m. to Noon on Saturday.

All service complaints will be handled by the Contractor in a prompt and efficient manner. In the case of a dispute between the Contractor and a Customer, the matter will be reviewed and a decision made by the Contract Manager.

- For those complaints related to missed Collections that are received by 4:00 P.M., the Contractor will return to the Customer address and collect the missed materials before the end of the same business day. For those complaints related to missed Collections that are received after 4:01 p.m. on a Work Day, the Contractor shall have until the end of the following Work Day to resolve the complaint. For those complaints related to repair or replacement of carts or bins, the appropriate Sections of this Agreement shall apply.
- Contractor agrees that it is in the best interest of the City that all Residential Solid Waste and Recyclable Materials be collected on the scheduled Collection day. Accordingly, missed Collections will normally be collected as

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set forth above regardless of the reason that the Collection was missed. In the event a Customer requests missed Collection Service more than two (2) times in any consecutive two (2) month period, the Contract Manager will work with the Contractor to determine an appropriate resolution to that situation. In the event the Contractor believes any complaint to be without merit, Contractor shall notify the Contract Manager by e-mail. The Contract Manager will consider all disputed complaints and render a decision.

- Contractor's service and emergency telephone numbers shall be accessible by a local (Whittier) telephone number. The telephone number(s) shall be listed in the area's telephone directories under the Contractor's name in the White Pages and Yellow Pages and available on the Contractor's website. Contractor shall also provide a toll-free number.
- The Contractor will conduct customer call backs in the following manner: For customer messages left before 5:00 p.m., all "call backs" will be attempted at least one time prior to 6:00 p.m. on the day of the call. For all customer messages left after 5:00 p.m., all "call backs" will be attempted at least one time before noon the next Work Day. If the Whittier customer service representative is unable to reach the customer on the next Work Day, a voice message will be left and coded by the Whittier customer service representative.
- The Contractor shall provide City staff and Council Members with an after-hours and weekend direct line to the Operations Manager for urgent requests unable to wait for the next business day.

6.02.1 Complaint Documentation

Service complaints received by City shall be directed to Contractor. Contractor shall keep daily logs of complaints forwarded to it for a minimum of three (3) years.

Contractor shall log all complaints received, including the date and time the complaint was received, the name, address and telephone number of the

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caller/complainant, a description of the complaint, the name of the employee recording the complaint and the action taken by Contractor to respond to and remedy the complaint. Log shall also include each instance that Solid Waste and/or Recyclables are not collected and the form of notification used to inform the participants of the reasons of non-Collection and the end result or means of resolution of the incident.

All written Customer complaints and inquiries shall be date-stamped when received. All oral Customer complaints shall be recorded in a logbook. Receipt of all complaints, both written and oral shall be acknowledged to Customer within one (1) business day of receipt. Contractor shall use best efforts to resolve complaints within two (2) business days and must respond in writing to all complaints within five (5) business days of receipt. Contractor shall log action taken by Contractor to respond to and remedy the complaint.

All Customer service records and logs kept by Contractor shall be available to City upon request. City shall, at any time during regular Office Hours, have access to Contractor's customer service department for purposes that may include monitoring the quality of customer service or researching Customer complaints.

6.02.2 Resolution of Customer Complaints

Should Contractor and Customers not be able to resolve a complaint, not be able to establish a mutually acceptable fee to be charged for services not included on the approved rate schedule, or otherwise disagree, the matter shall be determined by the City, whose decision shall be final.

Intervention by City is not a condition precedent to any rights or remedies third parties might otherwise have in any dispute with Contractor. Nothing in this section is intended to affect the remedies of third parties against Contractor.

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6.02.3 Emergency Contact

The Contractor shall provide the Contract Manager with an emergency phone number where the Contractor can be reached in person, not by voice-mail, at all times, twenty-four (24) hours per day.

6.02.4 Multilingual/TDD Service

Contractor shall at all times maintain the capability of responding to telephone calls in English, Spanish and other languages necessary for communication between Contractor and its service recipients. Contractor shall at all times maintain the capability or responding to telephone calls through Telecommunications Device for the Deaf (TDD) Services.

6.02.5 Customer Calls

During office hours, Contractor shall maintain a telephone answering system capable of accepting multiple incoming calls at one time. Contractor shall record all calls including any inquiries, service requests and complaints into a customer service log. The Contractor will guarantee that the Whittier Call Center's Customer Service lines will be answered, on average, within the first two (2) rings by a live representative of the Contractor. Contractor's customer service representative shall return Customer calls. For all messages left before 3:00 p.m., all "call backs" shall be attempted a minimum of one time prior to 6:00 p.m. on the day of the call. For messages left after 3:00 p.m., all "call backs" shall be attempted a minimum of one time prior to noon the next Work Day. Contractor shall make a minimum of three (3) attempts within twenty-four (24) hours of the receipt of the call. If Contractor is unable to reach the Customer on the next Work Day, Contractor shall leave a voice message, and if no voice recording is available shall send a postcard or email to the Customer on the second Work Day after the call was received.

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6.02.6 Agreement Liaison

Contractor shall designate in writing a "Agreement Liaison" who shall be responsible for working with City and/or City's designated representative(s) to resolve Agreement -related issues. The Contractor must respond to all inquiries from the City within twenty-four (24) hours from the time of the inquiry. City shall have the right to approve the Contractor's choice for a liaison. City shall be notified in advance of any change in Agreement Liaison.

6.02.7 Service Liaison

Contractor shall designate in writing a field supervisor as "Service Liaison" who shall be responsible for working with City and/or City's designated representative(s) to resolve Customer Service-related complaints. City shall have the right to approve the Contractor's choice for a liaison. City shall be notified in advance of any change in Service Liaison.

6.03 PUBLIC EDUCATION AND OUTREACH SERVICES

Contractor acknowledges and agrees that Public Education and Outreach is a critical, key and essential element of any effort to achieve the diversion requirements mandated by the State of California including AB 939, AB 341, and AB 1826. Accordingly, Contractor agrees to exploit opportunities to expand public and Customer knowledge concerning needs and methods to reduce, reuse and recycle Solid Waste and to cooperate fully with City in this regard.

Contractor, at their own expense, shall prepare, submit and implement an annual Public Education and Outreach Program beyond the City's Public Education and Outreach Program. The proposed Program, including a budget, must be submitted annually for City approval no later than March 30 for the next Agreement year. The program must include a minimum of four campaigns per calendar year, designed to increase diversion and resident participation. Campaigns should target certain Recyclable Materials or "problem" areas of the

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Service Area where improvements can be maximized. Targets of outreach should be based on local trends and recycling patterns based on information obtained by both the Contract Manager and Contractor staff.

6.03.1 Implementation and Ongoing Education Services

In order to promote public education, in addition to any other materials it develops, Contractor shall create the following public education materials and programs at its expense, which will be distributed as indicated below. All brochures, mailings, and other educational materials are to be approved by City in advance of distribution.

- **Initial Mailing/Cart Options** – Contractor will prepare and mail an initial information packet to all Customers explaining the transition from the existing Solid Waste Collection program to the new program as defined by this Agreement. The mailing will describe program changes, route changes, the dates of program implementation, Recycling and diversion programs available, and other pertinent information.
- **Instructional “How-to” Packets** – An information packet shall be provided to each Customer at the start of service under this Agreement and to each new Customer throughout the Agreement term. Contractor may attach these packets to the Carts upon initial Cart distribution. This packet shall: describe available services, including available Recycling and diversion programs; provide instructions for proper use of the Carts and Bins provided (such as how to place Carts or other permitted items for Collection, the types of materials to be placed in each Cart); describe the process for exchanging default Carts for another size and requesting additional Carts; detail holiday Collection schedules; and provide billing and customer service telephone numbers. This packet will contain updated information on

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how to use Containers, when, where and how to place Solid Waste for Collection, and who to contact with service or billing questions, and for Bulky Waste Collection.

The packet should also clearly indicate what materials, such as syringes and other Household Hazardous Wastes (HHW), should not be disposed of in these Containers. This brochure shall include instructions on how Customers should dispose of HHW, such as information on the twice annual HHW events to be held by the Contractor in the City of Whittier as well as drop-off facilities located in Los Angeles County and other available programs.

- **Container Labels and Hot Stamps** – Recycling and Green Waste Containers shall carry stickers/labels and hot stamps as described in Section 7.06.1.
- **Annual Newsletter** – Not less than once per year during each Rate Period, Contractor shall prepare and distribute to each Customer a brochure or newsletter promoting and explaining: all Solid Waste programs offered by City and Contractor (such as Recycling, Green Waste, Holiday Tree and Bulky Waste pick-ups) described in detail; the environmental, regulatory, and other benefits of participating in Recycling; how to properly dispose of Household Hazardous Waste such as syringes, paint, etc., through the twice annual collection events, the County's program or other means; Collection schedules, including holiday schedules; customers service numbers; and the procedures to begin and terminate services.
- **Corrective Action Notice** – Contractor shall develop a corrective action notification form for use in instances where a Customer sets out inappropriate materials for Collection that explains the appropriate manner for Disposal of such items.

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- **Website** – Contractor shall develop and maintain a website with a page specific to the City. The webpage will enable City's Customers to contact Contractor and will display rate schedule and size of containers, rates for additional services, FAQ's, holiday schedules, holiday tree pick-up information, special collections events, requests for on-call bulky waste collection, requests for extra pickups, service changes, cancellations to service, complaints and follow-up, understanding your invoice, proper HHW disposal procedures, identification of materials that are to be placed in Recycling Containers and other useful information. Contractor will assist the City in establishing a link on the City's website to Contractor's page.

6.03.2 Annual Collection Service Notice

Each year during the term of this Agreement, the Contractor shall publish and distribute a notice to all Residential Customers regarding Residential Collection programs. The notice shall contain at a minimum; definitions of the materials to be collected, procedures for setting out the materials, service rates and discounts, maps of the Service Area indicating the days when Collection of Residential Solid Waste, Recycling, and Green Waste will be provided; the days when Bulky Waste will be Collected, and the customer service phone numbers. The notice shall be provided in English and in other languages as directed by the City and shall be distributed by the Contractor no later than June 1, 2016, during the first year of the Agreement and no later than June 1 of each year thereafter.

6.03.3 Contractor Representative

Contractor shall retain on its staff an individual who shall, as part of his or her job function, routinely visit civic groups, school assemblies, homeowners' associations, multi-family complexes and businesses, to promote and explain the Recycling and other programs Contractor offers, and participate in demonstrations and civic events.

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6.03.4 Community Events

At the direction of City, Contractor shall participate in and promote Recycling and other diversion techniques at community events and local activities. Such participation would normally include providing, without cost, Collection and educational and publicity information promoting the goals of City's Solid Waste program.

6.04 WASTE GENERATION/CHARACTERIZATION STUDIES

Contractor acknowledges that City must perform solid waste generation and disposal characterization studies periodically to comply with the requirements of state law. Contractor agrees to participate and cooperate with City and its agents and to accomplish studies and data collection and prepare reports, as needed and directed by City, to determine weights and volumes of Solid Waste collected and characterize Solid Waste generated, disposed, transformed, diverted or otherwise handled/processed, by Customer type (Single-Family, Multi-Family, Commercial), to satisfy the requirements of state law.

6.05 PROGRAMS AND SERVICES

Contractor shall provide additional services and programs, such as pilot programs, special studies, etc., as requested by City at a price to be mutually agreed upon between the Contractor and the Contract Manager. In the event the Contractor and the Contract Manager cannot reach a mutually agreed upon price for the requested service or program, City shall have the right to procure the service of other vendors or contractors to provide the requested service. In the event that the requested services and programs are required to comply with state mandates or requirements, Contractor shall make the requested services and programs available to the City subject to a negotiation and rate adjustment as provided for in Section 14.07.3(b).

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6.06 EMERGENCY SERVICES

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

6.07 NEWS MEDIA RELATIONS

Contractor shall notify the Contract Manager by e-mail or phone of all requests for news media interviews related to the Collection Services program within twenty-four (24) hours of Contractor's receipt of the request. Before responding to any inquiries involving controversial issues or any issues likely to affect participation or Customer perception of services, Contractor will discuss Contractor's proposed response with the Contract Manager.

6.07.1 News Releases

Copies of draft news releases or proposed trade journal articles related to the Agreement services shall be submitted to City for prior review and approval at least five (5) business days in advance of release, except where Contractor is required by any law or regulation to submit materials to any regulatory agency in

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a shorter period of time, In which case Contractor shall submit such materials to City simultaneously with Contractor's submittal to such regulatory agency.

6.07.2 Copies of Articles

Copies of articles resulting from media interviews or news releases shall be provided to the City within five (5) days after publication.

6.08 COMMUNITY PARTNERSHIPS

6.08.1 Financial Contribution to Support Non-Profit Organizations

Contractor shall make an annual contribution of twenty-five thousand dollars (\$25,000) to the City's Social Services Commission to fund non-profit organizations in the City. The City Council will be the final authority on award of these funds. The aforementioned contribution shall be provided at the sole cost of the Contractor as a Disallowed Cost for "Proposition 218" purposes.

6.08.2 Financial Contribution to Whittier City Employees Association (WCEA) & Community Engagement Fund

Contractor shall make an annual contribution of five thousand dollars (\$5,000) to the Whittier City Employees Association and an additional twenty thousand dollars (\$20,000) for a Community Engagement Fund for distribution in the community for local events such as the 4th of July and other events as approved by the City Council. The aforementioned contributions shall be provided at the sole cost of the Contractor as a Disallowed Cost for "Proposition 218" purposes.

6.08.3 Community Scholarship Program

Contractor will establish an annual Community Scholarship program of five thousand (\$5,000) to be awarded to then (10) students (five-hundred dollars (\$500) each, to provide financial support to high school senior seeking higher education. Awardees must be residents of the City. The aforementioned contribution shall be provided at the sole cost of the Contractor as a Disallowed Cost for "Proposition 218" purposes.

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6.09 COMPOST GIVEAWAY

Contractor shall provide, at minimum, one compost giveaway event per year at no additional charge. Whittier residents will be allowed to fill up their containers on a first-come, first-serve basis. Contractor shall also provide up to 100 cubic yards per year of compost to the City, at the City's discretion, for use in their parks, parkways, and other areas for beautification, at no additional charge. The compost giveaway events will be coordinated with the City and can be held in conjunction with other City events. The aforementioned compost "giveaway" shall be provided at the sole cost of the Contractor as a Disallowed Cost for "Proposition 218" purposes.

6.10 REUSE/UPCYCLING WORKSHOP AND REPAIR CAFÉ

Contractor shall sponsor four (4) Reuse Workshops and Repair Cafes to be hosted by the Whittier Free Store. For this event, teachers will be recruited to work with youth and adults to divert waste into new objects. The Repair Café provides residents a place to meet where tools and handy volunteers are available to assist with fixing broken appliances, devices, clothing, jewelry, etc. Contractor shall assist in promoting these events through their newsletters, website, and billing statements.

ARTICLE 7. REQUIREMENTS FOR OPERATIONS, EQUIPMENT AND PERSONNEL

7.01 COLLECTION HOURS AND SCHEDULES

7.01.1 Day and Time of Collection

To preserve peace and quiet, no solid waste may be collected between 6:00 p.m. and 6:00 A.M. from Commercial Premises, or between 6:00 p.m. and 7:00 a.m. from Residential Premises. Contractor must adjust the early morning start point of collection routes to address and minimize service complaints when warranted and as practicable.

The Contract Manager may require the Contractor to change hours of operations in Residential or Commercial/Industrial areas if disruption occurs.

7.01.2 Holiday Service

The City observes New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day as legal holidays. Contractor shall not be required to provide Collection Services or maintain office hours on the designated holidays. In any week in which one of these holidays falls on a Work Day, Residential Services for the holiday and each Work Day thereafter will be delayed one Work Day for the remainder of the week with normally scheduled Friday Residential Services being performed on Saturday. Any changes to the Holiday Service collection schedule may only be made as approved by the City in advance.

7.02 COLLECTION ROUTES

Ninety (90) days prior to the Commencement Date of Collection Services, the Contractor shall provide for City approval maps precisely defining Collection routes, together with the days and the times at which Collection shall regularly

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commence. If the City has not approved or requested changes within fifteen (15) business day days upon receipt of the service route maps, they shall be deemed as approved.

7.02.1 Collection Routes Changes

The Contractor shall submit to the City, in writing, any proposed route change (including maps thereof) not less than sixty (60) calendar days prior to the proposed date of implementation. The Contractor shall not implement any route changes without the prior review and approval of the Contract Manager and with the concurrence of the Public Works Director. The Contractor shall notify those Customers in writing of route changes not less than thirty (30) days before the proposed date of implementation. The Contractor shall be responsible for all costs associated with changes related to the Solid Waste Collection routes including the cost related to changes to street sweeping routes.

7.03 COLLECTION STANDARDS

7.03.1 Implementation of Service

The Contractor's implementation of the services required by the Effective Date under this Agreement shall occur in a smooth and seamless manner so that Customers and/or Generators do not experience disruption in Collection services when services are initiated on the Commencement Date. Contractor shall be responsible for managing implementation of new Collection Services and other related services and shall do so in accordance with the Implementation Plan prepared by the Contractor.

7.03.2 Servicing Containers

Contractor shall Collect the contents and return each Container to the location where the Occupant properly placed the Container for Collection. Contractor shall place Carts upright and shall properly close and secure Bin lids. Contractor

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shall use due care when handling all Containers. Contractor shall not throw, roughly handle, damage, or break Containers.

7.03.3 Missed Pickups – Residential Premises

When notified of a missed pick-up prior to 4:00 P.M., Contractor shall collect the Solid Waste, Recyclable Materials, or Green Waste on the day the notice is received. If notified after 4:00 p.m., Contractor must collect the solid waste no later than the next day.

7.03.4 Missed Pickups – Multi-Family & Commercial Premises

When notified of a missed pick-up prior to 4:00 P.M., the Contractor must collect the Solid Waste, Recyclable Materials, or Green Waste on the day the notice is received, except in cases where access to containers is blocked on the Customer's property. Otherwise, the Contractor must collect the solid waste no later than the next day.

7.03.5 New Customer and Change in Service Levels

Contractor shall deliver Containers and initiate Collection services for a new Customer within five (5) business days of the Customer's request for service. If an existing Customer requests a change in the number or size of the Solid Waste, Recyclable Materials, or Organic Materials Containers and/or frequency of Collection, the Contractor shall deliver additional Containers and/or remove Containers and shall initiate changes in the Collection Services within five (5) business days of the Customer's request for a change in service.

7.03.6 No Commingling of Solid Waste

Contractor shall separately collect and segregate Solid Waste, Recyclable Materials, and Green Waste Materials from each other and shall not commingle these materials at any time without the express prior written authorization of the Contract Manager.

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7.03.7 Conditions of Service

Contractor shall collect all Solid Waste, Recycling, or Green Waste Containers that are readily accessible to the Contractor's crew and vehicles and not blocked, where the Carts have been placed curbside or other such location agreed to by the Contractor and Customer that will provide safe and efficient accessibility to the Contractor's Collection crew and vehicle.

Contractor shall not be required to Service the following:

1. Carts with Recyclable Materials that have not been segregated from Solid Waste and Green Waste.
2. Waste Carts with Green Waste that has not been segregated from Solid Waste and Recyclable Materials.
3. Carts that exceed the maximum load limit specified by the Container Manufacturer.
4. Any Commercial Solid Waste that is not placed in a Bin unless such Commercial Solid Waste is outside the Solid Waste Bin as a result of overflow.

7.03.8 Set-Out Instructions to Customers

Contractor shall instruct Customers as to any preparation of Solid Waste, Recyclable Materials, or Green Waste and the proper placement of Containers. If Customers are not adhering to Contractor's instructions, Contractor shall notify such Customers in writing.

7.03.9 Non-Collection

In cases of failure to comply with the instructions, Contractor may decline Collection service provided that Contractor leaves an adequate number of Non-Collection Notices on the Container, as determined by the City, indicating the reason for refusing to Collect the material. Such Notices shall also identify the steps Customer must take to recommence Collection service.

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7.03.10 Non-Collection Notices

In the event of non-collection, Contractor shall affix to the Container a Non-Collection Notice explaining why Collection was not made. The Non-Collection Notice shall be affixed prominently onto the Container to ensure that it is not inadvertently removed from Cart due to weather conditions. The Non-Collection Notices must be protected from rain, if precipitation is present or forecasted, by placing the Notice in a clear plastic bag prior to affixing to Container.

Contractor shall document Non-Collection Notices recording the date and time of issuance, address of Customer, reason for issuance, name of employee who issued the notice, and truck and route numbers. The warning notice shall be at least two inches by six inches (2" x 6") in size. The Non-Collection Notices must identify the steps the Generator must take to recommence Collection Service.

Contractor shall report monthly to City any Non-Collection Notices issued. Contractor shall take direction from the City with regard to termination or reinstatement of service to a Customer due to numerous Non-Collection Notices issued to the same Customer.

7.03.11 Commercial Bin Overflow

In the case of repeated overflows of Commercial Solid Waste, Contractor shall contact the Commercial Service Customer Management to arrange for an appropriate change in Bin size, Collection frequency or both. In the event, Contractor cannot successfully contact the Commercial Service Customer Management after three attempts, or cannot reach an agreement with such management regarding the change in service, Contractor shall advise the Contract Manager, by e-mail, of the details of the Commercial Solid Waste overages, and the attempts at communication with the Commercial Service Customer Management. The Contract Manager shall respond to Contractor's report and make a final written determination. Within five (5) Work Days of

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receipt of the Contract Manager's written determination, Contractor shall change the Collection Service in accordance with such written determination.

7.03.12 Care of Private Property

Contractor's employees shall follow the regular walk for pedestrians while on private property and shall neither trespass nor cross property to the adjoining premises unless the Occupant or owner of both properties has given permission. Care should be taken to prevent damage to property, including flowers, shrubs, and other plantings. Contractor shall obtain a signed release of liability form prior to providing service to Customer Premises accessible only by entry into private property such as private streets and driveways or to provide back-yard service. Contractor shall repair, to its previous condition, all damage to private or public property caused by its employees.

7.03.13 Spillage and Litter

The Contractor shall not litter premises and shall exercise all reasonable care and diligence in providing Solid Waste Services so as to prevent spilling or dropping of Solid Waste. The Contractor shall not be responsible for cleaning up sanitary conditions caused by the carelessness of the Customer; however, the Contractor shall clean up any material or residue that are spilled or scattered by the Contractor or its employees.

Contractor shall use its best efforts to prevent spills of fuel, fluids, (such as oil, hydraulic fluid, brake fluid, spilled paint, etc.) or debris on streets, and if such a spill or release of debris occurs, Contractor shall immediately notify the Contract Manager and all proper regulatory authorities of said spill and release of fluids or debris, within two (2) hours of such incident and shall clean, at Contractor's expense, the spilled fluids or debris in coordination with, and to the satisfaction of, City and applicable regulatory agencies. Upon a release of such fluids, the driver shall immediately park the vehicle and it shall remain parked until the leak is repaired. In such event Contractor shall not park the leaking vehicle within two

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hundred (200) feet of a storm drain and shall utilize absorbent material, sand bags or other appropriate means to prevent leaking fluids from entering storm drains. In the event of any type of spill or other emergency, Contractor shall be responsible for securing the immediate safety of the vehicle driver, all other employees of Contractor and all persons and property in the surrounding vicinity. Contractor shall meet or exceed all requirements as contained in the National Pollutant Discharge Elimination System (NPDES).

The above paragraphs notwithstanding, Contractor shall clean up any spillage or litter caused by Contractor within two (2) hours upon notice from the City.

7.03.14 Vehicles Equipped with Absorbent, Broom and Shovel

To facilitate such clean-up, Contractor's vehicles shall at all times carry sufficient quantities of petroleum absorbent materials along with a broom and shovel.

7.04 CONTRACTOR FACILITIES

Contractor shall provide all Facilities needed for vehicle parking and maintenance, container storage and maintenance, employee parking, administration, billing, customer service, and other activities required to fulfill its obligations hereunder. Contractor shall own or lease the Facilities; secure all permits needed to conduct its operations; design, finance, and complete any site improvements; maintain the Facilities; and make any other arrangements necessary to fulfill its obligations required by this Agreement.

7.04.1 Local Office

Contractor shall maintain a local office within fifteen miles to provide customer services such as, but not limited to: bill payment; scheduling of services including on-call bulky waste collection, extra pick-ups and temporary bin service; service initiations, changes or cancellations; and, the documentation and resolution of complaints.

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The Contractor's local office shall be open from 8:00 a.m. to 5:00 p.m., Monday through Friday, and Saturdays from 8:00 a.m. to noon.

7.05 VEHICLES

On the Commencement Date of this Agreement, Contractor shall take possession of Collection vehicles previously owned by the City as listed in Exhibit 7, and Contractor shall pay the City the sales price specified in Section 8.05. Contractor shall be responsible for paying all taxes and fees associated with the transfer of ownership of the Vehicles. The purchase of the vehicles herein shall be at the sole expense of the Contractor as a Disallowed Cost for "Proposition 218" purposes. Prior to Contractor taking possession of the Collection Vehicles, City shall ensure that each vehicle is in such a condition that it would pass California Highway Patrol BIT inspection criteria. Contractor shall be responsible for paying all taxes and fees associated with the transfer of ownership of the Collection Vehicles. Although the Contractor is required to take ownership of and possession of the Collection vehicles previously owned by the City, the Contractor shall not use such Collection vehicles to provide the Collection services required by this Agreement. The Contractor may sell the Collection vehicles previously owned by the City or use such vehicles to provide services in other jurisdictions. If Collection vehicles previously owned by the City are to be sold or transferred to operations in another jurisdiction, all City-specific paint schemes, logos, phone numbers, advertising, or other identification shall be removed from the vehicles prior to sale or transfer.

At all times during the Term of the Agreement, Contractor shall be responsible for providing all vehicles that may be required for the Collection of Solid Waste that are sufficient in number and capacity to efficiently perform the work required by this Agreement in strict accordance with its terms. Contractor is expressly obligated to provide such Collection vehicles and routes as are required to meet the service standards set forth herein. Contractor shall have available on Collection days sufficient back-up vehicles for each type of Collection vehicle

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used to respond to complaints and emergencies. Vehicles shall be owned or leased by Contractor.

7.05.1 Specifications

1. Any truck used for the collection or transportation of solid waste within the city shall be leak proof and equipped with a close-fitting cover, which shall be affixed in a manner that will prevent spilling, releasing, dropping, or blowing of any solid waste upon any street or right-of-way.
2. All Collection vehicles used in performance of this Agreement to provide Residential and Commercial Services shall be new as of the Commencement Date. New or used vehicles may be used for On-Call Services, Roll-Off services and support vehicles; however, such vehicles shall be no older than ten (10) years at any time during their use in the City unless such vehicle is a Rebuilt Vehicle.
3. At all times during the term of this Agreement, Contractor's Collection vehicles shall be Compressed Natural Gas (CNG) fueled vehicles or otherwise comply with South Coast Air Quality Management District Requirements and the California Air Resource Board's emission standards as they may be approved for Refuse removal vehicles, as well as other Federal, State and local laws and regulations that may be enacted during the term of this Agreement.
4. All vehicles used by Contractor in providing Collection Services under this Agreement, except those vehicles used solely on Contractor's premises, are to be registered with the California Department of Motor Vehicles.
5. All Collection vehicles must comply with U.S. EPA noise emission regulations, currently codified at 40 CFR Part 205, and other applicable state noise control regulations.
6. All Collection vehicles using compaction mechanisms during the stationary compaction process shall not exceed a single-event noise level of seventy-five (75) decibels (Db)A at a distance of twenty-five (25') from the

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collection vehicle measured at an elevation of five (5') above ground level. Contractor shall submit to City, upon City's request, a certificate of vehicle noise level testing by an independent testing entity, for any collection vehicle which has been the subject of more than one noise complaint in a twelve-month period.

7.05.2 Vehicle Identification

Collection vehicles shall be marked with Contractor's name, toll-free number, and the number of the vehicle painted in letters of contrasting color, at least three (3) inches high, on each side and the rear of each vehicle. City must approve truck labeling. No advertising shall be permitted other than the name of the Contractor except that City may place billboards with public notices on vehicles at no additional charge, except the cost of the billboards. Contractor will be responsible for all costs resulting from mounting such billboards onto vehicles.

7.05.3 Vehicle Inventory

Contractor shall furnish the City a written inventory of all vehicles used in providing service, and shall update the inventory annually. The inventory shall indicate each Collection vehicle by Contractor-assigned identification number, DMV license number, the age of the chassis and body, type of fuel used, the type and capacity of each vehicle, the number of vehicles by type, the date of acquisition, the decibel rating and the maintenance and rebuild status. Each inventory shall also include the tare weight of each vehicle as determined by weighing at a public scale and not at a disposal or other facility scale used by Contractor. Each vehicle inventory shall be accompanied by a certification signed by Contractor that all Collection vehicles meet the requirements of this Agreement.

7.05.4 Vehicle Cleaning

All Collection vehicles shall be washed at least once each week. Collection vehicles shall be thoroughly washed and thoroughly steam cleaned on a regular

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basis so as to present a clean appearance. City may inspect vehicles at any time to determine compliance with this Agreement. Contractor agrees to replace or repair to the City's satisfaction, any Collection vehicle which City determines to be of unsightly appearance, leaking, or in unsatisfactory operating condition.

7.05.5 Vehicle Maintenance

Contractor shall inspect each Collection vehicle daily to ensure that all equipment is operating properly. Collection vehicles, which are not operating properly, shall be removed from service until repaired and operating properly. Contractor shall perform all scheduled maintenance functions upon Collection vehicles in accordance with the manufacturer's specifications and schedule.

Contractor shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition. Contractor shall maintain accurate records of repair, which shall include the date, nature of repair and the verification by signature of a maintenance supervisor that the repair has been properly performed.

Contractor shall keep accurate records of all Collection vehicle maintenance and shall make such records available to City upon request. The log shall at all times be accessible to City by physical inspection upon request of Contract Manager, and shall show, at a minimum, each vehicle's Contractor-assigned identification number, date purchased or initial lease, dates of performance of routine maintenance, dates of performance of any additional maintenance, and description of additional maintenance performed.

7.05.6 Painting

Contractor shall repaint all vehicles (including vehicle's striping) during the term of this Agreement on a frequency as necessary to maintain a positive public image as reasonably determined by the Contract Manager, but not less often

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than every five (5) years for any Collection vehicle more than five (5) years old, beginning July 1, 2015.

Contractor shall repaint any or all Collection vehicles within thirty (30) days' notice from City, if City determines that their appearance warrants painting. City must approve vehicle color.

7.05.7 Vehicle Operation

Vehicles shall be operated in compliance with Federal, State and local laws and regulations including, but not limited to, the California Vehicle Code, the regulations of the California Air Resources Board (CARB) Waste Collection Vehicle Regulations as established in the California Code of Regulations Title 13 Section 2700 et seq., and all applicable safety and local ordinances. Annually, Contractor shall provide the City with documentation of such compliance for each vehicle. For example, with regard to CARB regulations, such documentation shall demonstrate, at a minimum, the vehicle number, make, model, year, control technology used or planned, and the year that the control technology was applied or is planned to be applied. Contractor shall not load vehicles in excess of the manufacturer's recommendations or limitations imposed by Federal, State, or local weight restrictions on vehicles or roads.

7.05.8 Vehicle Certification

For each Collection vehicle used in the performance of services under this Agreement, Contractor shall obtain a certificate of compliance (smog check) issued pursuant to Part 5 of Division 26 of the California Health and Safety Code (Section 43000 et seq.) and regulations promulgated there under and/or a safety compliance report issued pursuant to Division 14.8 of the California Vehicle Code (Section 34500 et seq.) and the regulations promulgated there under, as applicable to the vehicle. Contractor shall maintain copies of such certificates and reports and shall make such certificates and reports available for inspection upon request by the Contract Manager.

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7.05.9 California Heavy-Duty Inspection Program

No later than July 1, 2016, Contractor shall submit to the Contract Manager verification that each of the Contractor's Collection vehicles has passed the California Heavy-Duty Vehicle Inspection. Thereafter, Contractor shall cause each vehicle in Contractor's Collection Fleet to be tested annually in the California Heavy-Duty Inspection Program and shall submit written verification to City within ten (10) Work Days of the completion of such test. Contractor shall not use any vehicle that does not pass such inspection.

7.05.10 Vehicle Inspections

Upon City request, Contractor shall submit the Safety Compliance Report/Terminal Record Update from its Biennial Inspection of Terminal, or BIT. If Contractor receives a terminal rating below satisfactory, Contractor shall notify the City, and Contractor is in violation of the Agreement. Contractor has the time allowed by the Department of California Highway Patrol ("CHP") to cure violations and bring the terminal rating up to satisfactory. If the CHP does not adjust the rating to satisfactory or better within six (6) months, then the Contractor shall be considered in default of the Agreement and the City may terminate this Agreement.

7.06 CONTAINERS

On the Commencement Date of this Agreement, all Containers used by the City to Collect Solid Waste, Recyclable Materials, and Green Waste from Residential, Multi-Family and Commercial Premises shall become property of the Contractor; and the Contractor shall purchase such Containers from the City by paying the City the sales price specified in Section 8.05. Contractor shall be responsible for paying all taxes and fees associated with the transfer of ownership of the Containers. The City shall leave such Containers at each Customer's service location for immediate use by Contractor and to minimize disruptions in service to Customers. Contractor may elect to use the Containers previously owned by the

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City or to replace such Containers with the exception of Carts with a capacity of 96 gallons or less. All Carts with a capacity of 96 gallons or less used in performance of this Agreement to provide Residential and Commercial Services shall be new as of the Commencement Date. New or used Bins, Roll-boxes, and 300-gallon Carts may be used provided they are in good condition.

If Contractor elects to continue to utilize the Containers, Contractor shall be responsible for removing all City-specific identification from the Containers through repainting or the application of high-quality waterproof stickers within ninety (90) days of acquiring such Containers from the City. If Contractor chooses to replace Containers, the Contractor shall remove the Containers previously owned by the City and reuse or Recycle the Containers. If Contractor chooses to sell or transfer Containers to another operation, Contractor must remove all City-specific identification prior to such sale or transfer.

7.06.1 Carts

Purchase and Distribution of Carts

Each Residential Customer will be provided at no charge one (1) 96-gallon Cart for Solid Waste Cart, one (1) 96-gallon Cart for Source-Segregated Recycling, and one (1) 96-gallon Cart for Source-Segregated Green Waste. Customers may request additional Carts for Solid Waste, Source-Segregated Recycling or Source-Segregated Green Waste Collection. In addition, Contractor shall provide 32- and 64-gallon carts as substitutes. No discount will be given for use of smaller carts.

The Contractor shall be responsible for the purchase and distribution of fully assembled and functional Carts to Customers in the Service Area. All Carts provided by Contractor utilized in the performance of this Agreement shall be manufactured by injection or rotational molding and meet the Cart design and performance requirements as specified below.

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All Carts selected shall be subject to City's approval. Carts must meet color, size, uniformity and quality requirements of the City. The City will not permit Carts with inconsistent colors or in poor condition to be used in the City at any time during the term of this Agreement, and may require Contractor to replace such Carts.

Cart Capacity

The references in Sections 4.02, 4.03 and 4.04 to Cart sizes of 96, 64 and 32 gallons may be approximate. The Cart size may fall within the following range:

- 30 – 35 gallons
- 60 – 70 gallons
- 90 – 101 gallons

The selected sizes must be consistent throughout the City for a uniform appearance.

Cart Color and Appearance

The Carts for Solid Waste, Source-Segregated Recycling, and Source-Segregated Green Waste will be differentiated by color. The colors shall be colorfast and resistant to fading as a result of weathering or ultraviolet degradation. Color must be uniform within each Container. Carts for Solid Waste will be black. Carts for Source-Segregated Recycling will be blue. Carts for Source-Segregated Green Waste will be green. Cart colors shall be consistent throughout City.

Cart Labeling and Hot Stamping

Labels used on Carts shall be placed on the inside of the Cart lid, and hot stamps shall be on the top of the lid and/or on the body of the Cart. Design for both the labels and the hot stamps must be approved by City prior to ordering labels or Carts. City shall approve what information is included on the label and in the hot stamp, as well as approve design and quality. Labels shall be replaced when worn. Cart labels and hot stamps will include specific instruction on what