

AGREEMENT

between the

**WEST CONTRA COSTA INTEGRATED WASTE
MANAGEMENT AUTHORITY**

and

WEST COUNTY RESOURCE RECOVERY, INC.;
WEST CONTRA COSTA SANITARY LANDFILL, INC.;
GOLDEN BEAR TRANSFER SERVICES, INC.;
RICHMOND SANITARY SERVICE, INC.; AND,
KELLER CANYON LANDFILL COMPANY, INC.

for

**POST-COLLECTION RECYCLING, AND DISPOSAL
SERVICES**

October 10, 2013

TABLE OF CONTENTS

	<u>Page</u>
1	
2	
3	RECITALS, DETERMINATIONS, AND FINDINGS..... - 1 -
4	ARTICLE 1 DEFINITIONS - 4 -
5	ARTICLE 2 TERMS OF AGREEMENT..... - 5 -
6	2.1 Effective Date - 5 -
7	2.2 Term - 5 -
8	2.3 Survival of Certain Provisions..... - 5 -
9	2.4 Conditions to Effectiveness of Agreement..... - 6 -
10	ARTICLE 3 OBLIGATIONS OF THE AUTHORITY - 9 -
11	3.1 Facility Designation - 9 -
12	3.2 No Tonnage Obligation or Limit on Waste Prevention..... - 9 -
13	ARTICLE 4 OBLIGATIONS OF CONTRACTOR..... - 10 -
14	4.1 Scope of Services..... - 10 -
15	4.2 Permits - 14 -
16	4.3 Facility Specifications - 14 -
17	4.4 Ownership of Authority Materials..... - 16 -
18	4.5 Rejection of Unpermitted Waste at Landfill..... - 16 -
19	4.6 Approved Facility and HHW Facility Days and Hours of Operation - 17 -
20	4.7 Equipment and Supplies..... - 17 -
21	4.8 Traffic Control and Direction - 17 -
22	4.9 Scale Operation..... - 17 -
23	4.10 Personnel - 19 -
24	4.11 Safety - 19 -
25	4.12 Alternative Facilities..... - 19 -
26	4.13 Invoicing - 20 -
27	4.14 Quarterly and Annual Reports - 20 -
28	4.15 Change in Applicable Law Affecting Rates - 22 -
29	4.16 Closure and Post-Closure of Landfill - 22 -
30	4.17 Right to Enter Facility and Observe Operations..... - 23 -
31	4.18 Provision of Emergency Services - 23 -
32	4.19 Service Standards - 24 -
33	4.20 Modifications to Scope of Service..... - 24 -
34	4.21 Triennial Review of 75% Recycling Goal..... - 26 -
35	ARTICLE 5 CONTRACTOR COMPENSATION - 28 -
36	5.1 General..... - 28 -
37	5.2 Initial Rate..... - 28 -
38	5.3 Annual Adjustments to the Rate - 32 -
39	5.4 Establishment of Post-Collection Rate - 37 -
40	5.5 Other Adjustments to Compensation..... - 38 -
41	ARTICLE 6 INDEMNITY, INSURANCE, AND PERFORMANCE BOND..... - 40 -

42	6.1	Defense and Indemnification	- 40 -
43	6.2	Insurance Policies	- 42 -
44	6.3	Performance Surety.....	- 44 -
45	ARTICLE 7 DEFAULT BY CONTRACTOR AND TERMINATION		- 45 -
46	7.1	Contractor Default	- 45 -
47	7.2	Right to Suspend or Terminate Agreement	- 47 -
48	7.3	Right to Perform	- 48 -
49	7.4	All Other Available Remedies	- 48 -
50	7.5	Authority's Remedies Cumulative	- 49 -
51	7.6	Waiver	- 49 -
52	ARTICLE 8 OTHER AGREEMENTS OF THE PARTIES.....		- 50 -
53	8.1	Relationship of Parties.....	- 50 -
54	8.2	Compliance with Law.....	- 50 -
55	8.3	Governing Law	- 50 -
56	8.4	Further Assurances	- 51 -
57	8.5	Assignment.....	- 51 -
58	8.6	Binding on Successors	- 53 -
59	8.7	Parties in Interest.....	- 53 -
60	8.8	Services Performed At Contractor's Sole Expense	- 53 -
61	8.9	Notices and Communication.....	- 53 -
62	8.10	Authority Contract Manager.....	- 54 -
63	8.11	Duty of Contractor Not To Discriminate	- 55 -
64	8.12	Force Majeure	- 55 -
65	8.13	Maintenance of Records.....	- 55 -
66	8.14	Right to Inspect Records	- 56 -
67	8.15	Compilation of Information for State Law Purposes.....	- 57 -
68	8.16	Right to Demand Assurances of Performance	- 57 -
69	8.17	Dispute Resolution	- 58 -
70	8.18	Criminal Activity of Contractor	- 60 -
71	8.19	Liquidated Damages.....	- 61 -
72	8.20	Guaranty of Contractor's Performance	- 62 -
73	8.21	Exercise of Discretionary Actions	- 63 -
74	8.22	Jurisdiction, Venue	- 63 -
75	8.23	Costs and Expenses.....	- 63 -
76	8.24	Golden Bear Franchise Agreement	- 63 -
77	ARTICLE 9 REPRESENTATIONS AND WARRANTIES OF CONTRACTOR		- 64 -
78	9.1	Accuracy of Representations.....	- 64 -
79	9.2	Representations and Warranties Regarding Negotiation of Agreement	- 64 -
80	ARTICLE 10 MISCELLANEOUS PROVISIONS.....		- 66 -
81	10.1	Exhibits.....	- 66 -
82	10.2	Section Headings	- 66 -
83	10.3	Interpretation and Construction	- 66 -
84	10.4	Amendment	- 67 -

85	10.5	Severability	- 67 -
86	10.6	Costs of Enforcing Agreement.....	- 67 -
87	10.7	Authority	- 68 -
88	10.8	Counterparts.....	- 68 -

TABLE OF EXHIBITS

92	EXHIBIT 1	Definitions
94	EXHIBIT 2.4.6	Enhanced Collection Services and Collection Franchise Agreement Amendment
95	EXHIBIT 4.1.4	Dry Material Processing
96	EXHIBIT 4.1.9	Public Education and Outreach
97	EXHIBIT 4.14	Reporting
98	EXHIBIT 6.2	Insurance
99	EXHIBIT 8.19	Liquidated Damages
100	EXHIBIT 8.19.A	Performance Standards
101	EXHIBIT 8.20	Guaranty Agreement
102	EXHIBIT 10	Corporate Secretary's Certificate
103		

104 This Agreement is entered into by and between the West Contra Costa Integrated Waste Management
105 Authority (Authority) and West County Resource Recovery, Inc., West Contra Costa Sanitary Landfill,
106 Inc., Golden Bear Transfer Services, Inc., Richmond Sanitary Service, Inc. ("RSS") and Keller Canyon
107 Landfill Company, Inc. (operating subsidiaries of Republic Services, Inc. and hereinafter collectively
108 referred to as "Contractor") (together, the "Parties") for the Transfer, Transport, Recycling, Composting,
109 and Disposal (Post-Collection Services) of Solid Waste, Recyclable Materials, Dry Materials, Organic
110 Materials, and Construction and Demolition Materials from the cities of Hercules, Pinole, Richmond, and
111 San Pablo (collectively the Member Agencies of the Authority and hereinafter referred to as "Member
112 Agencies") and certain portions of the unincorporated areas of the County of Contra Costa pursuant to
113 a franchise collection agreement between RSS and the County (that historically have been within the
114 Authority's service area including: East Richmond Heights, North Richmond, Montalvin Manor, Tara Hills,
115 and El Sobrante) (together the Member Agencies and County are hereinafter collectively referred to as
116 "Franchise Agencies").

117 **RECITALS, DETERMINATIONS, AND FINDINGS**

118 This Agreement is entered into with reference to the following facts, circumstances, determinations and
119 findings made by the Board Members of the Authority:

120 **WHEREAS;** the Legislature of the State of California, by enactment of the California Integrated Waste
121 Management Act of 1989 (Act) (California Public Resources Code Section 40000 et seq.), has declared
122 that it is in the public interest to authorize and require local agencies to make adequate provisions for
123 Solid Waste management within their jurisdiction; and

124 **WHEREAS;** the State of California has found and declared that the amount of refuse generated in
125 California, coupled with diminishing Disposal capacity and potential adverse environmental impacts
126 from landfilling and the need to conserve natural resources, have created an urgent need for State and
127 local agencies to enact and implement an aggressive integrated waste management program. The State
128 has, through enactment of the Act, directed the responsible State agency, and all local agencies, to
129 promote Diversion and to maximize the use of feasible waste reduction, re-use, Recycling, and
130 Composting options in order to reduce the amount of refuse that must be Disposed; and

131 **WHEREAS,** the Authority and Member Agencies entered into a Joint Exercise of Powers Agreement
132 dated April 2, 1991, ("JPA Agreement"), which JPA Agreement was amended by the parties thereto in
133 March 6, 1995; and

134 **WHEREAS,** on January 1, 1994, the Authority and West County Resource Recovery, Inc. entered into a
135 Service Agreement for Operation of an Integrated Resource Recovery Facility ("IRRF Service
136 Agreement"); and

137 **WHEREAS,** Contractor, by means of the services and facilities of Golden Bear Transfer Station, Keller
138 Canyon Landfill, West Contra Costa Sanitary Landfill and West County Resource Recovery, provides Post-
139 Collection Services to the Authority through certain agreements between Contractor and the Authority;
140 and

141 **WHEREAS**, these contracts for Post Collection Services are expiring effective December 31, 2013; and.

142 **WHEREAS**, In October 2012, the Authority solicited Requests for Qualifications and Statements of
143 Interest from companies in the solid waste and recycling industry for the provision of these Post-
144 Collection Services. Contractor submitted its response and after consideration of the numerous
145 proposals received, on December 12, 2012, the Authority Board of Directors directed Authority staff to
146 negotiate with Contractor for the provision of these services; and

147 **WHEREAS**; the Authority further declares its intent to approve and maintain reasonable rates for the
148 Post-Collection Services described in this Agreement; and

149 **WHEREAS**; the Authority selects Contractor to provide for the Post-Collection Services, after
150 undertaking a competitive request for proposals process and having determined that Contractor's
151 proposal provides the best overall value for the Authority rate payers, and that Contractor has the
152 requisite experience, qualifications, reputation, and capacity to carry out such services; and

153 **WHEREAS**; local agencies like the Authority and the Franchise Agencies have generally been held liable
154 under federal superfund laws for costs of cleaning up of Hazardous Waste sites that accepted Solid
155 Waste generated within municipalities' jurisdictions. Therefore the Authority is prudent to provide for
156 terms and conditions of its Solid Waste Disposal in accordance with this Agreement; and

157 **WHEREAS**; pursuant to its police powers, obtaining a long-term commitment for Disposal of Solid Waste
158 generated within the Authority in accordance with this Agreement is in the best interests of the public
159 health, safety and wellbeing of the citizens throughout the Authority and is fiscally prudent; and

160 **WHEREAS**; through enactment of the Act, the State of California also recognizes the important health
161 and safety consideration to long-term planning for local governments adequate Disposal needs. The
162 State requires local governments to make adequate provision for at least fifteen (15) years of Solid
163 Waste Disposal capacity to preserve the health, safety and wellbeing of the public; and

164 **WHEREAS**; this Agreement also advances the objectives of the federal government to encourage
165 environmentally sound Solid Waste management (Resource Conservation and Recovery Act of 1976
166 (RCRA), 42, U.S.C. Section 6941 *et. seq.*); and

167 **WHEREAS**; the Keller Canyon Landfill is designated to be the principal Landfill for Solid Waste generated
168 throughout the Authority; and

169 **WHEREAS**; the Parties agree that the goal of the non-disposal services performed under this Agreement
170 is to further the recycling programs and recycling activities in support the achievement of the recycling
171 rate goal of 75% established by AB 341. The parties agree that the 75% goal is a target and not a
172 guaranteed rate; and

173 **WHEREAS**; this Agreement helps the Authority achieve the following goals:

174 (1) Securing rate stability over the long term and financial protection from environmental Liabilities;

175 (2) Establishing service and performance standards to help assure that the Authority and all Franchise
176 Agencies meet their respective obligations under law and to protect and preserve the health,
177 safety, and financial assets of its citizens;

178 (3) Giving the Authority tools to monitor Contractor's compliance with Service terms, administer Solid
179 Waste, Recyclable Materials, Organic Materials, and C&D Material management programs, and
180 enforce the Authority's rights; and,

181 **NOW, THEREFORE**, in consideration of the mutual promises, covenants, guaranties, and conditions
182 contained in this Agreement and for other good and valuable consideration, the Parties agree as
183 follows:

184



185

186

ARTICLE 1 DEFINITIONS

187

Unless the context otherwise requires, capitalized terms used in this Agreement shall have the meanings specified in Exhibit 1 to this Agreement, which is attached hereto and incorporated by reference.

188

189



190
191

ARTICLE 2 TERMS OF AGREEMENT

192 **2.1 Effective Date**

193 This Agreement becomes effective on the date that the latter of the Parties executes the Agreement or
194 the date that all of the Member Agencies have executed an amendment to their Collection Franchise
195 Agreement(s) at a minimum substantially in the form in exhibit 2.4.6, whichever is later. Except as
196 specifically provided herein, Contractor shall make all necessary preparations required to provide all
197 Services under this Agreement.

198 **2.2 Term**

199 The Term of this Agreement shall commence on January 1, 2014 and is set to expire on June 30, 2025.
200 Separately, and with respect to the County of Contra Costa, the term of the Agreement shall be until
201 October 13, 2023 and the County may, at its sole option, extend its participation in the Agreement
202 through the full term without any further changes required to the Agreement by providing no less than
203 thirty (30) days advanced notice in writing. The Parties may agree to extend this Agreement.

204 **2.3 Survival of Certain Provisions**

205 The following provisions shall survive the expiration or termination of this Agreement:

- 206 1) All representations and warranties;
- 207 2) All Indemnities and insurance requirements;
- 208 3) Obligations to pay any due and payable monetary amounts, or claims for those amounts,
209 including damages, any Disposal Rates, and payment of any amounts accrued and payable upon
210 termination of the Agreement in accordance with Section 7.2;
- 211 4) Obligations to submit and maintain Records and any reports for periods (or portions thereof)
212 concluded prior to the expiration or termination of this Agreement; and,
- 213 5) Any other rights and obligations of the Parties stated elsewhere in this Agreement which pertain
214 to operations conducted during the term of this Agreement including, but not limited to, the following:

4.2	Permits
4.3	Approved Processing Facility Specifications
4.4	Ownership of Authority Materials
4.13	Invoicing
4.14	Quarterly Report
4.16	Closure and Post-Closure of Landfill
6.1	Defense and Indemnification
6.2	Insurance Policies

8.02	Compliance with Law
8.08	Services Performed At Contractor's Sole Expense
8.13	Maintenance of Records
8.14	Right to Inspect Records
8.15	Compilation of Information for State Law Purposes
8.17	Dispute Resolution
8.22	Jurisdiction, Venue
8.23	Cost and Expenses

215 **2.4 Conditions to Effectiveness of Agreement**

216 **2.4.1 New Agreement Supersedes all Others**

217 Except as noted in this paragraph 2.4.1, this Agreement executed between Contractor and the Authority
 218 shall completely and fully supersede and invalidate any and all prior or existing contracts, agreements
 219 and any amendments or understandings between the Authority and Contractor (or specific entities of
 220 Contractor), except for provisions that survive expiration or termination of any of the following
 221 agreements: including the 1994 IRRF Service Agreement; the 2005 Agreement for the Transfer and
 222 Transportation of Franchised Solid Waste and County Area Waste from the Golden Bear Transfer
 223 Station; the 2010 Agreement for Organic Material Processing and Composting Services; the 2010
 224 Agreement for Disposal of Solid Waste (Keller Canyon Landfill); and the 2013 Amendment to Extend the
 225 Terms of Certain Service Agreements with the West Contra Costa Integrated Waste Management
 226 Authority. Except as specifically provided in the amendments referenced in Section 2.4.6 of this
 227 Agreement, nothing herein shall affect the validity or scope of any solid waste and recycling Collection
 228 Franchise Agreement to which Richmond Sanitary Service, Inc. is a party. 2.4.2

229
 230 **2.4.2 Release of Claims**

231
 232 Upon the execution of the Agreement, the Contractor and the Authority agree that they shall release
 233 and discharge each other from all claims they each might otherwise have against the other with respect
 234 to the Authority's assertion that it has the contractual flow control right to receive and direct all Solid
 235 Waste and Recyclables Collected for the Term of this Agreement pursuant to the 1994 amendment to
 236 Franchise Agency Collection Franchise Agreements with the Franchised Collector for Franchise Agencies
 237 in the Authority jurisdictional area. Nothing herein is intended to or shall operate as a waiver with
 238 respect to such claims or any other claims. The release in this paragraph 2.4.2 is limited solely to claims
 239 between Contractor and Authority and does not extend or apply to any claims of Contractor or
 240 Franchise Agencies.

241 **2.4.3 Environmental Review**

242 Prior to the effectiveness of this Agreement, the Parties shall have satisfied all requirements for
 243 environmental review under the California Environmental Quality Act, to the extent that it applies to this
 244 Agreement.

245 **2.4.4 Procurement Reimbursement**

246 Contractor shall pay the Authority, as reimbursement for the Authority's actual cost of procuring and
247 negotiating this Agreement, not to exceed two hundred thousand dollars (\$200,000). Such payment
248 shall be made January 30, 2014 or upon the Effective Date of this Agreement whichever is later. Failure
249 to timely make such payment may, in the Authority's sole discretion, constitute a default subject to the
250 provisions of Article 7 of this Agreement.

251 **2.4.5 Cost Baseline Study Reimbursement**

252 Contractor shall reimburse the Authority the actual cost, up to fifty thousand dollars (\$50,000), for
253 conducting a baseline review of the cost of existing collection programs and projections of the cost of
254 new collection programs provided to Franchise Agencies as part of Contractor's proposal for the services
255 covered under this Agreement. Such payment shall be made within the latter of thirty (30) days of the
256 Authority's execution of this Agreement or fifteen (15) days of the final report on such study being
257 issued to the Authority and Contractor.

258 **2.4.6 Execution of Amendments for Collection Services**

259 Prior to the effectiveness of this Agreement, the Franchise Agencies must have executed an amendment
260 to their Collection Franchise Agreement(s) substantially in the form presented in Exhibit 2.4.6. and as
261 outlined in the key elements below:

- 262 1. Implementation dates specified in this Agreement will remain unchanged as long as all Franchise
263 Agreement Amendments are approved no later than November 15, 2013. If one or more
264 Franchise Agreement Amendments are not approved on or before November 15, 2013, the
265 following shall apply:
- 266 a. Franchise Agencies approving Collection Franchise Agreement amendments acceptable
267 to both parties (Contractor and the Franchise Agency) by November 15, 2013 will be
268 able to receive the benefits of the new post collection rates established in the Post-
269 Collection Agreement and the Franchise Agencies' collection rates will be adjusted by
270 the CPI provisions of the their Collection Franchise Agreement on January 1, 2014.
 - 271 b. Franchising Agencies not approving Collection Franchise Agreement amendments that
272 are acceptable to Contractor and Franchise Agency by November 15, 2013 will not
273 receive the benefits in terms of the new post-collection rates established in the Post-
274 Collection Agreement, but shall be required to implement any CPI adjustments as
275 required by the Collection Franchise Agreement that are scheduled for January 1,
276 2014. In the circumstance of Franchise Agencies not approving Collection Franchise
277 Agreement amendments that are acceptable to Contractor and Franchise Agency by
278 November 15, 2013, the current (2013) post-collection rates will apply in 2014 until the
279 new post collection rates are implemented within 30 days of the Collection Franchise
280 Agreement amendment is approved by that Franchise Agency. Neither Contractor nor
281 Authority will issue any credits to Franchise Agencies whose rates are not established by
282 January 1, 2014.
- 283
284
285

286
287
288
289
290
291
292
293
294
295
296
297
298
299
300

- c. With the exception of the specific services outlined in d. below, implementation dates for the required services and associated hires in the post-collection agreement will be delayed a month for each successive month past November 15, 2013. For example, if all of the Franchise Agencies approve the Collection Franchise Agreement amendments by December 1, the implementation dates will move one month. If the Member Agencies approve the required franchise amendments on December 16, 2013 the implementation dates will move two months out.

- d. By January 1, 2014 and regardless of whether all of the Franchise Agencies have approved their franchise amendment by November 15, 2013, Contractor will allow for the inclusion of food scraps in the mixed residential organics containers in Franchise Agencies that do not already allow this and, allow for the inclusion of the expanded recyclables accepted at curbside to be included in the curbside residential recycle container.

301

302 **ARTICLE 3**
303 **OBLIGATIONS OF THE AUTHORITY**

304 **3.1 Facility Designation**

305 The Authority shall direct all Solid Waste Collected by Franchise Agencies' Franchised Collector to be
306 delivered to the Approved Transfer Station and Disposed of at Keller Canyon Landfill (Landfill) (except as
307 necessitated by Section 4.12.1).

308 The Authority shall direct all Traditional and Specialty Recyclable Materials Collected by Franchise
309 Agencies' Franchised Collector to be delivered to and Processed at the Approved Recycling Materials
310 Processing Facility.

311 The Authority shall direct all Dry Material which is Collected separately from other Solid Waste by the
312 Franchise Agencies' Franchised Collector to be delivered to and Processed at the Approved Dry
313 Materials Processing Facility.

314 The Authority shall direct all Organic Materials Collected by Franchise Agencies' Franchised Collector to
315 be delivered to and Processed at the Approved Organic Materials Processing Facility.

316 The Authority shall direct all Construction and Demolition (C&D) Materials Collected by Franchise
317 Agencies' Franchised Collector to be delivered to and Processed at the Approved Construction and
318 Demolition Materials Processing Facility.

319 **3.2 No Tonnage Obligation or Limit on Waste Prevention**

320 Neither the Authority nor the Franchise Agencies are obligated to deliver any minimum specified
321 quantity of Solid Waste, Recyclable Materials, or Organic Materials to the Landfill or Approved
322 Processing Facilities, but the Authority is obligated to deliver any and all such franchised Solid Waste,
323 Recyclable Materials, Dry Materials, C&D Materials and Organic Materials to the Landfill or Approved
324 Processing Facilities. The Authority currently operates programs intended to reduce the amount of Solid
325 Waste for Landfill Disposal as well as to reduce the total amount of materials generated by the
326 community. Nothing in this Agreement shall prevent, penalize, or impede, in any manner, the Authority
327 in cooperation with the Contractor, when necessary, from continuing and expanding these programs or
328 developing new programs having the goal of reducing the amount of material generated within the
329 Authority service area and managed under this Agreement. The Contractor shall have the right of first
330 refusal for such activities which includes, without limitation, Niche Services. This right of first refusal
331 shall not apply to studies, education, outreach, advertising, or other activities that do not involve the
332 Processing, Transportation, Disposal, handling, or other disposition of materials covered by this
333 Agreement.

334

335
336

ARTICLE 4 OBLIGATIONS OF CONTRACTOR

337 **4.1 Scope of Services**

338 **4.1.1 Solid Waste Transfer and Transport**

339 The Contractor shall receive the Solid Waste Collected under the Franchise Agency Collection Franchise
340 Agreements and directed to the Approved Transfer Facility by the Authority. Contractor shall load Solid
341 Waste into Transfer trailers in a manner that reasonably minimizes the volume of traffic between the
342 Approved Transfer Facility and Landfill or Approved Processing Facility. Contractor shall safely and
343 lawfully Transport all Solid Waste from the Approved Transfer Station to the Landfill or Approved
344 Processing Facility.

345 **4.1.2. Solid Waste Disposal**

346 Contractor shall receive, accept, and safely and lawfully Dispose of at the Landfill, the Authority-directed
347 Solid Waste delivered from the Approved Transfer Station in a manner that meets or exceeds all
348 requirements of Applicable Law including, but not limited to, the Resource Conservation and Recovery
349 Act (RCRA).

350 **4.1.3. Recyclable Materials Processing**

351 Contractor shall Process the Traditional Recyclable Materials Collected under the Collection Franchise
352 Agreements for all Franchise Agencies. The Approved Recycling Materials Processing Facility shall
353 separate the commingled Traditional Recyclable Materials into marketable commodity types, prepare
354 those commodities for market, and market those commodities for sale. Under no circumstances may
355 Contractor Dispose of any material Collected as Traditional Recyclable Material without first Processing
356 such material in a manner that maximizes the Recovery of marketable commodities.

357 **4.1.4. Dry Material Processing**

358 Contractor shall receive the Dry Material Collected under the Collection Franchise Agreements at the
359 Approved Transfer Facility and shall Transfer and Transport that Dry Material to the Approved Dry
360 Materials Processing Facility. Upon receipt at the Approved Dry Materials Processing Facility, Contractor
361 shall Process Dry Materials in a manner that Recovers no less than 50% of the Recyclable Material and
362 Organic Material constituents including use of fines generated in this processing as ADC. Contractor
363 shall sort the Recovered materials into marketable commodity types, prepare those commodities for
364 market, and market those commodities for sale. Contractor may meet and confer with the Authority
365 should moisture content of Recyclable Materials become a problem, however, the Parties acknowledge
366 that Contractor, as the Franchise Collector, has full control over the material that is included in this
367 program. Contractor shall engage the services of Cascadia Consulting Group as a subcontractor to
368 perform the services described in Tasks 1 through 3 of Exhibit 4.1.4 of this Agreement and the scope of
369 Cascadia's work shall include characterization of no less than ten (10) routes.

370 **4.1.5. Organic Materials and Organics Processing**

371 Contractor shall receive, accept, and safely and lawfully Process the Organic Materials collected under
372 the Franchise Agencies' Collection Franchise Agreements at the Approved Organic Materials Processing
373 Facility. This Processing shall include, at a minimum, removing obvious contaminants, pre-processing
374 (i.e., chip and grind), and Composting the Organic Materials. Organic Materials shall be converted to
375 products for beneficial use including Compost and mulch.

376 Contractor shall provide Franchise Agencies with finished Compost and mulch products upon request at
377 no additional charge to the Franchise Agency at the Contractor's Composting facility. Franchise Agency
378 will provide transportation to and from Contractor's facility. This shall be limited annually to one percent
379 (1%) of the annual Organic Materials Tonnage Collected from that Franchise Agency and delivered to the
380 Approved Organic Materials Processing Facility.

381 Except as provided below for the closed West Contra Costa Sanitary Landfill (WCCSL), under no
382 circumstances may Contractor use unprocessed Organic Materials covered by this Agreement for
383 Alternative Daily Cover (ADC), intermediate cover, slope stabilization, erosion control, or any other
384 purpose at an active landfill. Such uses may be permitted at the closed/inactive WCCSL, to the extent
385 that such use prevents the importation of material to the site for that purpose.

386 **4.1.6. Mixed Construction and Demolition Materials Processing**

387 Contractor, in its capacity as the Franchised Collector for each of the Franchise Agencies, receives
388 customer calls for roll-off Services. The Authority will work with Franchise Agencies periodically during
389 the term of the Agreement to provide educational materials and outreach to construction contractors to
390 inform them about the availability of the Franchise Collector's C&D recycling program. Contractor shall
391 train all customer service representatives to identify C&D boxes when work orders are placed for service
392 and to clearly identify the work order as a C&D service. All loads identified and/or placed as orders for
393 service shall be delivered by Contractor, in its capacity as the Franchised Collector, to the Approved
394 Construction and Demolition Processing Facility.

395 Contractor shall receive from any Franchise Agency's Franchised Collector and pre-Process all identified
396 C&D loads to remove contaminants and large dimensional/non-sizeable material (e.g., very large
397 diameter tree trunks) or wet material (e.g., saturated sheet rock). Contractor shall then Process the
398 remainder of each load, using its mixed C&D sorting line or other processes in a manner that maximizes
399 the Diversion of material from the Landfill. The sorting line shall be equipped and staffed with sorters in
400 a manner adequate to consistently achieve a seventy percent (70%) Diversion rate for the material from
401 the Authority service area that is processed by this sorting line. Materials targeted for Diversion shall
402 include, but are not necessarily limited to: porcelain, cardboard, green waste, untreated wood, ferrous
403 and non-ferrous metals, concrete, brick, plastics, aggregate, wallboard, sheetrock, plaster, lath, asphalt,
404 base rock, dirt/soil, shingles, and carpet/pad. The Parties acknowledge that a significant portion of the
405 Diversion from this program is achieved by utilizing fines or unders from this process as ADC or other
406 beneficial use at a Solid Waste Disposal site. In the event of a Change in Law eliminating or significantly
407 reducing Diversion credit associated with Dry Material Processing or Mixed C&D Processing, the Parties
408 shall meet and confer regarding appropriate modifications to the Diversion rate target defined herein.

409 **4.1.7 Household Hazardous Waste Receiving, Processing and Disposal**

410 Contractor shall contract with a vendor acceptable to the Authority for the operation of a permanent
411 Household Hazardous Waste (HHW) drop-off facility (located at 101 Pittsburg Avenue, North Richmond)
412 that shall serve the Franchise Agencies including unincorporated communities within and adjacent to
413 the Authority's service area, subject to the Household Hazardous Waste Program Agreement between
414 the Authority, Contractor, and the County. The types of materials accepted as well as the days and hours
415 of operation shall be determined and may be subject to change at any time by the Authority Board of
416 Directors with input from the Contractor, subject to reasonable implementation lead time. Initially, the
417 days and hours of operation shall be from 9:00 a.m. to 4:00 p.m. Thursday, Friday, and the first Saturday
418 of each month. The Contractor shall also provide a mobile collection service for residents at least 60
419 years old and for persons with disabilities. Nothing in this Agreement should be inferred as conferring
420 third party beneficiary rights to such vendor and the Contractor shall have the right to replace such
421 vendor at any time for convenience, subject to Authority approval of the replacement vendor. In order
422 to comply with the Authority's and County's Household Hazardous Waste Elements (HHWE), the
423 Authority, Contractor and County (if the County is not a voting member of the Authority) will agree on
424 the types of materials accepted as well as the days and hours of operation the permanent Household
425 Hazardous Waste (HHW) drop-off facility services provided under this agreement.

426 **4.1.8 Recycling Coordinators**

427 No later than December 1, 2013, and subject to the approval and execution of amendments to the
428 Collection Franchises, the Contractor shall hire two (2) additional full time Recycling Coordinators who
429 shall be Contractor employees dedicated to work exclusively within the Authority service area.

430 During the process of recruiting and hiring for the individuals that shall fill these positions, the
431 Contractor shall accept input from the Authority and Franchise Agencies regarding desirable
432 qualifications of the selected candidates. At a minimum, the selected candidates: 1) should have at least
433 two (2) years of experience in a similar capacity, ideally as a recycling coordinator whose responsibilities
434 included interacting with the public (including, but not limited to, residents, businesses, and community
435 groups) and public agencies; 2) should be experienced in the management and update of websites and
436 the use of social media for educational and marketing purposes; 3) at least one of the selected
437 candidates must be fluent in the predominant secondary language of the service area (such as Spanish);
438 and, 4) at least one of the coordinators should have a communications, business/economic
439 development, or professional outreach background.

440 In the event that either: (1) , the Contractor fails to hire the two Recycling Coordinators by November 1,
441 2013; or, (2) in the event that such a position is ever vacant, during the Term of the Agreement, for
442 more than three (3) months after the employment relationship between the Contractor and the
443 employee is terminated, regardless of the reason, the Authority may, at its sole discretion, engage a
444 third party to perform the functions of the Recycling Coordinator until such time as the Contractor hires
445 the required personnel. The cost of such consultant shall be paid by the Contractor. The reimbursement
446 of such costs by the Contractor shall be limited to eight thousand three hundred and thirty three dollars
447 (\$8,333) per month (equivalent to one hundred thousand dollars (\$100,000) per year) per coordinator
448 that has to be replaced by the third party. The monthly and annual reimbursement rates described in

449 this Section 4.1.8 will increase annually by the same percentage as the Material Specific portion of the
450 Rate as defined in Section 5.3.2.

451 The general scope of the Recycling Coordinators' duties includes those items identified and described in
452 Exhibit 4.1.9 (Public Education and Outreach). The specific educational and outreach priorities and
453 campaigns to be performed by the Recycling Coordinators shall be defined cooperatively between the
454 Contractor, the Recycling Coordinators, and the Authority with input from Franchise Agencies. These
455 priorities and campaigns shall be documented by the Recycling Coordinator in an annual education and
456 outreach plan (Annual Plan), including identifiable and measurable goals, to be presented to the
457 Authority. The Authority and Franchise Agency staff shall be invited to provide comments on the Annual
458 Plan. The Authority shall be responsible for reconciling any conflicting comments and making a formal
459 request for changes to the Annual Plan. The Recycling Coordinators shall make quarterly status
460 presentations collectively to the Authority and Franchise Agencies, documenting their progress against
461 the plan and goals and recommending modifications to the plan, as appropriate.

462 The Parties shall agree on an annual process for reviewing the performance of the Recycling
463 Coordinators, documenting performance problems associated with this Service, and resolving those
464 problems (including some ultimate provision for reassigning and replacing the staff person). In addition,
465 the Parties shall agree on the approach to dealing with serial or excessive vacancies in these positions,
466 including the possibility of contracting jointly with a third party specializing in performing these Services
467 or transferring the funding for the positions to the Authority.

468 **4.1.9 Public Education**

469 Beginning December 2013, the Contractor shall begin to provide the public education and outreach
470 Services described in Exhibit 4.1.9, Public Education and Outreach. Contractor understands the
471 significance and importance of public education and outreach activities in achieving the Authority's goal
472 of 75% recycling by 2020. Contractor further understands the diverse demographic and socio-economic
473 profile of the Authority's service area. Contractor shall conduct all public education and outreach
474 activities in a manner that provides for education and outreach in the predominant secondary language
475 in the Authority's service area. Contractor further understands the potential for an error in translation
476 that may make education ineffective, offensive, or otherwise alienate certain cultural groups. As such,
477 Contractor shall ensure such alternate language education is both linguistically and culturally
478 appropriate to the community. The Authority shall review and approve all such public education
479 materials prior to distribution..

480 **4.1.10 Cooperation with RFP and Transition to Next Contractor**

481 If applicable, before expiration or earlier termination of this Agreement, Contractor will take direction
482 from the Authority Contract Manager and/or subsequent contractor to assist in an orderly transition of
483 services from Contractor to Authority or subsequent contractor. In response to the Authority Contract
484 Manager's direction including to gather data necessary for the preparation of an RFP for replacement
485 services at the expiration or earlier termination of this Agreement, Contractor shall provide information
486 and data consistent with the requirements of Section 8.14 of this Agreement.

487 **4.1.11 Limitations to Scope**

488 The scope of this Agreement does not include Solid Waste, Organic Materials, Recyclable Materials,
489 C&D, and/or other materials generated in the Authority area that are not Collected by the Franchise
490 Agencies' Franchised Collectors.

491 **4.2 Permits**

492 **4.2.1 Securing Permits**

493 Contractor shall obtain and maintain, at Contractor's sole cost, all Permits required under Applicable
494 Law to perform Services and shall provide Services in compliance with such Permits. For the Landfill and
495 the Approved Processing Facilities owned by Contractor or an Affiliate, Contractor shall provide
496 Authority copies of Permits for all of the Approved Processing Facilities and shall demonstrate
497 compliance with the terms and conditions of Permits within ten (10) Calendar Days of request of
498 Authority. In its Quarterly Report or more frequently, as necessary, Contractor shall inform Authority of
499 Contractor's status of securing the issuance, revision, modification, extension or renewal of Permits that
500 are necessary to affect compliance with the terms of this Agreement. Within ten (10) Calendar Days
501 following Authority's request, Contractor shall provide the Authority with copies of any applications or
502 other correspondence that the Contractor submits in connection with securing Permits.

503 **4.2.2 Complying with Permits**

504 Contractor shall comply with all Permits, including any mitigation measures related to the operation and
505 maintenance of all of the Approved Processing Facilities at no additional cost to the Authority for
506 current permit and fee structure at the time of the execution date of the Agreement. Contractor is
507 solely responsible for paying any fines or penalties imposed for noncompliance with or Violation of
508 Permits or failure to obtain Permits.

509 **4.2.3 Hazardous Material Programs**

510 All of the Approved Facilities and the Landfill shall maintain a Hazardous Waste screening, identification,
511 and prevention protocol consistent with the Solid Waste Facility Permits for each. The Contractor shall
512 not knowingly deliver or Process Hazardous Waste to or at any of the Approved Facilities or Landfill,
513 with the exception of the Household Hazardous Waste Facility co-located with the Approved Recycling
514 Materials Processing Facility at 101 Pittsburg Avenue in North Richmond.

515 **4.3 Facility Specifications**

516 **4.3.1 Landfill Disposal**

517 Contractor shall provide Disposal Services at the Landfill in accordance with the Service standards
518 described in Section 4.19 and the following Service specifications:

- 519 (1) Operating, managing and maintaining the Solid Waste fill areas, including the placement,
520 burying, and compaction of Solid Waste in the refuse fill areas; stockpiling, placement and compaction

- 521 of daily cover, intermediate cover, and final cover; management of fill operations with regard to fill
522 sequencing, side slopes configuration, and working face location and configuration;
- 523 (2) Providing, operating and maintaining all equipment, rolling stock, and supplies necessary for
524 operations, Closure, Post-Closure, and environmental monitoring;
- 525 (3) Operating, maintaining, and managing leachate and landfill gas management systems,
526 groundwater monitoring and management systems, storm water drainage and control systems,
527 treatment facilities, buildings, on-site roadways, utilities, and any other required facility elements.
- 528 (4) Accepting delivery of Solid Waste from the Approved Transfer Station, subject to the limitations
529 of Section 4.5;
- 530 (5) Operating and maintaining the scale house and scale system and weighing Solid Waste delivered
531 from the Approved Transfer Station in accordance with Section 4.9;
- 532 (6) Directing on-site traffic to appropriate unloading areas in accordance with Section 4.8 and
533 providing a safe working environment for Landfill users, visitors, and employees including Sections
534 4.10 and 4.11; and,
- 535 (7) Safely managing the Solid Waste accepted at the Landfill, including, but not limited to, meeting
536 requirements of Section 4.11

537 **4.3.2 Approved Processing Facilities**

- 538 Contractor shall provide Processing services at the Approved Processing Facilities in accordance with the
539 Service standards described in Section 4.19 and the following Service specifications:
- 540 (1) Operating, managing, and maintaining the Processing areas;
- 541 (2) Providing, operating and maintaining all equipment, rolling stock, and supplies necessary for
542 operations and environmental monitoring;
- 543 (3) Operating, maintaining, and managing storm water drainage and control systems, treatment
544 facilities, buildings, on-site utilities, and any other required facility elements.
- 545 (4) Accepting delivery of Recoverable materials Collected under the Collection Franchise
546 Agreements, subject to the limitations of Section 4.5;
- 547 (5) Operating and maintaining the scale house and scale system and weighing all material delivered
548 under this Agreement in accordance with Section 4.9;
- 549 (6) Directing on-site traffic to appropriate unloading areas in accordance with Section 4.8 and
550 providing a safe working environment for facility users, visitors, and employees including Sections 4.10
551 and 4.11;

552 (7) Safely managing the materials accepted at the Approved Recyclable Materials Processing
553 Facility, including, but not limited to, meeting requirements of Section 4.11.

554 **4.4 Ownership of Authority Materials**

555 Once Solid Waste, Organic Materials, C&D Material, Dry Material, HHW, or Recyclable Material directed
556 by the Authority is received and accepted by Contractor ownership and the right to possession of said
557 materials shall Transfer directly from the Person delivering said materials to Contractor. Contractor may
558 retain, Recycle, Process, Dispose of and otherwise use such Solid Waste, Organic Materials, C&D, Dry
559 Materials, HHW, and Recyclable Materials in any lawful fashion or for any lawful purpose, except that
560 Contractor may not Dispose of otherwise marketable Recyclable Materials or Organic Materials without
561 the prior written approval of the Authority. This requirement for written approval excludes process
562 Overs and process Residue.

563 Both benefits and Liabilities resulting from ownership and possession of Authority-directed materials
564 shall accrue to Contractor with the exception that the annual City/County payments associated with
565 California curbside redemption value (CRV) made by the California Department of Resources Recycling
566 and Recovery (CalRecycle) shall accrue to the Franchise Agencies. The benefits and liabilities accruing to
567 contractor shall include all scrap values, all California Redemption Value (CRV) payments (excepting
568 City/County payments as described above), all Curbside Supplemental payments, all quality incentive
569 payments, all Administrative fees, all Processing payments, and all program distributions of unspent
570 program funds.

571 **4.5 Rejection of Unpermitted Waste at Landfill**

572 **4.5.1 Inspection**

573 Contractor shall use Standard Industry Practices to detect and reject Unpermitted Waste in a uniform
574 manner and shall not knowingly accept Unpermitted Waste at the Approved Processing Facilities or
575 Landfill. Contractor shall comply with the inspection procedure contained in its Permit requirements.
576 Contractor shall promptly modify that procedure to reflect any changes in Permits or Applicable Law.

577 **4.5.2 Unpermitted Wastes Handling and Costs**

578 Contractor shall arrange for or provide handling, Transportation, and delivery of all Unpermitted Wastes
579 detected at the Approved Processing Facilities or Landfill to a Recycling facility or Landfill permitted in
580 accordance with Applicable Law. Contractor is solely responsible for making such arrangements or
581 provisions and for all associated costs thereof, subject to the remedies available under Section 4.5.3
582 below.

583 **4.5.3 Remedies for Rejected Materials**

584 If Unpermitted Waste is delivered to the Landfill, Contractor shall be entitled to pursue whatever
585 remedies, if any, it may have against Person(s) bringing that Unpermitted Waste to the Landfill. In no

586 event shall the Authority or Franchise Agencies be required to bear the cost of the proper handling or
587 remediation of Unpermitted Wastes which are delivered to the Landfill.

588 **4.6 Approved Facility and HHW Facility Days and Hours of Operation**

589 **4.6.1 Facilities Hours of Operation**

590 Contractor will coordinate the hours of operation of the Approved Facilities to receive Solid Waste,
591 Organic Material, C&D Material, and Recyclable Material from the Franchised Hauler from the Authority
592 service area.

593 **4.6.2 Approved HHW Facility Hours of Operation**

594 The Approved HHW Facility hours of operation are determined by mutual consent by the Authority's
595 Board of Directors and the Contractor and may be modified, by mutual consent, at any time during this
596 Agreement, following sixty (60) days advanced notification and adjustment of Rates to reflect the cost of
597 increased days and hours of service. The initial hours of operation for the Approved HHW Facility are
598 9:00 a.m. through 4:00 p.m. every Thursday and Friday and the first Saturday of every month. The
599 Authority Board of Directors has the right to reduce the future hours of HHW operations for cost control
600 measures. The Contractor will not unreasonably withhold consent for such cost control measures.

601 **4.7 Equipment and Supplies**

602 Contractor shall provide all rolling stock, stationary equipment, material storage containers, spare parts,
603 maintenance supplies, and other consumables as appropriate and necessary to operate the Approved
604 Processing Facilities and Landfill. Contractor shall place the equipment in the charge of competent
605 operators. Contractor shall repair and maintain all equipment at its own cost and expense.

606 **4.8 Traffic Control and Direction**

607 Contractor shall construct and maintain all paved areas on Contractor's property that are required to
608 Transport Authority's Solid Waste, Recyclable Materials, and Organic Materials from the scale house at
609 each of the Approved Processing Facilities to the point of unloading at the each of the Approved
610 Processing Facilities. Contractor shall direct on-site traffic to appropriate unloading areas and provide a
611 safe working environment for all of the Approved Processing Facilities and Landfill users, visitors, and
612 employees. Contractor shall provide necessary signs and personnel to assist drivers to proper unloading
613 areas. Contractor shall maintain all signs at all of the Approved Processing Facilities and Landfill in a
614 clean and readable condition. The Contractor shall provide and maintain signs for the convenience of
615 vehicles using the Approved Processing Facilities and Landfill to facilitate safe and efficient traffic flow.

616 **4.9 Scale Operation**

617 **4.9.1 Maintenance and Operation**

618 Contractor shall maintain at least two (2) State-certified motor vehicle scales at the Landfill and at least
619 one (1) State-certified motor vehicle scale at each of the Approved Processing Facilities in accordance

620 with Applicable Law. Contractor shall provide documentary evidence of such certification within ten
621 (10) Calendar Days of Authority's request. Contractor shall link all scales at each Approved Processing
622 Facility and Landfill to a centralized computer recording and billing system and account for tracking all
623 incoming material by jurisdictions of origin and outgoing materials by destination. Contractor shall
624 operate those scales during the Approved Processing Facility receiving hours established in Section 4.6.
625 Contractor shall provide the Authority with system generated original reports that does not contain
626 proprietary confidential information.

627 **4.9.2 Vehicle Tare Weights**

628 Contractor shall promptly weigh the vehicle and determine its unloaded ("tare") weight(s). Contractor
629 shall record tare weight, hauler name, vehicle type (e.g. front-loader, transfer truck/trailer, side-loader,
630 etc.) and vehicle identification number for each and every vehicle with a stored tare weight in
631 Contractor's computer system. Within ten (10) Working Days of weighing, Contractor shall provide the
632 Authority with a report listing vehicle tare weight information. Contractor shall have the right to
633 request re-determination of tare weights of vehicles twice each Calendar Year. If there is reasonable
634 suspicion or evidence that tare weights are not accurate, Authority may, at any time and without
635 limitation, request re-determination of tare weights, in which case Contractor shall promptly re-
636 determine tare weights for requested vehicles. Contractor may update tare weights, at its own initiative
637 or at the request of the Authority, more frequently. This provision shall apply to all vehicles used to
638 deliver materials to each of the Approved Processing Facilities and Landfill.

639 **4.9.3 Substitute Scales**

640 If any facility scale is inoperable, being tested, or otherwise unavailable, Contractor shall use Reasonable
641 Business Efforts to weigh vehicles on the remaining operating scale. To the extent that all the scales are
642 inoperable, being tested, or otherwise unavailable, Contractor shall substitute portable scales until the
643 permanent scales are replaced or repaired. Contractor shall arrange for any inoperable scale to be
644 repaired as soon as possible and, in any event, within five (5) Working Days of the failure of the
645 permanent scale. If repairs to the permanent scale are projected to take more than twelve (12) hours,
646 Contractor shall immediately obtain a temporary substitute scales(s).

647 **4.9.4 Estimates**

648 Pending substitution of portable scales or during power outages at any Approved Processing Facility or
649 the Landfill, Contractor shall estimate the Tonnage of the material delivered to the Approved Processing
650 Facility by utilizing the arithmetic average of each vehicle's recorded Tons of the subject material
651 delivered on its preceding three (3) deliveries, on the same day of the week, to the respective facility.

652 All information required by Section 4.9.7 shall continue to be recorded for each delivery to the Landfill
653 or the Approved Processing Facilities during any period the scales are out of service.

654 **4.9.5 Testing**

655 Contractor shall test and calibrate all scales in accordance with Applicable Law, but at least every twelve
656 (12) months or upon Authority request.

657 **4.9.6 Weighing Standards and Procedures**

658 Contractor shall weigh and record inbound weights of all vehicles delivering materials to the Approved
659 Processing Facilities and Landfill when the vehicles arrive and weigh and record outbound weights of
660 vehicles for which Contractor does not maintain tare weight information. Contractor shall provide each
661 driver a receipt showing the date, time, origin, quantity (i.e. tons or yards), and material type that the
662 vehicle delivered to the Approved Processing Facility or Landfill.

663 **4.9.7 Scale Records**

664 Contractor shall maintain scale Records and reports that provide information including date of receipt,
665 inbound time, inbound and outbound weights of vehicles, vehicle identification number, jurisdiction of
666 origin of materials received, type of material, hauler identification and/or classification, type, weight,
667 and destination of material. Contractor acknowledges that the weights recorded in its scale system(s)
668 form the basis for Contractor's compensation under this Agreement and therefore shall be subject to
669 full disclosure to the Authority at all reasonable times.

670 **4.10 Personnel**

671 Contractor shall engage and train qualified and competent employees, including managerial,
672 supervisory, clerical, maintenance, and operating personnel, in numbers necessary and sufficient for
673 operation of the Approved Processing Facilities and Landfill and to perform the Services required by this
674 Agreement.

675 **4.11 Safety**

676 The Contractor shall conduct the operations of all of the Approved Processing Facilities and Landfill in a
677 safe manner, in accordance with Applicable Law and insurance requirements provided in Article 6.

678 **4.12 Alternative Facilities**

679 If Contractor does not receive the materials at the Approved Processing Facilities or Landfill for reasons
680 other than Uncontrollable Circumstances then, following Authority approval given in the Authority's sole
681 discretion, Contractor shall: (i) accept the Authority's materials at another similarly-capable processing
682 facility or landfill owned by it or an Affiliate; or, (ii) arrange for the Authority's material to be Processed
683 or Disposed of at another similarly-capable processing facility or landfill not Owned by it or an Affiliate.
684 In either case, Contractor shall provide service through these alternate facilities at no additional cost. If
685 the Authority does not approve Contractor's first choice of an alternate processing facility or landfill,
686 Contractor shall have ten (10) Working Days to arrange for different alternate facilities. If Authority
687 rejects such alternate facilities based on reasonable public policy, environmental, or business concerns,

688 and Contractor proceeds to deliver such materials to the alternate facility(ies), then the Authority may
689 terminate this Agreement in accordance with Section 7.2.

690 If Contractor does not receive the materials at the Approved Processing Facilities or Landfill due to
691 Uncontrollable Circumstances, Contractor shall, to the extent it is legally able to do so in accordance
692 with Applicable Law, accept materials at another similarly-capable processing facility or landfill owned
693 by it or an Affiliate at no additional cost. If Contractor is unable to provide service through alternative
694 facilities owned by it or an Affiliate as a result of Uncontrollable Circumstances and such condition
695 persists for a period of five (5) or more Working Days, the Authority may, at its sole discretion, terminate
696 this Agreement in accordance with Section 7.2.

697 **4.13 Invoicing**

698 For all Franchised Collectors except Richmond Sanitary Service (Richmond Sanitary Service is expressly
699 exempt from this provision) on or before the tenth Working Day of each month, Contractor shall invoice
700 or otherwise charge the Franchise Agencies' Franchised Collectors in amounts equal to the Rate
701 multiplied by Tons of the Authority's Solid Waste, Organic Materials, C&D Materials, Dry Materials and
702 Recyclable Materials delivered by Franchised Collectors to the Landfill and Approved Processing
703 Facilities during the previous month. Copies of such invoices shall be provided to the Authority at the
704 same time as they are provided to the Franchised Collector. Invoices shall be in a form satisfactory to
705 the Authority and shall, at a minimum, separately list by material type the associated Tonnage, applied
706 Rate, and number of loads received. The Authority shall have no obligation for payment of such invoices
707 as the Franchised Collectors are authorized to collect from Customers the compensation provided for
708 herein.

709 **4.14 Quarterly and Annual Reports**

710 Records shall be maintained in forms and by methods that facilitate flexible use of data contained in
711 them to structure reports, as needed. Initially such format shall be Microsoft Excel compatible and in the
712 form provided in Exhibit 4.14. This format may be changed upon the request of the Authority Contract
713 Manager in consultation with Contractor. Reports are intended to compile recorded data into useful
714 forms of information that can be used to, among other things:

- 715 • Determine and set rates and evaluate the financial efficacy of operations;
- 716 • Evaluate past and expected progress towards achieving goals and objectives;
- 717 • Determine needs for adjustment to programs; and,
- 718 • Evaluate services.

719 Quarterly reports shall be submitted within thirty five (35) calendar days after the end of the report
720 quarter. The Contractor shall also submit an annual report containing a summary of all the details
721 described below for the entire Calendar Year. Annual reports shall be submitted before March 31
722 following the reporting year. All reports shall be submitted to and in a format acceptable to the
723 Authority Contract Manager via email with hardcopy provided upon request.

724 **4.14.1 Quarterly Reports**

725 Contractor shall include in the Quarterly Report, at a minimum, the number of loads and tons, by
726 material type and by month, handled under this Agreement. Reports shall be organized to separately
727 report material received from each jurisdiction, between Customer (e.g. Residential, Commercial, or
728 Industrial) or Collection (e.g., side-loader, front-loader, roll-off) types, material types, and facilities.
729 Recycling Tonnage reports shall characterize the material Processed and marketed; using facility-wide
730 averages where impractical to separately characterize material from the Authority service area, and
731 document the residue rates. Supporting documentation shall be provided using unaltered, system-
732 generated formats, upon request by the Authority Contract Manager.

733 Quarterly reports shall present information on a monthly basis, by Franchise Agency and by sector (i.e.
734 residential, multi-family, commercial, roll-off) and, at a minimum, include:

- 735 1. The number of loads and tons, by line of business (as identified in Sections 4.1.1 through 4.1.7),
736 handled under this Agreement. This information shall be presented on both an inbound (i.e.
737 collection vehicles) and outbound (i.e. transfer vehicles, commodities shipped, etc.) basis.
- 738 2. Number of new Customers, by service type and service level.
- 739 3. Transfer Station diversion report by commodity.
- 740 4. Landfill diversion report by commodity.
- 741 5. Processing Facility report regarding Composted or Processed product by commodity.
- 742 6. Special clean-up event tonnage Collected, Disposed and Recycled.
- 743 7. E-Waste and Bulky Items including number of collection events and units or tonnage by material
744 type.

745 **4.14.2 Annual Report**

746 The Annual Report shall include:

- 747 1. **Service Level and Allocation Report.** Contractor shall provide the number of Customers
748 subscribing to each collection service level authorized in the Franchise Agency Collection
749 Franchises on the last day of each month of the report year. Contractor shall provide the basis
750 for allocating tonnage in vehicles that serve multiple Franchise Agencies. The truck tonnage
751 allocation shall include a list of vehicles, their assigned routes, and a description of how tonnage
752 is allocated to each Franchise Agency.
- 753 2. Gross billings of the Rate authorized under this Agreement, reported by sector.
- 754 3. Status report on applications for renewals of existing permits or any new permits which may be
755 required to continue operations at the Transfer Station, MRF, Processing Facility, or Disposal Site
756 within existing permitted areas.
- 757 4. Listing of all trucks that have received a revised stored tare weight at any Approved Facility or
758 Landfill during the preceding quarter. The listing shall including the date the revised tare weight

759 was established, truck number, license plate number, prior stored tare weight, revised stored
760 tare weight, and a brief explanation of any significant variance.

761 **4.15 Change in Applicable Law Affecting Rates**

762 Contractor acknowledges that waste management is fundamental to the protection of the public health,
763 safety, and the well-being of those within the Authority's service area. Contractor agrees that it shall
764 exercise due diligence in performing the Services described herein.

765 In the event of a Change in Law or a new judicial interpretation of Applicable Law, including, but not
766 limited to, Articles XIII C and D of the California Constitution by which a court of competent jurisdiction
767 sets aside, invalidate, or stays any portion of the Rates approved by Authority in accordance with this
768 Agreement, the parties desire to establish a process by which services may be provided under
769 alternative or revised rate structures, as follows. Contractor agrees to meet and confer with Authority to
770 discuss the impact of such Change in Law on either Party's ability to perform under this Agreement.
771 Contractor agrees to continue to perform the Services on an interim basis as otherwise set forth herein,
772 and Authority and/or Contractor may take such other and/or urgency actions necessary to facilitate
773 Contractor's continuation of Services, while the Parties meet and confer to discuss the impact of such
774 change. In no event shall the interim period during which Contractor agrees to continue to perform the
775 Services last longer than ninety (90) days.

776 Nothing herein is intended to imply that California Constitution Articles XIII(C) or (D) apply to the Rates
777 established for Services provided under this Agreement. The foregoing paragraphs are merely intended
778 as a contractual allocation of risks between the Parties.

779 This Section shall survive the expiration or earlier termination of this Agreement and shall not be
780 construed as a waiver of rights by Authority to contribution or indemnity from third parties.

781 This provision is intended to be consistent with and limited by California Public Resources Code Section
782 40059.2.

783 **4.16 Closure and Post-Closure of Landfill**

784 Contractor shall safely operate, maintain, and manage (including fulfillment of State funding
785 requirements) the Landfill in compliance with Applicable Law not only during the Term but also
786 thereafter until and during the Landfill Closure and Post-Closure period(s). Contractor is solely
787 responsible, operationally and financially, for: (i) The appropriate Closure and Post-Closure activities of
788 the Landfill; and, (ii) The establishment and funding of any reserve funds required by Applicable Law for
789 the purposes of providing funds for the payment of costs of Closure of the Landfill (or any cell within the
790 Landfill) or Post-Closure activities relating to the Landfill.

791 Contractor shall not hold the Authority or Franchise Agencies responsible for paying any deficiencies in
792 required reserves. In addition, Contractor shall not hold the Authority or Franchise Agencies responsible
793 for making any payments if actual Closure and Post-Closure costs relating to the Landfill exceed the

794 amounts reserved by the Contractor for that purpose. This obligation survives expiration or termination
795 of this Agreement.

796 **4.17 Right to Enter Facility and Observe Operations**

797 The Authority Contract Manager may enter, observe, and inspect any of the Approved Processing
798 Facilities and/or Landfill during operations; may request to conduct studies or surveys of the Approved
799 Processing Facilities and/or Landfill; meet with the Approved Processing Facility and/or Landfill
800 manager(s) or his or her representatives at any reasonable time, provided that the Authority Contract
801 Manager and its representatives comply with Contractor's reasonable safety and security rules and do
802 not interfere with the work of the Contractor.

803 If the Contractor representative or facility manager is not at the Approved Processing Facility or Landfill
804 when the Authority Contract Manager visits without prior announcement, Contractor shall arrange for
805 the Authority Contract Manager to return for a visit of the complete facility within forty-eight (48) hours
806 of the original visit.

807 Upon Authority Contract Manager's request, Contractor shall make personnel available to accompany
808 Authority Contract Manager on inspections. Contractor shall ensure that its employees cooperate with
809 the Authority and respond to the Authority's reasonable inquiries. Contractor shall facilitate similar
810 observation and inspection at Approved Processing Facilities owned by it or an Affiliate upon Authority
811 request and within ten (10) Working Days of receiving such request.

812 **4.18 Provision of Emergency Services**

813 Subject to Permit restrictions, Contractor shall provide emergency services, as set forth in this Section,
814 at the Authority's request in the event of major accidents, disruptions, or natural calamities. Contractor
815 shall provide emergency services within twenty-four hours (24) of Authority oral notice followed by
816 Notice or as soon thereafter as is reasonably practical in light of the circumstances. Emergency services
817 that exceed the Contractor's obligations under this Agreement include extending facility receiving hours
818 and increasing the types and quantities of permitted materials accepted at any of the Approved
819 Processing Facilities and Landfill, if applicable.

820 Contractor shall be paid for its direct costs, plus a net profit not to exceed fifteen percent (15%) of the
821 total payment to Contractor, in providing emergency services. Contractor may also request
822 reimbursement of any indirect costs which Contractor can demonstrate, to the satisfaction of the
823 Authority, are: i) directly required for or beneficial to the provision of emergency services; and/or, ii)
824 otherwise allowable and expected as reimbursement from an emergency management agency
825 including, but not limited to, the Federal Emergency Management Agency. The Authority shall not
826 unreasonably withhold consent to reimbursement of such indirect costs. Contractor shall document all
827 such costs in an invoice to the Authority. The Authority shall consider and conduct all necessary
828 investigations to assure the appropriateness of the costs and shall endeavor to do so in as prompt a
829 fashion as is accommodated by the conditions. Contractor shall cooperate fully with Authority's review,
830 providing any documents the Authority Contract Manager deems necessary in the review. Once

831 Authority is satisfied that all charges are reasonable and appropriate, Authority shall pay Contractor the
832 approved amount within thirty (30) days.

833 **4.19 Service Standards**

834 Contractor shall perform Services in accordance with Applicable Laws and regulations, Standard Industry
835 Practice, due diligence and specification, and other requirements of this Agreement.

836 **4.20 Modifications to Scope of Service**

837 **4.20.1 General**

838 Authority may request and Contractor shall perform additional services (including Niche and non-Niche
839 Services) for which it is qualified and permitted. Contractor may propose to the Authority modifications
840 to the scope of services for which Contractor believes the Parties shall jointly benefit. Contractor may
841 use subcontractors to perform the services (Niche and non-Niche Services), subject to the Authority's
842 approval of such subcontractor, which shall not be unreasonably withheld. The respective Rate for
843 service shall be increased or decreased, in accordance with this Section, to give effect to these
844 adjustments.

845 **4.20.2 Proposal for Modification of Services**

846 Within ninety (90) Calendar Days of Authority request for a proposal, Contractor shall present its
847 proposal to modify existing Services. At a minimum, the proposal shall contain a complete description
848 of the following:

- 849 (1) Methodology to be employed (including, but not limited to, changes to equipment, manpower,
850 and staffing);
- 851 (2) Equipment to be utilized (including, but not limited to, equipment number, types, capacity, and
852 age);
- 853 (3) Labor requirements (changes in number of employees by classification);
- 854 (4) Provision for program publicity/education/marketing (if appropriate);
- 855 (5) Estimate of the impact of the Service modification (including, but not limited to, increased
856 Diversion Tonnage, reduced costs, and increased public service); and,
- 857 (6) Contractor shall receive the then-current Rate, net of any avoided Governmental Fees applicable
858 to disposal of such material or offsets from any grants (or other similar funding), as compensation for
859 any Niche or non-Niche Services performed in response to a modification of service under this Section
860 4.20.

861 **4.20.3 Authority's Review**

862 If the Authority does not review and comment on, and approve or disapprove of the modification to the
863 scope of Services within ninety (90) Calendar Days of receiving the Contractor's proposal, the proposal
864 shall be deemed disapproved. The Authority and Contractor may mutually agree to extend the time
865 period for review due to the complexity of the scope of Service modification under consideration, the
866 time needed for the review or approval, or for other reasonable reasons.

867 The Authority may request the assistance of an independent third party to review the proposal. The
868 Contractor shall pay the reasonable costs of that review if the modification to the scope of Services is
869 initiated by the Contractor and such review is reasonably necessary, as determined by the Authority
870 Contract Manager. The Authority shall pay those costs if the modification to the scope of Services is
871 initiated by the Authority. The cost of that review shall be estimated in advance of the work, and
872 provided to the Contractor for comment and agreement to pay. Contractor's refusal to pay the
873 reasonable cost of review of a Contractor-initiated proposal shall be grounds for Authority rejection of
874 that proposal.

875 Contractor shall promptly provide operating and business Records requested by the Authority that are
876 reasonably required to verify the reasonableness and accuracy of the impacts associated with a
877 modification to the scope of Services. Contractor shall fully cooperate with the Authority's request and
878 provide Authority and its agent(s) copies of or access to Contractor's Records.

879 **4.20.4 Approval of Modification to Scope of Services**

880 Upon Authority approval or determination, Authority shall issue a notice approving the modification to
881 the scope of Service and documenting any change to the Rate, and approved change to Contractor's
882 obligations hereunder. The Parties shall prepare a written amendment to the Agreement documenting
883 any and all changes resulting from the modification to the scope of Services. No adjustment in Rates,
884 change in Contractor's obligations, or change in scope of Services shall become effective absent that
885 Authority approval or determination.

886 **4.20.5 Authority's Remedies**

887 If Contractor and Authority cannot agree in good faith on terms and conditions of Contractor providing
888 new Services within sixty (60) Calendar Days from the end of the Authority's review period described in
889 Section 4.20.3:

890 1) In the event that the subject services are: (a) not Niche Services; and/or, (b) the Authority desires to
891 have Contractor provide the requested new/additional services, the Authority and Contractor agree to
892 binding Arbitration limited to the remaining disputed issues that were identified in the 60-day period ;
893 or,

894

895 2) In the event that the subject services are Niche Services, the Authority may permit Persons other than
896 Contractor to provide those Niche Services at a location other than the Approved Processing Facilities
897 and Landfill only after Parties have exhausted the requirements of Sections: 3.2, 4.20.5(1) and 4.20.2(6)

898 **4.21 Triennial Review of 75% Recycling Goal**

899 The Authority and Contractor agree that the common goal of the Parties for this Agreement is to
900 facilitate the local achievement of the State's seventy-five percent (75%) recycling goal by the year 2020.

901 In January of 2016 and every three (3) years thereafter during the Term, Authority and Contractor shall
902 meet to review the current level of recycling (as measured by CalRecycle) being achieved within the
903 Authority's service area. The Franchise Agencies' staff and Franchise Collectors management shall also
904 be invited to the meetings. These meetings shall be called "Recycling Goal Meetings." One (1) week
905 prior to each Recycling Goal Meeting, each Party shall provide the other with its assessment of the
906 progress and performance towards achieving the seventy-five percent (75%) recycling goal by 2020. The
907 Parties shall meet to discuss their respective assessments and to cooperatively develop
908 recommendations for improvements or modernizations of programs, services, or the methods for
909 providing them. The objective of the Parties during these meetings shall be to identify continuous
910 improvement opportunities and formulate recommendations for implementing them within the existing
911 cost structure of the Agreement and Franchise Agency Collection Franchises.

912 The Authority Contract Manager and Contractor shall jointly develop a report to the Authority Board of
913 Directors advising the Board of Directors on the progress towards the diversion goal. In the event that
914 the Authority Contract Manager and Contractor are not in agreement about certain findings or
915 recommendations, each Party may submit their own, separate report specific to those issues. The
916 Authority Board of Directors shall review the report(s) at their April meeting in each year that a
917 Recycling Goal Meeting occurs and shall determine whether to proceed with Option A or Option B
918 below.

919 A. If Contractor's existing Recycling and Processing programs are on schedule towards achieving
920 the seventy-five percent (75%) recycling rate, or have achieved and have maintained seventy-five
921 percent (75%) recycling rate, Contractor shall continue to operate its existing Recycling and Processing
922 programs throughout Authority's service area. Notwithstanding the foregoing, the parties shall still hold
923 and attend the triennial Recycling Goal Meetings to discuss Contractor's programs, including but not
924 limited to the feasibility of increasing the rate of recycling within the Authority's service area beyond
925 seventy-five percent (75%).

926 B. If Contractor's existing Recycling and Processing programs are not on schedule towards
927 achieving seventy-five percent (75%) recycling rate, then within ninety (90) days after the Authority
928 Board of Directors meeting to consider the report, the Authority shall conduct a performance review of
929 the Contractor to determine whether programs and Services required under this agreement, including
930 the Enhanced Collection Services described in Exhibit 2.4.6, have been fully implemented in good faith
931 by the Contractor. Contractor shall fully cooperate with such performance review including providing
932 information and making management available for interviews with the Authority's staff or agents.

933
934
935

i. In the event that the Authority Board of Directors concludes that Contractor has failed to fully implement programs in good faith, at a minimum, the frequency of the Recycling Goal Meetings shall be annual until the plan has been fully implemented.

936
937
938
939
940
941
942
943

ii. In the event that the Authority Board of Directors conclude that Contractor has fully implemented programs in good faith, the Authority may request and Contractor shall develop and propose to Authority a plan for new or modified Recycling and Processing programs that are designed to achieve the seventy-five percent (75%) recycling rate in the most reasonable, cost-effective, and expedient manner possible. Contractor's proposal should identify any elements of the program that Contractor believes would impact the Franchise Agencies' agreements with the Franchised Collector(s). The Parties will review such a plan consistent with the requirements of Section 4.20 of this Agreement.

944
945
946
947

The parties agree that the 75% goal is a target and not a contractually required or guaranteed recycling rate put forth by Contractor as part of this Agreement. The intent of the performance review referenced in Subsection 4.21.B shall be to determine whether Contractor has made good faith efforts to implement the programs and services outlined in this Agreement.

948

949
950

ARTICLE 5 CONTRACTOR COMPENSATION

951 **5.1 General**

952 The Contractor shall perform and pay all costs associated with all of its obligations, responsibilities, and
953 duties under this Agreement. In consideration of its performance of these duties, the Contractor may
954 charge and collect the Post Collection Rate for the Services provided under this Agreement from the
955 Franchise Agencies' Franchised Collectors. This shall be the Contractor's only compensation allowed
956 under this Agreement. Nothing in this Agreement should imply that the Authority or Franchise Agencies
957 have any direct obligation to make payments to Contractor for services provided under this Agreement.

958 **5.2 Initial Rate**

959 **5.2.1 General**

960 The Contractor's initial compensation shall be a blended per-Ton Rate that is charged to the Franchise
961 Agencies' Franchised Collectors on all Tons of material, regardless of type, delivered by these Franchised
962 Collectors to the Contractor. The Rate that forms the basis of Contractor's compensation under this
963 Agreement shall include:

- 964 1) The "material specific" portion of the Rate which is to compensate Contractor for the services
965 provided under Sections 4.1.1 through 4.1.6 of this Agreement;
- 966 2) The "HHW" portion of the Rate which is to compensate Contractor for the services provided
967 under Section 4.1.7 of this Agreement;
- 968 3) The "Authority" portion of the Rate which is to compensate Contractor for its payment of the
969 Authority's operating expenses;
- 970 4) The "Recycling Rebate" portion of the Rate which confers the value of the Recyclable
971 Materials Processed under this Agreement to the Franchise Agencies' rate payers; and
- 972 5) The "Governmental Fee" portion of the Rate which is to compensate Contractor for fees
973 required by various regulatory agencies related to the use of the Landfill and Approved Facilities.

974 **5.2.2 Material Specific Portion of the Rate**

975 The initial "material specific" portion of the Rate shall be based on Contractor's calendar year 2014
976 annual proposed cost of service of ten million two hundred fifty one thousand one hundred thirty five
977 dollars (\$10,251,135), less the initial cost of governmental fees, as described in Section 5.2.6, of one
978 million four hundred fifty four thousand six hundred thirty four dollars and sixty four cents
979 (\$1,454,634.64).

980 The material specific portion of the initial Rate net of governmental fees shall equal sixty nine dollars
981 and fifty seven cents (\$69.57) per ton which is calculated as follows:

982 a) Eight million seven hundred ninety six thousand five hundred twenty four dollars and thirty six
983 cents (\$8,796,500.36);

984 b) Divided by the total annual Tonnage of all material types in the Franchise Agencies for which
985 Richmond Sanitary Service is the Franchised Collector, which is stipulated by the Parties for the
986 purposes of the initial Rate setting at one hundred twenty six thousand four hundred thirty four
987 (126,434) tons per year; and,

988 c) Rounded to the nearest penny.

989 **5.2.3 HHW Portion of the Rate**

990 The initial "HHW" portion of the Rate shall be based on the Parties jointly-estimated calendar year 2014
991 annual proposed cost of service of seven hundred ninety-one thousand one hundred forty-four dollars
992 (\$791,144). The HHW Portion of the Rate shall be shared with the City of El Cerrito and the portion paid
993 by the City of El Cerrito shall not be included in the Rate calculated under this Agreement. The portion
994 of the initial Rate funded under this Agreement is seven hundred twenty seven thousand eight hundred
995 seventy seven dollars (\$727,877).

996 The HHW portion of the initial Rate shall equal five dollars and seventy six cents (\$5.76) per ton which is
997 calculated as follows:

998 a) Seven hundred twenty seven thousand eight hundred seventy seven dollars (\$727,877);

999 b) Divided by the total annual Tonnage of all material types in the Franchise Agencies for which
1000 Richmond Sanitary Service is the Franchised Collector, which is stipulated by the Parties for the
1001 purposes of the initial Rate setting at one hundred twenty six thousand four hundred thirty four
1002 (126,434) tons per year; and,

1003 c) Rounded to the nearest penny.

1004 **5.2.4 Authority Portion of the Rate**

1005 The initial "Authority" portion of the Rate shall be based on the Authority's estimated calendar year
1006 2014 annual proposed revenue requirement of one million dollars (\$1,000,000). The Authority portion
1007 of the Rate shall be shared with the City of El Cerrito and the portion paid by the City of El Cerrito shall
1008 not be included in the Rate calculated under this Agreement. The portion of the initial Rate funded
1009 under this Agreement is nine hundred twenty thousand thirty one dollars (\$920,031).

1010 The Authority portion of the initial Rate shall equal seven dollars and twenty eight cents (\$7.28) per ton
1011 which is calculated as follows:

1012 a) Nine hundred twenty thousand thirty one dollars (\$920,031);

1013 b) Divided by the total annual Tonnage of all material types in the Franchise Agencies for which
 1014 Richmond Sanitary Service is the Franchised Collector, which is stipulated by the Parties for the
 1015 purposes of the initial Rate setting at one hundred twenty six thousand four hundred thirty four
 1016 (126,434) tons per year; and,

1017 c) Rounded to the nearest penny.

1018 **5.2.5 Recycling Rebate Portion of the Rate**

1019 The initial "Recycling Rebate" portion of the Rate shall be based on the Contractor's proposed calendar
 1020 year 2014 annual proposed rebate value of seven hundred twenty two thousand three hundred twenty
 1021 dollars (\$722,320). This estimate is based upon a rebate value of forty dollars (\$40) per ton of
 1022 Traditional Recyclable Materials and not Specialty Recyclable Materials received under this Agreement,
 1023 multiplied by the Parties agreed-upon estimated annual tonnage of eighteen thousand fifty-eight
 1024 (18,058). The initial recycling rebate shall be used in the establishment of Rates for Calendar Years 2014
 1025 and 2015. The Recycling Rebate shall only be used in calculating the Rate charged to Richmond Sanitary
 1026 Service for the Franchise Agencies where they are the Franchised Collector.

1027 The Recycling Rebate portion of the initial Rate shall equal negative five dollars and seventy one cents (-
 1028 \$5.71) per ton which is calculated as follows:

1029 a) Negative seven hundred twenty two thousand three hundred twenty dollars (\$722,320);

1030 b) Divided by the total annual Tonnage of all material types in the Franchise Agencies for which
 1031 Richmond Sanitary Service is the Franchised Collector, which is stipulated by the Parties for the
 1032 purposes of the initial Rate setting at one hundred twenty six thousand four hundred thirty four
 1033 (126,434) tons per year; and,

1034 c) Rounded to the nearest penny.

1035 **5.2.6 Governmental Fee Portion of the Rate**

1036 The initial "Governmental Fee" portion of the Rate shall be based on the governmental fees in place at
 1037 the execution of this Agreement (as presented in the below table) and the stipulated basis for
 1038 extrapolating those fees to annual costs, as described herein.
 1039

Fee Description	Fee Amount (per ton)	Stipulated Basis (tons)	Annual Fee Amount	Material Type
Local Enforcement Agency – Golden Bear Transfer Station & West Contra Costa Sanitary Landfill	\$ 1.75	88,334	\$ 154,584.50	Solid Waste

City of Richmond Franchise Fee	\$ 1.50	88,334	\$ 132,501.00	Solid Waste Disposed
Host Mitigation Fees (IRRF)	\$ 3.38	18,058	\$ 62,661.26	All Tons
Host Mitigation Fees (APPROVED TRANSFER FACILITY)	\$ 3.38	88,334	\$ 306,518.98	Solid Waste Disposed
West Contra Costa Sanitary Landfill Recycling Fee – paid on all Processed Materials	\$ 0.91	20,042	\$ 18,639.06	Processed Material (for example C&D, organics, etc.)
Contra Costa County Solid Waste Fee (AB 939 at KCLF)	\$ 0.15	88,334	\$ 13,250.10	Solid Waste Disposed
AB 1220 Integrated Waste Management Fee at KCLF	\$ 1.40	88,334	\$ 123,667.60	Solid Waste Disposed
Contra Costa Bailey Road Surcharge (KCLF)	\$ 0.68	88,334	\$ 60,067.12	Solid Waste Disposed
Bailey Road Charge (KCLF)	\$ 0.32	88,334	\$ 28,266.88	Solid Waste Disposed
Contra Costa County Landfill Surcharge (KCLF)	25% of Gate Rate, net of taxes/fees	88,334 \$34.50 minus per ton fees X 0.25 / 1.25	\$ 564,454.26	Calculation

1040
1041
1042
1043
1044
1045
1046

Note:

- 1) Chart estimates Governmental Fees by material type and Facility based on the SOI estimated tons.
- 2) Host Mitigation Fees and the West Contra Costa Sanitary Landfill Recycling Fee are adjusted annually and adjusted fee amounts go into effect on January 1 of each year

1047 The Governmental Fee portion of the initial Rate shall equal eleven dollars and fifty one cents (\$11.51)
1048 per ton which is calculated as follows:

- 1049 a) One million four hundred fifty four thousand six hundred thirty four dollars and sixty four cents
1050 (\$1,454,634.64);
- 1051 b) Divided by the total annual Tonnage of all material types in the Franchise Agencies for which
1052 Richmond Sanitary Service is the Franchised Collector, which is stipulated by the Parties for the
1053 purposes of the initial Rate setting at one hundred twenty six thousand four hundred thirty four
1054 (126,434) tons per year; and,
- 1055 c) Rounded to the nearest penny.

1056 **5.2.7 Calculation of the Initial Rate**

1057 The initial Rate for the Franchise Agencies where Richmond Sanitary Service acts as the Franchised
1058 Collector shall be eighty eight dollars and forty cents (\$88.40) per ton, which is calculated by adding the
1059 Material Specific, HHW, Authority, Recycling Rebate, and Governmental Fee portions of the Rate
1060 together.

1061 **5.3 Annual Adjustments to the Rate**

1062 **5.3.1 General**

1063 The Rates for the first Rate Year ending December 31, 2014, are deemed established by the Parties
1064 mutual execution of this Agreement with no further action required. Unless and until the initial Rates set
1065 forth in Section 5.2 are adjusted by the Authority, the Contractor shall provide the Services required by
1066 this Agreement, charging no more and no less than the Rates authorized herein. No adjustment to the
1067 Rates shall be valid until the Authority Board of Directors takes official action in the form of a written
1068 resolution to adopt adjusted Rates. The Authority shall be responsible for considering annual
1069 adjustments to the Rate charged under this Agreement in a manner consistent with the requirements of
1070 this Section 5.3.

1071 Contractor shall submit its preliminary request for the adjustment of the Rate no later than September 1
1072 of each Calendar Year for the Rate effective January 1 of the following Calendar Year. The request shall
1073 be submitted in a format acceptable to the Authority Contract Manager. Contractor's request for the
1074 adjustment of the Rate shall document all calculations and include all supporting schedules,
1075 documentation of changes to Governmental Fees, and any other documentation or evidence
1076 determined by the Authority Contract Manager to be reasonably necessary to ensure that the
1077 calculation of the Rate adjustments has been performed in strict conformance to the requirements of
1078 this Section 5.3.

1079 The Authority's Board of Directors shall approve the Rate adjustment at its regularly-scheduled
1080 November meeting each year. If the adjustment to Rates cannot be considered and approved at that
1081 meeting due to a delay caused solely by the Authority, the Authority shall allow the Contractor to
1082 retroactively bill customers for the amount of the adjustment to the Rate for any period of said delay
1083 that is caused by the Authority. If the adjustment to Rates cannot be considered and approved at that
1084 meeting due to a delay caused in whole by Contractor's delay in submitting the request in a complete

1085 and accurate form, then prior Rates remain in effect until such adjustment is made and Contractor shall
1086 not be entitled to any revenue lost because of the delay.

1087 **5.3.2 Adjustment to Material Specific Portion of the Rate**

1088 The material-specific portion of the Rate (initially \$69.57 per ton) shall be adjusted annually, based on
1089 eighty-five percent (85%) of the average monthly change in the San Francisco-San Jose-Oakland All
1090 Urban Consumers CPI. The average monthly change shall be calculated by averaging the percentage
1091 change in the index values for the most recent July through June, compared to the values for the same
1092 month one year prior.

1093 For example, the average monthly change, using the fictional values presented in the table below, would
1094 equal one and sixteen hundredths percent (1.16%) and eighty-five percent (85%) of the average monthly
1095 change would equal ninety eight hundredths of a percent (0.98%).

1096

	<i>Jul</i>	<i>Aug</i>	<i>Sep</i>	<i>Oct</i>	<i>Nov</i>	<i>Dec</i>	<i>Jan</i>	<i>Feb</i>	<i>Mar</i>	<i>Apr</i>	<i>May</i>	<i>Jun</i>
2011/ 2012	123.9	124.7	125.1	125.3	124.8	125.5	123.2	122.9	124.3	123.8	124.4	124.6
2012/ 2013	124.8	126.1	127.2	127.4	126.8	127.1	124.5	125.2	125.9	124.2	125.1	125.5
% Chg	0.73%	1.12%	1.68%	1.68%	1.60%	1.27%	1.06%	1.87%	1.29%	0.32%	0.56%	0.72%

1097

1098 When applied to the material specific portion of the initial Rate, this example would result in a revised
1099 material-specific portion of the Rate of seventy dollars and fifty three cents (\$70.53) per ton.

1100

1101 The maximum adjustment due to an increase in CPI to the material-specific portion of the blended Rate
1102 shall be four percent (4%) in each year of the Agreement; however, in the event that eighty-five percent
1103 (85%) of the average monthly change in the CPI exceeds four percent (4%) the Contractor shall be
1104 allowed to carryover the amount that exceeds four percent (4%) to the following Rate Year, provided
1105 that doing so does not cause the Rate adjustment for that following Rate Year to exceed four percent
1106 (4%). The minimum adjustment due to changes in CPI to the material-specific portion of the blended
1107 rate shall be zero percent (0%); however, in the event that eighty-five percent (85%) of the average
1108 monthly change in CPI results in a negative value, the Authority shall be allowed to carryover the
1109 negative amount to subsequent Rate Years, provided that doing so does not cause the Rate adjustment
1110 for that subsequent Rate Year to be less than zero percent (0%).

1111 **5.3.3 Adjustment to HHW Portion of the Rate**

1112 The Contractor and the Authority Contract Manager shall jointly prepare and submit a draft HHW Drop-
1113 off Services budget to the Authority Board of Directors for its review and approval. This draft budget
1114 shall be submitted no later than September 1 in each Calendar Year for the next Calendar Year's budget.
1115 The Authority Board of Directors may approve that budget as submitted or may request modifications to
1116 the budget, including requesting either an increase in service levels or a reduction or elimination of

1117 Services in order to reduce costs. Once approved, this budget shall serve as the revenue requirement for
1118 the HHW portion of the Rate for the coming year. Contractor shall be entitled to an operating margin of
1119 eleven and fifty five one hundredths percent (11.55%) for calendar year 2014 and fifteen percent (15%)
1120 in all subsequent Rate Years.

1121 The revenue requirement for the HHW portion of the Rate shall be divided by the actual Tonnage of
1122 Solid Waste, Recyclable Materials, C&D Materials, Organic Materials, and Dry Materials received by
1123 Contractor from the Franchise Agencies' Franchised Collector in the most recently completed twelve
1124 month period to determine the adjusted Rate.

1125 For example:

1126 If, the HHW revenue requirement was six hundred thousand dollars (\$600,000); and,

1127 If, the total tonnage received by Contractor from the Franchised Collector in the most recently
1128 completed twelve month period is one hundred fifty thousand (150,000) tons;

1129 Then, the HHW portion of the Rate would be four dollars and zero cents (\$4.00) per ton.

1130 **5.3.4 Adjustment to Authority Portion of the Rate**

1131 No later than September 1 of each Calendar Year, the Authority shall establish a budget for their
1132 operations and shall specifically identify the portion of that budget to be funded through the Rate. Once
1133 approved, this budget shall serve as the revenue requirement for the Authority portion of the Rate.

1134 The revenue requirement for the Authority portion of the Rate shall be divided by the actual Tonnage of
1135 Solid Waste, Recyclable Materials, C&D Materials, Organic Materials, and Dry Materials received by
1136 Contractor from the Franchised Collector in the most recently completed twelve month period to
1137 determine the adjusted Rate.

1138 For example:

1139 If, the Authority revenue requirement was nine hundred thousand dollars (\$900,000); and,

1140 If, the total tonnage received by Contractor from the Franchised Collector in the most recently
1141 completed twelve month period is one hundred fifty thousand (150,000) tons;

1142 Then, Authority portion of the Rate would be six dollars and zero cents (\$6.00) per ton.

1143 **5.3.5 Adjustment to Recycling Rebate Portion of the Rate**

1144 When establishing the revenue requirement for the Recycling Rebate portion of the Rate for each Rate
1145 Year of the Agreement, starting with 2016, the revenue requirement shall include adjusting the per-Ton
1146 and annual Tonnage values considered in the establishment of the initial Recycling Rebate described in
1147 Section 5.2.5 above.

1148 The initial per Ton value of negative forty dollars (-\$40) shall be adjusted to be twenty eight and
1149 seventeen hundredths percent (28.17%) of the monthly average (for the most recent July through June)
1150 low side of the "Official Board Markets", "Los Angeles" index for "Mixed Paper (2) – Export to China –
1151 FAS", rounded to the nearest penny. That index value was 142 in November 2012 at the time of
1152 Contractor's Proposal to the Authority.

1153 For example:

1154 If the index values for the preceding twelve months are: Jul – 148, Aug –
1155 147; Sept – 144, Oct – 143, Nov – 141, Dec – 138, Jan – 138, Feb – 144,
1156 Mar – 145, Apr – 148, May – 146, Jun – 149, then,

1157 Monthly Average = $\$144.25 \times 0.2817$ (stated percentage of OBM) =
1158 \$40.64 Revised Per-Ton Rebate

1159 The initial annual Tonnage value shall be adjusted to reflect the actual total Tonnage of source
1160 separated Residential single-stream Recyclable Materials collected by the Franchised Collector and
1161 delivered to the Approved Recyclable Materials Processing Facility during the preceding twelve (12)
1162 months.

1163 For example:

1164 If the Recyclables Tonnage values for the preceding twelve months are:
1165 Jul – 1,448, Aug – 1,547; Sept – 1,443, Oct – 1,421, Nov – 1,494, Dec –
1166 1,384, Jan – 1,652, Feb – 1,644, Mar – 1,715, Apr – 1,480, May – 1,346,
1167 Jun – 1,549, then,

1168 Revised Annual Tonnage = 18,123

1169 The revised per-Ton rebate value is then multiplied by the revised
1170 annual Tonnage value to arrive at the recycling rebate for the coming
1171 Calendar Year. For example:

1172 18,123 Revised Annual Tonnage

1173 X 40.64 Revised Per-Ton Rebate Value

1174 -\$736,518.72 Revised Recycling Rebate Revenue Requirement

1175 The revenue requirement for the Recycling Rebate portion of the Rate shall be divided by the actual
1176 Tonnage of Solid Waste, Recyclable Materials, C&D, Organic Materials, and Dry Materials received by
1177 Contractor from the Franchise Agencies' Franchised Collector in the most recently completed twelve
1178 month period to determine the adjusted Rate.

1179 For example:

1180 If, the Recycling Rebate revenue requirement was negative seven hundred thirty six thousand
1181 five hundred eighteen dollars and seventy two cents (-\$736,518.72); and,

1182 If, the total tonnage received by Contractor from the Franchised Collector in the most recently
1183 completed twelve month period is one hundred fifty thousand (150,000) tons;

1184 Then, the Recycling Rebate portion of the Rate would be negative four dollars and ninety one
1185 cents (-\$4.91) per ton.

1186 **5.3.6 Adjustment to Governmental Fee Portion of the Rate**

1187 When establishing the revenue requirement for the Governmental Fee portion of the Rate for each Rate
1188 Year of the Agreement, starting with 2015, the revenue requirement shall include adjusting the basis for
1189 any Governmental Fees which have changed in the prior year and annual Tonnage values considered in
1190 the establishment of the Governmental Fee portion of the Rate described in Section 5.2.6 above.

1191 When preparing its request for the adjustment of Rates, Contractor shall prepare a table, consistent
1192 with the table of Governmental Fees presented in Section 5.2.6 above identifying the amount of each
1193 fee, the revised basis for the fee using the prior twelve months actual operating results, and the revised
1194 projected annual fee amount. The revised basis for any Governmental Fee that is based on a percentage
1195 of revenue may not exceed the percentage adjustment calculated for the Material Specific portion of
1196 the Rate under Section 5.3.2, unless such revised basis is required by the governmental agency
1197 responsible for setting and/or adjusting such fee. The sum of the annual fee amounts shall serve as the
1198 revenue requirement for the Governmental Fee portion of the Rate.

1199 In the event that there is a change in any existing Governmental Fee or creation of any new
1200 Governmental Fee impacting the services provided under this Agreement and such change becomes
1201 known to the Parties after the Authority's approval of revised Rates, the Authority shall have the option
1202 of (1) revising the Rate outside of the schedule defined herein or (2) may postpone the adjustment of
1203 the Rate and allow Contractor to apply a surcharge to the following year's Rate in order to make up the
1204 change. The Authority shall have no obligation to make such out of schedule adjustments or allow such
1205 surcharges in the event that the cumulative remaining annual effect of such change is valued at less
1206 than twelve thousand five hundred dollars (\$12,500).

1207 In the event that Contractor knew or reasonably should have known of such change prior to the
1208 approval of revised Rates and Contractor fails to notify the Authority of such change prior to the
1209 adjustment of Rates, Contractor shall not be allowed to recover the cost associated with such change. In
1210 such case, Contractor may identify the revised Governmental Fee amount in the subsequent Rate
1211 adjustment requests, but such requests shall not include any surcharge, catch-up payments, or other
1212 recovery of costs incurred in the prior Rate period.

1213 The revenue requirement for the Governmental Fee portion of the Rate shall be divided by the actual
1214 Tonnage of Solid Waste, Recyclable Materials, C&D Materials, Organic Materials, and Dry Materials
1215 received by Contractor from the Franchised Collector in the most recently completed twelve month
1216 period to determine the adjusted Rate.

1217

1218 For example:

1219 If, the Governmental Fee revenue requirement was one million seven hundred thousand dollars
1220 (\$1,700,000); and,

1221 If, the total tonnage received by Contractor from the Franchised Collector in the most recently
1222 completed twelve month period is one hundred fifty thousand (150,000) tons;

1223 Then, Governmental portion of the Rate would be eleven dollars and thirty three cents (\$11.33).

1224 **5.3.7 Calculation of the Adjusted Rate**

1225 The adjusted portions of the Rate, as described in Sections 5.3.2 through 5.3.6, shall be added together
1226 to determine the Rate for the following Rate Year. Using the example calculations provided in Sections
1227 5.3.2 through 5.3.6 above, the revised adjusted per ton Rate would be calculated as:

1228 a) Revised Material Specific portion of the Rate = \$70.53; plus,

1229 b) Revised HHW portion of the Rate = \$4.00; plus,

1230 c) Revised Authority portion of the Rate = \$6.00; plus,

1231 d) Revised Recycling Rebate portion of the Rate = -\$4.91; plus,

1232 e) Revised Governmental Fee portion of the Rate = \$11.33; equals

1233 f) Revised Rate = \$86.95

1234 **5.4 Establishment of Post-Collection Rate**

1235 The Authority shall establish the Post-Collection Rate (PCR) amount for each Sector and collection
1236 service level annually, based on the revised Rate (as calculated under Section 5.3). Contractor, through
1237 the Franchise Collector's billing system, may include the PCR in the total monthly rate charged to
1238 Customers based on the Authority-approved PCR for each collection service level. The PCR for each
1239 collection service level shall be measured in gallons for cart service, cubic yards for bin service, and tons
1240 for roll-off service. The PCR for each collection service level and Sector shall be calculated and approved by
1241 the Authority based on the approved per-ton Rate and applicable annual tonnage amounts. The
1242 Authority may modify the structure of the PCR, for example among collection service levels within a
1243 Sector and/or among Sectors, provided that Contractor does not object to the revised structure on the
1244 demonstrable basis of Contractor's loss resulting from such restructuring. Contractor's objection must
1245 be filed with the Authority either in writing in advance of or through formal public comment at the
1246 meeting of the Authority Board of Directors where the establishment of the Rate and PCR are
1247 considered.

1248 **5.5 Other Adjustments to Compensation**

1249 The Contractor may request the Authority’s consideration of an adjustment to Contractor’s
1250 compensation in the event of the following circumstances:

- 1251 • Enactment of new or changes to existing federal, State and local fees and surcharges mandated to
1252 be collected or paid by Contractor;
- 1253 • A Change in Law for which Contractor compliance is mandatory and that results in documented
1254 increases in the specific cost of providing Services pursuant to this Agreement; and,
- 1255 • Authority-requested changes in the scope of Services provided by the Contractor.

1256 The Authority shall consider such requests and shall not unreasonably deny an adjustment to Rates
1257 under the prescribed circumstances. In the case of the enactment of new or increased government or
1258 Franchise Agency fees and charges, the Authority shall approve the request as a pass-through out of
1259 schedule or during the next regularly scheduled adjustment.

1260 In the event of a special circumstances request for an adjustment to Rates, the Contractor shall
1261 document its estimate of the incremental change in costs associated with the special circumstance. The
1262 Authority may request additional information from the Contractor if the documentation provided is
1263 determined to be insufficient. The Authority may consider information provided by the Contractor along
1264 with information from other sources to estimate the cost associated with such a special circumstance. In
1265 the event the Contractor requests an interim Compensation adjustment in accordance with this Section
1266 and to the extent Contractor’s Application is based on costs associated with Affiliated or Related Party
1267 Entities, Contractor shall provide all information requested by the Authority as part of its review of
1268 Contractor’s application, including, but not limited to, all information from Related Parties requested by
1269 the Authority regarding any transaction between Contractor and any Related Party Entity or Affiliate
1270 relating to Contractor’s performance under this Agreement.

1271 The following items shall not be considered in the adjustment of the Rate or PCR established under this
1272 Agreement:

- 1273 • Changes in the price of fuel;
- 1274 • Decreases in Recycling revenues (except as specifically contemplated in Section 5.3.5) due to
1275 changes in market conditions or any other factor from the sale of Recyclable Materials;
- 1276 • Increases in the costs of Solid Waste, Recyclable Materials, Organic Materials, or C&D Material
1277 Processing not incurred as a result of Changes in Law;
- 1278 • Increases in Transportation time and/or costs related to provision of Services provided under the
1279 Agreement;
- 1280 • Changes in the number of Customers due to changes in population or housing/business
1281 development or annexations;

- 1282 • Changes in Customer subscription levels (e.g., as Customers subscribe to Recycling and Organics
1283 Collection Services they may be able to reduce Solid Waste Collection, resulting in a potential
1284 revenue loss to the Contractor);
- 1285 • Changes in the volume or composition of materials;
- 1286 • Changes in the Approved Processing Facilities used to perform Services, unless those changes to
1287 facilities are the direct result of an Authority directed change in scope; or,
- 1288 • Cost for providing Enhanced Collection Services described in Exhibit 2.4.6, provided that nothing in
1289 this Agreement shall prohibit the Franchised Collector from recovering such costs under the
1290 provisions of their contract with the Franchising Agency(ies).
- 1291

1292
1293

ARTICLE 6 INDEMNITY, INSURANCE, AND PERFORMANCE BOND

1294

6.1 Defense and Indemnification

1295 Contractor shall hold harmless, defend and indemnify Authority and its officers, officials, employees and
1296 volunteers from and against any and all liability, loss, damage, expense, costs (including without
1297 limitation costs and fees of litigation) of every nature arising out of or in connection with Contractor's
1298 performance of work hereunder or its failure to comply with any of its obligations contained in this
1299 Agreement, except such loss or damage which was caused by the active negligence or willful misconduct
1300 of the Authority (including the Persons described in the definition of Authority in Exhibit 1). However, if
1301 a final judgment or resolution of any Action allocates Liability by determining that any portion of Liability
1302 is attributable to a wrongful or active negligent act, error or omission of the Authority, the Authority
1303 shall pay those allocated portions of Liabilities and of defense costs.

1304

6.1.1 Agreement Defense

1305 Contractor shall defend, at its sole cost and expense, with counsel approved by the Authority, the
1306 Authority (including the Persons described in the definition of Authority in Exhibit 1) in any Actions that
1307 assert or allege Liabilities paid, incurred or suffered by, imposed upon or asserted against, the Authority
1308 (including the Persons described in the definition of Authority in Exhibit 1) that result or are claimed to
1309 have resulted directly or indirectly by Contractor's negligent performance or non-performance of this
1310 Agreement, including the following:

- 1311 **(1) Contractor negligence or misconduct:** the wrongful, willful or negligent act, error or omission,
1312 or the misconduct of the Contractor (including the Persons described in the definition of Contractor in
1313 Exhibit 1);
- 1314 **(2) Failure to comply with Applicable Law:** Contractor's failure or alleged failure to comply with
1315 Applicable Law or any alleged Violation thereof, including any Actions in connection with its Permits;
- 1316 **(3) Breach of representation:** Contractor's breach of any representation, warranty or covenant
1317 made in this Agreement; or,
- 1318 **(4) Challenges to Agreement:** legal challenge to the authority of the Authority to enter into this
1319 Agreement or to contract out Services, regardless of the legal theory advanced or relied upon by any
1320 interested third party, including any appeals necessary to validate that authority or the Agreement.

1321 Authority reserves the right to retain, at its sole cost and expense, co-counsel and Contractor shall direct
1322 Contractor's counsel to assist and take direction from such co-counsel with respect to Authority's
1323 defense.

1324 **6.1.2 Agreement Indemnification**

1325 Contractor shall indemnify, release, and hold harmless, at its sole cost and expense, the Authority
1326 (including the Persons described in the definition of Authority in Exhibit 1) from and against all Liabilities
1327 paid, incurred or suffered by, imposed upon or asserted against, the Authority (including the Persons
1328 described in the definition of Authority in Exhibit 1) that result or are claimed to have resulted directly
1329 or indirectly by Contractor's performance or non-performance of this Agreement, including the items
1330 listed in preceding Section 6.1.1, whether or not those Liabilities are litigated, settled or reduced to
1331 judgment and whether or not those Liabilities are caused in part by any wrongful or negligent act, error
1332 or omission of any Person indemnified under this Agreement. However, if a final judgment or resolution
1333 of any Action allocates Liability by determining that any portion of Liability is attributable to a wrongful
1334 or active negligent act, error or omission of the Authority (including the Persons described in the
1335 definition of Authority in Exhibit 1), the Authority shall pay those allocated portions of Liabilities and of
1336 defense costs

1337 **6.1.3 Unpermitted Waste Defense and Indemnification**

1338 Contractor shall defend, indemnify, and hold harmless at its sole cost and expense with counsel
1339 approved by the Authority, the Authority (including the Persons described in the definition of Authority
1340 in Exhibit 1) in any Actions that assert or allege Liabilities paid, incurred or suffered by, imposed upon or
1341 asserted against, the Authority that result or are claimed to have resulted directly or indirectly from the
1342 presence, Disposal, escape, migration, leakage, spillage, discharge, release or emission of Unpermitted
1343 Waste or petroleum to, in, on, at, or under the Landfill or Approved Processing Facilities, whether:

- 1344 (1) in one or more instance,
- 1345 (2) threatened or transpired,
- 1346 (3) Contractor is negligent or otherwise culpable, or
- 1347 (4) those Liabilities are litigated, settled, or reduced to a final judgment.

1348 For purposes of this Indemnity, Liabilities includes, in addition to those included in Exhibit 1, Liabilities
1349 arising from or attributable to any operations, repair, clean-up or detoxification, or preparation and
1350 implementation of any removal, remedial, response, Closure, Post-Closure or other plan, regardless of
1351 whether undertaken due to government directive or action, such as remediation of surface or ground
1352 water contamination and replacement or restoration of natural resources.

1353 The foregoing indemnity is intended to operate as an agreement pursuant to 42 U.S.C. Section 9607(e)
1354 and California Health and Safety Code Section 25364, to insure, protect, hold harmless and indemnify
1355 the Authority from liability in accordance with this Section.

1356 **6.1.4 Environmental Indemnity**

1357 Contractor shall defend, indemnify, and hold the Authority harmless against and from any and all claims,
1358 suits, losses, penalties, damages, and liability for damages of every name, kind and description, including

1359 attorneys' fees and costs incurred, attributable to the negligence or willful misconduct of Contractor in
1360 handling Unpermitted Waste.

1361 **6.1.5 HHW Services Indemnity and Insurance**

1362 Contractor shall require its HHW services Subcontractor to fully indemnify, defend, and hold harmless
1363 both the Authority and Contractor from and against any and all liability, loss, damage, expense, costs
1364 (including without limitation costs and fees of litigation) of every nature arising out of or in connection
1365 with HHW services Subcontractor's performance of activities, operations, and final disposal or recycling
1366 associated with the Household Hazardous Waste Facility, except such loss or damage which was caused
1367 by the active negligence or willful misconduct of the Authority or Contractor. Furthermore, the
1368 subcontractor shall maintain certificates of insurance for Professional and Pollution Legal Liability
1369 naming both the Authority and Contractor as an additional insured, to the extent available, in the
1370 minimum amounts of three million dollars (\$3,000,000) per occurrence and five million dollars
1371 (\$5,000,000) in the aggregate. In the event that the HHW services Subcontractor is unable to meet the
1372 required minimum insurance amounts, then Contractor shall take all reasonable actions to provide an
1373 equivalent indemnity of the Authority in the interim, while the Authority and Contractor meet and
1374 confer to develop an alternative that adequately protects the Authority.

1375 **6.2 Insurance Policies**

1376 **6.2.1 Types and Amounts; Deductibles and Self-Insured Retentions**

1377 As of January 1, 2014, Contractor shall secure and maintain, and enter into agreements to cause its
1378 Subcontractors, if any, to secure and maintain or provide that Subcontractors are insureds under
1379 Contractor's policies, in full force and effect the types and amounts of insurance coverage, together with
1380 related specified deductibles and endorsements, listed in Exhibit 6.2 or required by Applicable Law,
1381 whichever is greater, in a form acceptable to Authority.

1382 The Contractor must declare to Authority any self-insured retentions. Authority at its sole discretion
1383 may (i) approve them; or, (ii) require Contractor to reduce or eliminate them as respects the Authority,
1384 its officials and employees; or to procure a bond or letter of credit guaranteeing payment of losses and
1385 related investigations, claim administration and defense expense.

1386 If any third Person makes a claim against Contractor or any Subcontractors exceeding the amount of any
1387 deductibles, self-insured reserves, letters of credit, or bonds guaranteeing payment thereof, Contractor
1388 shall promptly Notify the insurer, bond surety or letter of credit provider and Authority thereof.

1389 **6.2.2 Required Provisions**

1390 **(i) Primary.** Policies shall always be primary with respect to the Contractor's Services and the
1391 Authority, the Authority's Affiliated employees, the Board of Directors, officers, officials, agents,
1392 assigns and volunteers (Authority insureds).

1393 (ii) **Additional insureds.** Authority insureds must be included as additional insureds by endorsement
1394 under the Comprehensive General, Automobile Liability, Environmental Impairment Liability Policies
1395 and any other pollution policies secured by Contractor. A copy of the endorsement or evidence of
1396 blanket or contractual additional insured status must be submitted with the certificate(s) of insurance.

1397 (iii) **Excess, not contributory.** Insurance coverage written specifically for the Authority must be
1398 considered excess and not contributory and any insurance or self-insurance maintained by Authority
1399 insureds is in excess of Contractor's insurance and shall not contribute with it.

1400 (iv) **Separate application.** All insurance must apply separately to each insured against whom a claim is
1401 made or suit is brought, except with respect to the limits of the insurer's liability.

1402 (v) **No special limitations.** Coverage shall contain no special limitations on the scope of protection
1403 afforded to Authority insureds, except in cases of fraud perpetrated by the Authority.

1404 (vi) **Reporting provisions.** Any failure to comply with reporting provisions of policies shall not affect
1405 coverage provided to Authority insureds.

1406 (vii) **Waiver of subrogation.** Insurer, including workers compensation and general liability policy
1407 insurers, by endorsement must waive all rights of subrogation against Authority insureds for losses
1408 arising from performance of Services by Contractor, except for the sole negligence of the Authority.

1409 B. **Insurers.** Contractor shall procure insurance from insurers approved by Authority Risk Manager,
1410 an admitted company in California and authorized to do business there, having not less than size
1411 category VII and a rating of A or better ("A-VII") by A.M. Best Company, Inc.

1412 C. **Endorsements; Notices to Authority of Cancellation.** Policies must bear endorsements in
1413 substantially the form provided in Exhibit 6.2, providing that coverage shall not be suspended, voided,
1414 canceled by either Party, reduced in coverage or limits, not renewed, or otherwise changed or modified
1415 except after prior written notice by e-mail, to the Authority thirty (30) Calendar Days in advance, or if
1416 the reason for cancellation is non-payment of premiums, ten (10) Calendar Days in advance.
1417 Endorsements shall not contain mere "best effort" modifiers or relieve the insurer from its responsibility
1418 to give the Authority notice.

1419 D. **Evidence of Coverage.** As of January 1, 2014, Contractor shall provide certificates of insurance
1420 and original endorsements required under this Agreement, signed by an authorized representative of
1421 the insurance company and including the signatory's company affiliation and title. Upon Authority's
1422 request, Contractor shall provide, or cause to be provided, to the Authority documentation acceptable
1423 to the Authority verifying that the individual signing those documents are authorized by the insurer to
1424 bind coverage on the insurer's behalf. At that time and thereafter simultaneously with renewal of the
1425 policies, Contractor shall file with the Authority a certificate of insurance and endorsements, in form and
1426 substance satisfactory to the Authority (including type and amount of coverage, effective dates, and
1427 expiration dates) signed or counter-signed by an authorized officer of the broker, certifying that the
1428 coverage has not lapsed and shall remain in effect at all times during the term of the policy.

1429 **E. Contractor Compliance.** Contractor shall comply with all requirements of policies and the
1430 insurers. Carrying insurance shall not relieve Contractor from any obligations under this Agreement.
1431 Nothing in this Agreement may be construed as limiting in any way the extent to which the Contractor
1432 may be held responsible for payments of damages to Persons or property resulting from Contractor's or
1433 any Subcontractors' performance of Services.

1434 **F. Worker's Compensation.** Contractor shall provide workers' compensation coverage as required
1435 by State law, and prior to January 1, 2014 pursuant to this Agreement, Contractor shall file the following
1436 statement with the Authority.

1437 "I am aware of the provisions of Paragraph 3700 of the Labor Code that require every employer to be
1438 insured against liability for workers' compensation or to undertake self-insurance in accordance with the
1439 provisions of that code, and I shall comply with such provisions before commencing any Services
1440 required by this Agreement.

1441 The Person executing this Certificate on behalf of Contractor affirmatively represents that she/he has
1442 the requisite legal authority to do so on behalf of Contractor, and both the Person executing this
1443 Agreement on behalf of Contractor and Contractor understand that the Authority is relying on this
1444 representation in entering into this Agreement."

1445 **6.3 Performance Surety**

1446 Within seven (7) Calendar Days of the Authority's notification to Contractor that the Authority has
1447 executed this Agreement, Contractor shall file with the Authority a letter of credit or a performance
1448 bond, payable to the Authority, securing the Contractor's performance of its obligations under this
1449 Agreement and such bond shall be renewed annually if necessary so that the performance bond is
1450 maintained at all times during the Term. The surety shall be in the amount of two million dollars
1451 (\$2,000,000) and shall be used to secure the performance of the Contractor's Post-Collection Services
1452 obligations under the Agreement. The bond shall be executed as surety by a corporation authorized to
1453 issue surety bonds in the State of California that has a rating of A or better in the most recent edition of
1454 Best's Key Rating Guide, and that has a record of service and financial condition satisfactory to the
1455 Authority.

1456

1457 **ARTICLE 7**

1458 **DEFAULT BY CONTRACTOR AND TERMINATION**

1459 **7.1 Contractor Default**

1460 Each of the following shall constitute an event of default by Contractor ("Contractor Default"), under
1461 this Agreement:

1462 **7.1.1 Service Defaults**

1463 **(1) Failure to Perform.** Contractor's failure to perform any duty or obligation in whole or in part for
1464 more than one (1) consecutive Working Day or more than five (5) total Working Days in any Calendar
1465 Year. A failure to perform may also include Contractor's failure to fully implement the Recycling,
1466 Composting, other Processing, and education and outreach programs required under this Agreement
1467 which may be determined as part of the performance review described in Section 4.21.

1468 **(2) Uncured Breach.** Contractor fails or refuses to perform any of its obligations under this
1469 Agreement; the Authority Contract Manager notifies the Contractor in writing that a specific failure or
1470 refusal has occurred which shall, unless corrected, in its opinion, give the Authority a right to
1471 terminate this Agreement; and the Contractor does not correct the breach within twenty (20)
1472 Calendar Days of receiving the Authority Contract Manager's Notice thereof. However, if the breach is
1473 not capable of cure within twenty (20) Calendar Days, Contractor shall promptly provide the Authority
1474 Contract Manager a Notice explaining why Contractor believes it needs additional time to effectuate a
1475 cure, together with a schedule therefore, and shall diligently proceed to cure the breach within that
1476 schedule, whereupon Authority, at its sole discretion, may (a) accept Contractor's schedule of cure, or
1477 (b) make a written demand that Contractor cure the default within an alternative reasonable time
1478 period set by Authority.

1479 **(3) Repeated Breach.** Contractor fails or refuses to perform any of its obligations under this
1480 Agreement repeatedly or habitually, as documented in writing, whether or not specific instance of
1481 failure or refusal has been previously cured.

1482 **(4) Failure to Comply With Applicable Law.** Contractor fails to comply with Applicable Law that is
1483 material to this Agreement. This does not constitute a default if: a) after notice of violation or non-
1484 compliance the Contractor is actively disputing its compliance with Applicable Law before any court or
1485 administrative agency; or, b) after exhaustion of all appeals, a final judgment in favor of Contractor is
1486 reached.

1487 **(5) Criminal Activity.** The occurrence of any Criminal Activity related to this Agreement by any
1488 employee, supervisor, manager, officer, or director of Contractor, except that Contractor may cure the
1489 breach by terminating any and all individuals involved in the Criminal Activity within five (5) Working
1490 Days of a notice from the Authority Contract Manager.

1491 **7.1.2 Performance Assurance Defaults**

1492 (1) **Failure to Provide Insurance.** Contractor fails to provide insurance in accordance with Section
1493 6.2, or Guaranty Agreement in accordance with Section 8.20;

1494 (2) **Failure to Provide Assurances of Performance.** Contractor fails to timely provide assurances of
1495 performance in accordance with Section 8.16;

1496 (3) **Failure to Pay Authority.** Contractor fails to timely pay Authority any amounts due and owing
1497 to Authority, including procurement reimbursement in accordance with Section 2.4.4, reimbursement
1498 of costs for alternative services in accordance with Section 7.3 and liquidated damages in accordance
1499 with Section 8.19;

1500 (4) **Transfer, Assignment.** Contractor Assigns this Agreement without Authority approval required
1501 by Section 8.5;

1502 (5) **Seizure, Attachment.** Any asset used to provide Services is seized, attached, or levied upon
1503 (other than a pre-judgment attachment) so as to substantially impair Contractor's ability to timely and
1504 fully perform Services, and which cannot be released, bonded, or otherwise lifted within forty-eight
1505 hours (48), excepting weekends and Holidays;

1506 (6) **Insolvency, Bankruptcy, Liquidation.** Contractor files a voluntary claim for debt relief under any
1507 applicable bankruptcy, insolvency, debtor relief, or other similar law now or hereafter in effect, or
1508 shall consent to the appointment of or taking of possession by a receiver, liquidator, Assignee (other
1509 than as a part of a transfer of assets no longer used to provide Services or backup Services), trustee
1510 (other than as security of an obligation under a deed of trust), custodian, sequestration, administrator
1511 (or similar official) of Contractor for any part of Contractor's operating assets or any substantial part of
1512 Contractor's property, or shall make any general Assignment for the benefit of Contractor's creditors,
1513 or shall fail generally to pay Contractor's debts as they become due or shall take any action in
1514 furtherance of any of the foregoing. The foregoing notwithstanding, nothing herein shall or is intended
1515 to affect the jurisdiction and authority of any trustee or receiver in connection with bankruptcy
1516 proceedings pursuant to the federal Bankruptcy Act or any similar or successor statute.

1517 A court, having jurisdiction, enters a decree or order for relief in respect of the Agreement, in any
1518 involuntary case brought under any bankruptcy, insolvency, debtor relief, or similar law now or
1519 hereafter in effect, or Contractor consents to or fails to oppose any proceeding, or that court enters a
1520 decree or order appointing a receiver, liquidator, Assignee, custodian, trustee, sequestrator,
1521 administrator (or similar official) of the Contractor or for any part of the Contractor's operating
1522 equipment or assets, or orders the winding up or liquidation of the affairs of the Contractor.

1523 **7.1.3 Miscellaneous**

1524 (1) **False Representations; Breach of Representations or Warranties.** Contractor makes a
1525 representation, certification, or warranty in this Agreement or pursuant to this Agreement which
1526 Contractor knows, or in the course of diligently conducting business and providing Services should

1527 have known, is untrue as of the date thereof. Contractor makes a representation or fails to make a
1528 disclosure, whether within this Agreement or otherwise, to the Authority in connection with, or as a
1529 material inducement to, entering into this Agreement or any future amendment to this Agreement,
1530 which representation or failed disclosure is false or misleading in any material respect when made.

1531 **(2) Default under Guaranty Agreement.** Any default occurs under Section (24) of the Guaranty
1532 Agreement, which default for failure to pay the Guaranty listed in item (24)(a) thereof is not timely
1533 cured as provided therein, and which default for breach listed in item (24)(c) thereof continues for the
1534 period provided therein.

1535 **7.2 Right to Suspend or Terminate Agreement**

1536 **7.2.1 Termination Events**

1537 Authority may terminate this Agreement in the following events:

1538 **(1) Contractor Default:** the repeated occurrence of an uncured material Contractor Default;

1539 **(2) Failure to Perform Core Obligations:** If after exhausting the remedies available in Sections 4.18
1540 and/or 8.12, for whatever reason, Contractor is unable to perform its core obligations under this
1541 Agreement for a period of thirty (30) Calendar Days beyond the timeline described in Section 8.12.;

1542 **(3) Contractor's use of non-approved Alternative Facility:** the Contractor provides services
1543 through an alternative facility contrary to the direction of the Authority as required in Section 4.12.

1544 **(4) Assignment of Guaranty Agreement Without Consent:** the Guarantor Assigns the Guaranty
1545 Agreement without consent required by Section (3) of the Guaranty Agreement despite the Authority
1546 Board of Directors action denying Authority consent, and on or before fifteen (15) Calendar Days
1547 thereafter, the Guarantor does not provide Authority with a substitute Guarantor or alternative
1548 financial credit support satisfactory to Authority.

1549 **7.2.2 Notice**

1550 Notice of termination may be effective no sooner than:

1551 **(1)** Immediately or upon other period stated by Authority with respect to Contractor Defaults
1552 described in Section 7.1.2 (including, but not limited to, Failure to Provide Insurance) and, to the
1553 extent permitted by Applicable Law, Section 7.1.2 (Insolvency, Bankruptcy, Liquidation);

1554 **(2)** Two (2) Working Days after giving Contractor a Notice with respect to a Contractor Default
1555 described in Section 7.1.1 (Failure to Perform); and,

1556 **(3)** Fifteen (15) Working Days after giving Contractor a Notice with respect to all other Contractor
1557 Defaults or termination events.

1558 **7.2.3 Contractor's Obligations Upon Expiration or Termination**

1559 (1) **Pay Outstanding Amounts.** Contractor shall pay Authority any amounts, including liquidated or
1560 compensatory damages, then accrued and payable, net of any amounts due from Authority in
1561 accordance with Section 4.13.

1562 (2) **Indemnities.** Contractor shall meet its obligations under any Indemnifications including any
1563 such obligations and Indemnifications that survive the termination of this Agreement.

1564 **7.3 Right to Perform**

1565 In the events described in items (1) (Contractor Default) and (3) (Assignment of Guaranty Agreement
1566 Without Consent) of Section 7.2.2, the Authority, at its sole discretion, may perform and complete, by
1567 contract or otherwise, Services or a portion thereof (other than operating the Approved Processing
1568 Facilities and Landfill which are the property of Contractor) and incur all expenses necessary for full and
1569 timely provision of Services.

1570 **7.4 All Other Available Remedies**

1571 If Authority suspends or terminates this Agreement, it may exercise remedies of damages and any other
1572 available remedies at law and in equity (including specific performance). Contractor acknowledges that
1573 Authority's remedy of damages for a breach of this Agreement by Contractor in accordance with this
1574 Section may be inadequate for reasons including:

1575 (i) The urgency of timely, continuous and high-quality waste management Service under this
1576 Agreement, including, but not limited to, Disposal of wastes which constitute a threat to public health;

1577 (ii) The long time and significant investment of money and personnel (both Authority staff, elected
1578 Authority officials and private consultants, including procurement consultants, Diversion consultants,
1579 and procurement counsel) required to structure a competitive procurement; draft a request for
1580 proposal; advertise the procurement and solicit proposals; distribute the Request for Proposal, hold
1581 pre-proposal meetings and respond to proposers questions about the procurement; revise documents
1582 based on solicited proposer comment; evaluate proposals; and finalize and award this Agreement;
1583 and,

1584 (iii) The Authority's reliance on Contractor's technical waste management expertise.

1585 Consequently, Authority is entitled to all available equitable remedies, including injunctive relief.

1586 Compensatory damages include amounts equal to any Authority's Reimbursement Costs or other money
1587 Contractor has previously paid to the Authority but that are subsequently Recovered from the Authority
1588 by a trustee in bankruptcy as preferential payments or otherwise and Authority's Reimbursement Costs
1589 of re-procuring an agreement for services to replace Services if this Agreement is terminated due to
1590 Contractor Default.

1591 **7.5 Authority's Remedies Cumulative**

1592 The Authority's rights to seek dispute resolution in accordance with Section 8.17, suspend or terminate
1593 this Agreement in accordance with Section 7.2, to perform under Section 7.3, or to seek other available
1594 remedies under Section 7.4, are not mutually exclusive. Exercise of one remedy is not an election of
1595 remedies but is cumulative with any other remedies under this Agreement.

1596 **7.6 Waiver**

1597 The Authority's waiver of any breach or Contractor Default shall not be deemed to be a waiver of any
1598 other breach or Contractor Default including ones with respect to the same obligations under this
1599 Agreement; provided however, that nothing herein abrogates applicable statutes of limitations for any
1600 claims which were or could have been brought. The Authority's decision not to demand damages shall
1601 not be deemed a waiver of any Contractor breach under this Agreement. The Authority's subsequent
1602 acceptance of any damages or other money paid by Contractor shall not be deemed to be a waiver by
1603 the Authority of any pre-existing or concurrent breach or Contractor Default; provided however, that
1604 nothing herein abrogates applicable statutes of limitations for any claims which were or could have
1605 been brought .

1606 Contractor acknowledges that it is solely responsible for providing Services and except as provided
1607 below in this paragraph, by this Agreement irrevocably and unconditionally waives defenses to the
1608 payment and performance of its obligations under this Agreement based upon failure of consideration;
1609 contract of adhesion; impossibility or impracticability of performance; commercial frustration of
1610 purpose; or the existence, non-existence, occurrence or non-occurrence of any foreseen or unforeseen
1611 fact, event, or contingency that may be a basic assumption of Contractor with regard to any provision of
1612 this Agreement; provided, however that Contractor does not waive defenses to impossibility or
1613 impracticability of performance; commercial frustration of purpose; or the existence, non-existence,
1614 occurrence or non-occurrence of any unforeseeable fact, event, or contingency that may arise during
1615 the Term of this Agreement. Contractor does not waive any defenses of Uncontrollable Circumstances at
1616 any time.

1617

1618
1619

ARTICLE 8 OTHER AGREEMENTS OF THE PARTIES

1620 8.1 Relationship of Parties

1621 The Parties intend that Contractor shall perform the Services required by this Agreement as an
1622 independent Contractor engaged by the Authority and not as an officer or employee of the Authority,
1623 nor as a partner of or joint venturer with the Authority. No employee or agent of Contractor shall be or
1624 shall be deemed to be an employee or agent of the Authority. Contractor shall have the exclusive
1625 control over the manner and means of conducting Services, and all Persons performing those Services,
1626 except for prescriptive requirements in this Agreement established by the Authority or Authority's right
1627 to change the scope of Services in accordance with Section 4.20. Contractor is solely responsible for the
1628 acts and omissions of its officers, employees, subcontractors, and agents, none of whom is deemed an
1629 officer, employee, subcontractor, or agent of the Authority. Neither Contractor nor its officers,
1630 employees, subcontractors, or agents shall obtain any rights to retirement benefits, workers'
1631 compensation benefits, or any other benefits that accrue to the Authority employees. Contractor
1632 expressly waives any claim it may have or acquire to those benefits and shall defend and indemnify the
1633 Authority if any of its officers, employees, subcontractors, or agents make claims for such benefits.

1634 8.2 Compliance with Law

1635 Contractor shall perform, and shall cause any Contractors or subcontractors to perform, all Services in
1636 accordance and compliance with Applicable Law, whether or not referenced specifically in the text of
1637 this Agreement and regardless of whether specified Service obligations may be stated less stringently
1638 than Applicable Law. If any provision of this Agreement is more stringent than Applicable Law,
1639 Contractor must comply with that provision.

1640 Reference in this Agreement to particular provisions or requirements of Applicable Law shall not be
1641 construed to limit Contractor's obligation to comply with all provisions of Applicable Law. They are
1642 deemed to include reference to implementing rules and regulations. They are intended to facilitate
1643 Contractor's satisfaction of its performance obligations and Authority's administration and specific
1644 enforcement of this Agreement, and may not be construed to imply lack of obligation to comply with
1645 other provisions or requirements of Applicable Law not referred to or cited in this Agreement. If any
1646 Applicable Law specifically referenced or cited in this Agreement is modified, amended or repealed, that
1647 reference or citation shall be deemed to refer to that amendment or modification, or to any re-codified
1648 or substituted Applicable Law.

1649 8.3 Governing Law

1650 This Agreement shall be governed by, and construed and enforced in, accordance with the Applicable
1651 Laws of the State, without giving effect to the State's principles of conflicts of laws.

1652 **8.4 Further Assurances**

1653 Each Party shall execute and deliver any instruments and to perform any acts as may be necessary or
1654 reasonably requested by the other in order to give full effect to this Agreement.

1655 **8.5 Assignment**

1656 **8.5.1 Assignment by Authority**

1657 The Authority may Assign this Agreement individually or jointly to any Member Agency (excluding the
1658 City of El Cerrito), the County of Contra Costa, a successor joint powers authority, or other public entity
1659 succeeding to a majority of the Authority's service area obligations. In any Assignment, the Authority
1660 Board of Directors shall take such actions as may be necessary to ensure that the Assignee has the legal
1661 authority to accept the Assignment and undertake the Authority's obligations.

1662 **A. Assignment by Member Agency Withdrawal**

1663 In the event a Member Agency, other than the City of El Cerrito, seeks to withdraw from the Authority
1664 before the end of the Agreement's Term, the Member Agency's withdrawal is conditioned upon its
1665 consent to Assignment of this Agreement. The act of withdrawal shall also operate as the Authority's
1666 consent to Assignment of its respective rights and obligations under this Agreement to the withdrawing
1667 Member Agency. Any additional terms and conditions of withdrawal as well as the details of assuming
1668 the specific obligations of this Agreement shall be governed by the provisions of the Authority's Joint
1669 Powers Agreement, as amended, and the decisions of the Authority Board of Directors.

1670 **B. Assignment by Dissolution**

1671 In the event the Authority seeks to dissolve before the end of the Agreement's Term, such dissolution is
1672 conditioned upon the agency(ies) or successor joint power authority's individual or collective
1673 acceptance of Assignment of this Agreement as well as the respective obligations of the Authority. The
1674 Assignee's individual or collective consent to Assignment shall effectuate such dissolution of the
1675 Authority. The Authority Board of Directors shall take such actions as may be necessary to ensure its
1676 obligations hereunder are properly assumed by the Assignee Member Agencies.

1677 **8.5.2 Assignment by Contractor**

1678 **A. Permitted Assignments**

1679 Contractor shall have the right to Assign this Agreement to any other company which is owned and
1680 controlled by Republic Services, Inc., provided that: (i) such company is qualified to do business in
1681 California, and assumes in writing all of Contractor's obligations under this Agreement prior to, or
1682 concurrently with, such Assignment; and, (ii) the corporate guaranty described in Section 8.20 remains
1683 in full force and effect and that such Assignment shall have no adverse impact on the Rates charged or
1684 quality services provided under this Agreement. Contractor shall not otherwise Assign its rights nor
1685 delegate or otherwise transfer its obligations under this Agreement to any other Person without the
1686 prior written consent of the Authority, provided consistent with the requirements of this Section 8.5.2.

1687 Any such assignment made without the written consent of Authority shall be void and the attempted
1688 assignment shall constitute a breach of this Agreement.

1689 **B. Assignment Defined**

1690 For the purpose of this section when used in reference to Contractor, "Assignment" shall include, but
1691 not be limited to: (i) a sale, exchange or other transfer of substantially all of Contractor's assets
1692 dedicated to Service under this Agreement to a third party; (ii) a sale, change or other transfer of
1693 outstanding common stock of Contractor to a third party provided said sale, exchange or transfer may
1694 result in a change of control of Contractor; (iii) any dissolution, organization, consolidation, merger, re-
1695 capitalization, stock issuance or reissuance, voting trust, pooling agreement, escrow arrangement,
1696 liquidation or other transaction to which results in a change of Ownership or control of Contractor; (iv)
1697 any Assignment by operation of law, including insolvency or bankruptcy, making Assignment for the
1698 benefit of creditors, writ of attachment for an execution being levied against this agreement,
1699 appointment of a receiver taking possession of Contractor's property, or transfer occurring in the event
1700 of a probate proceeding; and, (v) any combination of the foregoing (whether or not in related or
1701 contemporaneous transactions) which has the effect of any such transfer or change of Ownership, or
1702 change of control of Contractor.

1703 Contractor acknowledges that this Agreement involves rendering a vital service to the Authority's
1704 residents and businesses, and that the Authority has selected Contractor to perform the Services
1705 specified Herein based on: (i) effective and responsible fashion, at all times in keeping with applicable
1706 environmental laws, regulations, and best management practices, and (ii) Contractor's obligations to the
1707 Authority under this Agreement. The Authority has relied on each of these factors, among others, in
1708 choosing Contractor to perform the Services to be rendered by Contractor under this Agreement.

1709 **C. Contractor Request for Assignment**

1710 If Contractor requests the Authority's consideration of and consent to an Assignment, the Authority may
1711 reasonably deny or approve such requests. No request by Contractor for consent to any Assignment
1712 need be considered by Authority unless and until Contractor has met the following requirements:

1713 i. Contractor shall pay Authority its reasonable expenses for attorney's fees and
1714 investigation costs necessary to investigate the suitability of any proposed Assignee, and to review and
1715 finalize any documentation required as a condition for approving any such Assignment. An initial,
1716 retainer deposit payment to reimburse such costs shall be made in the amount of one hundred
1717 thousand dollars (\$100,000) to the Authority by Contractor or the proposed assignee along with
1718 Contractor's formal request for the Authority's consideration of an Assignment. Authority shall draw
1719 against the retainer for its actual reasonable costs of the Assignment review. In the event such costs
1720 exceed the deposit amount, Contractor shall make the additional payment, beyond the initial deposit
1721 amount, upon approval of the assignment. In the event that the actual costs of the review are less than
1722 the retainer deposit amount, such unused portion of the retainer shall be returned upon the conclusion
1723 of the review of the Assignment.

1724 ii. Contractor shall furnish Authority with audited financial statements of the proposed
1725 Assignee's operations for the Immediately preceding three (3) operating years.

1726 iii. Contractor shall furnish Authority with satisfactory proof: (i) that the proposed Assignee
1727 has at least ten (10) years of Solid Waste management experience on a scale equal to or exceeding the
1728 sale of operations conducted by Contractor under this Agreement; (ii) that in the last five (5) years, the
1729 proposed Assignee has not suffered any significant citations or other censure from any federal, State, or
1730 local agency having jurisdiction over its Solid Waste management operations due to any significant
1731 failure to comply with State, federal, or local Environmental Laws and that the Assignee has provided
1732 Authority with a complete list of such citations and censures; (iii) that the proposed Assignee has at all
1733 times conducted its operations in an environmentally safe and conscientious fashion; (iv) that the
1734 proposed Assignee conducts its Solid Waste management practices in accordance with sound Solid
1735 Waste management practices in full compliance with all federal, State, and local laws regulating the
1736 collection and Disposal of Solid Waste including Hazardous Materials; and, (v) of any other information
1737 required by Authority to ensure the proposed Assignee can fulfill the terms of this Agreement in a
1738 timely, safe, and effective manner.

1739 Under no circumstances shall Authority be obligated to consider any proposed Assignment if Contractor
1740 is in default at any time during the period of consideration.

1741 **8.6 Binding on Successors**

1742 The provisions of this Agreement shall inure to the benefit of and be binding on the successors and
1743 permitted Assigns of the Parties.

1744 **8.7 Parties in Interest**

1745 Nothing in this Agreement, whether expressed or implied, is intended to confer any rights on any
1746 Persons other than the Parties to it and their representatives, successors and permitted Assigns.

1747 **8.8 Services Performed At Contractor's Sole Expense**

1748 Contractor shall perform Services solely for the compensation expressly provided for Herein.

1749 **8.9 Notices and Communication**

1750 Parties must present and express all reports, demands, requests, directions, selections, option exercises,
1751 orders, requests, proposals, reviews, comments, acknowledgments, approvals, consents, waivers,
1752 certifications and other communications made to each other under this Agreement in writing.

1753 Parties must provide Notices at the address provided in this Section below, in any of the following
1754 manners:

1755 (1) Personal delivery to a representative of the Parties, with signed receipt,

1756 (2) Deposit in the United States mail, first class postage prepaid (certified mail, return receipt
1757 requested), or

1758 (3) Deposit with a commercial delivery service providing delivery verification.

1759 If to Authority: West Contra Costa Integrated Waste Management Authority
1760 Executive Director
1761 1 Alvarado Square
1762 San Pablo, CA 94806
1763

1764 With Copy to: West Contra Costa IWMA Counsel
1765 Meyers Nave
1766 555 12th Street, Suite 1500
1767 Oakland, CA 94607
1768

1769 If to Contractor: Area President
1770 Republic Services, Inc.
1771 3260 Blume Drive, 2nd Floor
1772 Richmond, CA 94806
1773

1774 With a copy to: Timothy Benter
1775 Vice President & Deputy General Counsel
1776 Republic Services, Inc.
1777 18500 North Allied Way
1778 Phoenix, AZ 85054
1779

1780 With an additional copy to:
1781 Scott W. Gordon
1782 Law Offices of Scott W. Gordon, APC
1783 1990 North Calif. Blvd., Suite 620
1784 Walnut Creek, CA 94596
1785

1786 Parties may change their address upon written Notice to the other Party.

1787 **8.10 Authority Contract Manager**

1788 The Authority has designated staff, the Authority Contract Manager, to be responsible for the
1789 monitoring and administration of this Agreement. Contractor shall meet and confer with the Authority
1790 Contract Manager to resolve differences of interpretation and implement and execute the requirements
1791 of this Agreement in an efficient, effective, manner that is consistent with the stated objectives of this
1792 Agreement.

1793 From time to time the Authority Contract Manager may designate other agents of the Authority or
1794 Franchise Agencies to work with Contractor on specific matters. In such cases, those individuals should
1795 be considered designates of the Authority Contract Manager for those matters to which they have been
1796 engaged. Such designates shall be afforded all of the rights and access granted thereto. In the event of a

1797 dispute between the Authority Contract Manager's designate and Contractor, the Authority Contract
1798 Manager's determination shall be conclusive.

1799 In the event of dispute between the Authority Contract Manager and the Contractor regarding the
1800 interpretation of or the performance of Services under this Agreement, the Authority Contract
1801 Manager's determination shall be conclusive except where such determination results in a material
1802 impact to the Contractor's revenue and/or cost of operations. In the event of a dispute between the
1803 Authority Contract Manager and the Contractor results in such material impact to the Contractor,
1804 Contractor may appeal the determination of the Authority Contract Manager to the Authority Board of
1805 Directors, whose determination shall be conclusive. For the purposes of this section, "material impact"
1806 is an amount equal to or greater than thirty thousand dollars (\$30,000).

1807 **8.11 Duty of Contractor Not To Discriminate**

1808 In the performance of all work and Services under this Agreement, Contractor shall not discriminate
1809 against any Person on the basis of that Person's race, color, religion, national origin, ancestry, age,
1810 physical handicap, medical condition, religion, marital status, sex or sexual orientation. Contractor shall
1811 comply with all Applicable Law regarding nondiscrimination, including those prohibiting discrimination
1812 in employment.

1813 **8.12 Force Majeure**

1814 Neither Party is deemed in breach or default of its duties, obligations (other than a payment obligation
1815 at the time due and owing), responsibilities or commitments under this Agreement to the extent that
1816 the breach or default is due to an Uncontrollable Circumstance, provided the Party exerted Reasonable
1817 Business Efforts to prevent the occurrence and mitigate the effects of the Uncontrollable Circumstance.

1818 The Party experiencing an Uncontrollable Circumstance and relying thereon shall give Immediate Notice
1819 thereof to the other Party, including describing performance under this Agreement for which it seeks to
1820 be excused; the expected duration of the Uncontrollable Circumstance; the extent Services may be
1821 curtailed; any requests or suggestions to mitigate the adverse effects of the Uncontrollable
1822 Circumstance; or any consequent adjustment of Rates in accordance with Section 5.

1823 Notwithstanding that Contractor's failure to timely and fully provide Services due to Uncontrollable
1824 Circumstances does not constitute a Contractor Default, following the continuance of the failure for
1825 ninety six (96) hours, Authority may at its sole discretion temporarily secure alternative services limited
1826 to the duration of the Force Majeure event. Following the continuance of that failure for thirty (30)
1827 Calendar Days, the Authority and Contractor shall meet and confer in good faith to determine
1828 alternative means to provide services.

1829 **8.13 Maintenance of Records**

1830 Contractor shall maintain Records at each of the Approved Processing Facilities and Landfill or elsewhere
1831 at the Contractor's offices located within the County.

1832 In order to determine the reasonableness of proposed changes in Service requested by Authority or
1833 Contractor, Contractor must maintain accurate, detailed financial and operational information in a
1834 consistent format and to make that information reasonably available to the Authority in a timely
1835 fashion. This Section is intended to effectuate these requirements. Contractor shall maintain accurate
1836 and complete accounting Records containing the underlying financial and operating data relating to and
1837 showing the basis for computation of all costs associated with providing Services. The accounting
1838 Records shall be prepared in accordance with Generally Accepted Accounting Principles (GAAP), which
1839 shall be consistently applied. The Parties acknowledge that the Contractor's accounting procedures do
1840 not produce accounting Records that separate the financial and operational data related to specific
1841 services provided to the Authority, but rather the accounting Records are consolidated financial and
1842 operational data for all Services provided by Contractor or at the Approved Processing Facilities.

1843 Contractor shall retain all Records required to be maintained by this Agreement at least throughout the
1844 Term.

1845 Contractor shall retrieve Records specifically directed to be retained in accordance with this Agreement
1846 and make them available to the Authority within fifteen (15) Calendar Days of Authority Contract
1847 Manager's direction.

1848 Contractor shall retrieve Records that are material, in the sole opinion of the Authority Contract
1849 Manager, to determining the cost of compliance with changes in governmental fees or regulations;
1850 verifying payment of governmental fees or taxes; determining cost impact related to modifications to
1851 scope of Services or new waste management programs or economic incentives; or determining an
1852 adjustment to the Disposal Rate as provided for in Section 5, and make them available to the Authority
1853 Contract Manager within fifteen (15) Calendar Days of the Authority Contract Manager's direction. If
1854 Contractor is not required to maintain those Records under this Agreement, then the Authority Contract
1855 Manager and Contractor shall meet and confer in good faith to reach agreement on reasonable
1856 assumptions that are necessary to make determinations at issue.

1857 **8.14 Right to Inspect Records**

1858 Upon no less than one (1) Working Day's notice and without interference from Contractor's operations,
1859 the Authority, its auditors and other agents selected by the Authority, shall have the right, at its sole
1860 cost, during regular business hours as described in Section 4.6, to conduct on-site inspections of Records
1861 and to make and retain copies of any Records that are reasonably necessary to: (1) determine the cost
1862 of compliance with changes in governmental fees or regulations (in accordance with Section 5); (2)
1863 verify payment of governmental fees or taxes (in accordance with Section 5); (3) determine cost of
1864 modifications to scope of Services (in accordance with Section 4.20); or (4) determine cost of new
1865 programs or economic incentives (in accordance with Section 4.20). Contractor shall cooperate with the
1866 Authority Contract Manager, its auditors and other agents selected by the Authority, and shall make
1867 those Records available to the Authority Contract Manager, and Contractor shall provide the Authority
1868 Contract Manager copies of those Records (which the Authority may retain) at the Authority Contract
1869 Manager's request; provided however that notwithstanding the foregoing, Contractor shall not be
1870 required to provide to Authority any Records containing or consisting of:

- 1871 i) Trade secret confidential business information or documents (e.g. customer lists) with
1872 respect to any non-Authority users of the Approved Facilities or Landfill
- 1873 ii) Cost of service information which is not otherwise provided for in this Agreement
- 1874 iii) Proprietary processes, patents, or other intellectual property

1875 If the Authority Contract Manager so reasonably requests, Contractor shall make specified personnel
1876 available to assist the Authority Contract Manager in accessing Records.

1877 **8.15 Compilation of Information for State Law Purposes**

1878 Contractor shall compile information on amounts of Solid Waste delivered to the Landfill and Organic
1879 Materials, Recyclable Materials, Dry Materials, and C&D delivered to Approved Processing Facilities and
1880 the Landfill and other information, which the Authority may reasonably request, in order to meet its
1881 obligations under the Act.

1882 **8.16 Right to Demand Assurances of Performance**

1883 If Contractor:

- 1884 (i) Is the subject of any labor unrest including work stoppage or slowdown, sick-out, picketing or
1885 other concerted job action that affects Contractor's performance under this Agreement;
- 1886 (ii) Appears in the judgment of the Authority to be unable to regularly pay its bills as they become
1887 due; or
- 1888 (iii) Is the subject of a civil or criminal proceeding brought by a federal, State, regional, or local
1889 agency for Violation of an Applicable Law with respect to Services;

1890 Such that the Authority reasonably believes such event has placed Contractor's ability to perform
1891 under this Agreement in substantial jeopardy, or

1892 (iv) If Authority disagrees with Contractor's estimate of Landfill capacity required to meet
1893 Contractor's warranty in accordance with subsection J of Section 9.2 or of remaining capacity,
1894 considering Contractor's Disposal obligations to both Authority and other Persons, as contained in the
1895 Quarterly Report or otherwise, then following dispute resolution in accordance with Section 8.17 that
1896 concludes either of Contractor's estimates is erroneous, at its option and in addition to all other
1897 remedies it may have, the Authority may demand from Contractor written assurances of timely and
1898 proper performance of this Agreement. Assurances include reduction or elimination of deductibles or
1899 self-insured retention with respect to insurance or procuring a bond or letter of credit guarantying or
1900 in size sufficient to cover payment of losses and related investigations, claim administration and
1901 defense expenses. If Contractor fails or refuses to provide reasonable assurances by the date required
1902 by the Authority no less than fifteen (15) Calendar Days after Notice, that failure or refusal shall
903 constitute a Contractor Default in accordance with Section 7.1.2.

1904 **8.17 Dispute Resolution**

1905 **8.17.1 Informal Resolution**

1906 Should a dispute arise with respect to the performance and obligations of the Parties hereunder, at any
1907 time during the term of this Agreement, the provisions of Section 8.17 shall apply. Either Party shall give
1908 the other written notice of such dispute. Such notice shall specify a date and location for the Parties to
1909 meet and confer in good faith to resolve any dispute that may arise in a cooperative and mutually
1910 satisfactory manner. The Parties shall attempt to resolve their disputes informally to the maximum
1911 extent possible.

1912 **8.17.2 Mediation**

1913 In the event the Parties cannot resolve such dispute within thirty (30) Days of such notice, either Party
1914 may propose the appointment of a mediator for advice and non-binding mediation, and the other Party
1915 shall attend such mediation. If the mediator is unable, within thirty (30) Days thereafter, to reach a
1916 determination as to the matter in dispute in a manner acceptable to the Parties hereto, then either
1917 Party may refer the matter to a Court of competent jurisdiction.

1918 **8.17.3 Arbitration Valuation Items**

1919 For the purposes of this Agreement, disputes over "Arbitration Valuation Items" means monetary
1920 disputes the value of which are less than five hundred thousand dollars (\$500,000) alleged to be due or
1921 owed by either Party. If mediation is unsuccessful, disputes concerning Arbitration Valuation Items shall
1922 be referred to binding arbitration.

1923 **8.17.4 Binding Arbitration**

1924 Binding arbitration proceedings shall be in accordance with California Code of Civil Procedure Section
1925 1280 et. seq., pursuant to the AAA Commercial Arbitration Rules or the then-current JAMS Streamlined
1926 Arbitration Rules, and the terms of this Section. The provisions of the California Discovery Act shall
1927 apply. The Parties shall determine by mutual agreement whether the AAA or JAMS proceedings are to
1928 be used. Provisions of the California Discovery Act shall apply to the arbitration proceedings. In the
1929 event of any inconsistency, the terms of this Section shall control. The arbitration shall be administered
1930 by JAMS and conducted in the County of Contra Costa. If the proceeding is pursuant to AAA Commercial
1931 Rules, the arbitrator selection process shall apply. If the JAMS rules are employed, and the Parties are
1932 unable to select an arbitrator by mutual agreement, JAMS shall select a qualified arbitrator from its
1933 panel. If JAMS is unwilling or unable to (a) serve as the provider of arbitration or (b) enforce any
1934 provision of this arbitration clause, the Parties may mutually designate another arbitration organization
1935 with similar procedures to serve as the provider of arbitration. If the Parties cannot agree on the
1936 arbitration organization, the Presiding Judge of the Contra Costa County Superior Court shall designate
1937 such an organization upon the petition of either Party.

1938 (1) The arbitrator shall be independent of, and unaffiliated with, each Party and shall not
1939 ever have been an employee of either Party, under contract with either Party in the past five (5) years or
1940 have acted as an arbitrator for such Party within the past five (5) years.

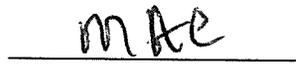
1941 (2) Within twenty (20) days after initiation of the arbitration, if not previously done so
1942 under the terms of this Agreement, the Parties shall simultaneously submit to each other and the
1943 arbitrator their respective best or final offer for the item subject to the valuation dispute, with such
1944 supporting information as is reasonably necessary to support such suggested value. If the two (2)
1945 valuations so submitted differ by less than or equal to ten percent (10%) of the higher of the two (2), the
1946 average of the two (2) shall become the agreed-upon and binding amount for purposes of this
1947 Agreement and the arbitration shall not be continued. If the two (2) valuations differ by more than ten
1948 percent (10%) of the higher of the two (2), then the arbitrator shall make a determination of the
1949 relevant value and submit such determination to both Parties. This third valuation will then be averaged
1950 with the closer of the two (2) previous valuations and the result shall be the relevant value. In no event
1951 shall the arbitrator award, on a *quantum meruit* or other basis, an amount that is greater than any
1952 amount set forth in this Agreement. The final arbitrated value shall be binding on the Parties.

1953 (3) The arbitrator shall have the authority and power to award costs, but not including
1954 attorneys' fees, to the prevailing Party. The American Rule shall apply with respect to attorneys fees,
1955 with each Party to bear its own attorneys fees.

1956 (4) By agreeing to binding arbitration for Arbitration Valuation Items, the Parties irrevocably
1957 and voluntarily waive any right they may have to a trial by jury to the extent permitted by law.

1958 Acknowledgement of waiver of rights to trial by jury if proceeding with binding arbitration pursuant to
1959 Section 8.17.4 of this Agreement:

1960
1961
1962
1963 
1964 Authority


[Contractor]

1965 **8.17.5 Pendency of Dispute**

1966 During the pendency of any dispute under Section 8.17, all applicable time periods directly related to
1967 the dispute shall be tolled until its resolution; provided, however, that no tolling shall apply to any
1968 matters other than those directly related to the dispute and such tolling shall not entitle a Party to
1969 breach, default, or fail to perform its obligations under this Agreement. In addition, the pendency of any
1970 dispute shall not stay or affect the Authority's remedies under this Agreement.

1971 **8.18 Criminal Activity of Contractor**

1972 **8.18.1. Notice of Convictions or Pleas**

1973 The Contractor shall Immediately Notify the Authority upon the occurrence of any Convictions or Pleas
1974 with respect to its management, employees, or representatives and use Reasonable Business Efforts to
1975 Immediately Notify the Authority with respect to Contractor or any of its representatives.

1976 **8.18.2 Contractor Cure**

1977 Upon the occurrence of any Convictions or Pleas, the Contractor shall do or cause to be done both of the
1978 following:

1979 (i) As soon as permitted under Applicable Law, terminate from employment or remove from office
1980 the offending employee who is an individual, or, with respect to a employee that is the Contractor or
1981 an Affiliate, the individual or individuals responsible for the Criminal Activity; and

1982 (ii) Immediately eliminate the participation by that employee who is an individual or, with respect
1983 to an employee that is the Contractor or Affiliate of the individual or individuals responsible for the
1984 Criminal Activity, or in any position of influence.

1985 Should Contractor be unable to terminate the offending employee, said individual(s) shall be replaced in
1986 their capacity as relative to this Agreement.

1987 **8.18.3 Authority Remedies**

1988 Subject to Section 7.1.1, the Authority, at its sole discretion, may terminate the Agreement upon thirty
1989 (30) Calendar Days Notice to the Contractor, or may impose those other sanctions (which may include
1990 financial sanctions, temporary suspensions or any other condition deemed appropriate short of
1991 termination) as it shall deem proper, if the following events are continuing at the end of those thirty (30)
1992 Calendar Days:

1993 (i) the Contractor or any Affiliate fails to comply with its obligations under Section 7.1.1; or,

1994 (ii) Criminal Activity with respect to this Agreement.

1995 (iii) Criminal Activity involving managers and officers directly responsible for the performance of
1996 services under this Agreement.

1997 Contractor must be given the opportunity to present to Authority Contract Manager evidence in
1998 mitigation during the preceding Notice period and Authority must consider that evidence.

1999 **8.18.4 Prohibited Transfers**

2000 The Contractor shall not hire or transfer from any Affiliate any employee, officer or director of an
2001 Affiliate who is the subject of any Criminal Activity as an employee under this Agreement and shall not
2002 allow its Affiliates to do so.

2003 **8.19 Liquidated Damages**

2004 **8.19.1 General**

2005 The Parties acknowledge that Authority incurred considerable time and expense procuring this
2006 Agreement in order to secure an improved level of service quality and increased Authority satisfaction.
2007 Therefore, consistent and reliable Services are of utmost importance to the Authority, Franchise
2008 Agencies, and Customers. Authority has considered and relied on Contractor's representations as to its
2009 quality of service commitment in entering into this Agreement, and Contractor's breach of its Service
2010 obligations referenced in this Section above represents a loss to the Authority. The Parties further
2011 recognize that quantified standards of performance are necessary and appropriate to ensure quality,
2012 consistent and reliable Service, and if Contractor fails to meet Service obligations, Authority shall suffer
2013 damages (including inconvenience, anxiety, frustration, potential political pressure, criticism and
2014 complaint by Generators, lost time for the Authority and the Board of Directors, deprivation of the
2015 benefits of the Agreement and loss of bargain) in subjective ways and in varying degrees of intensity
2016 that are incapable of measurement in precise monetary terms, and that it is and shall be impracticable
2017 and extremely difficult to ascertain and determine the value thereof. In addition, in event of breach or
2018 Contractor Default, urgency of protecting public health and safety may necessitate that Authority enter
2019 into emergency or short term arrangements for Services without competitive procurement at prices
2020 substantially greater than Hereunder, and the monetary loss resulting there from is impossible to
2021 precisely quantify. Lastly, termination of this Agreement for Contractor Default and other remedies
2022 provided hereunder are, at best, a means of future correction and not remedies that make the Authority
2023 whole for past breaches and Contractor Defaults. Therefore, the Parties agree that the liquidated
2024 damages listed in Exhibit 8.19 represent a reasonable estimate of the amount of damages, considering
2025 all of the circumstances existing on the date of this Agreement, including the relationship of the sums to
2026 the range of harm to Authority that reasonably could be anticipated and anticipation that proof of
2027 actual damages would be costly or inconvenient. In signing this Agreement, each Party specifically
2028 confirms the accuracy of the statements made above and the fact that each Party had ample
2029 opportunity to consult with legal counsel and obtain an explanation of this liquidated damage provision
2030 at the time that this Agreement was made.

2031 **8.19.2 Service Performance Standards; Liquidated Damages for Failure to Meet**
2032 **Standards**

2033 Contractor shall pay (as liquidated damages and not as a penalty) the amounts set forth in Exhibit 8.19.
2034 The Authority Contract Manager may determine the occurrence of events giving rise to liquidated
2035 damages through the investigation or observation or investigation of complaints by Customers or any
2036 other party. These performance standards shall consider both effort (e.g., number of meetings with
2037 Customers to offer new programs) and results (e.g., Tons of material Recycled). In addition, these
2038 liquidated damages shall be in addition to any other remedy the Authority and/or Franchise Agencies

2039 may have, which may include, but are not necessarily limited to: a determination of breach of contract,
2040 termination of the agreement, or litigation.

2041 Prior to assessing liquidated damages, Authority Contract Manager shall give Contractor Notice of its
2042 intention to do so. The Notice shall include a brief description of the incident(s) and non-performance.
2043 For events where there is a cure opportunity noted in Exhibit 8.19, Contractor shall have the
2044 opportunity to cure such incident(s) and/or non-performance, consistent with the schedules defined
2045 therein, and, if Contractor does so, no liquidated damages shall be assessed. The Authority Contract
2046 Manager may review (and make copies at its own expense) all information in the possession of
2047 Contractor relating to incident(s) and non-performance. The Contractor may, within ten (10) Calendar
2048 Days after receiving the Notice, request a meeting with Authority Contract Manager. Upon Contractor's
2049 request, the Authority Contract Manager shall present evidence of non-performance. Such evidence
2050 shall be provided in writing and through testimony of its employees and others relevant to the
2051 incident(s) and non-performance. Authority Contract Manager shall provide Contractor with a written
2052 explanation of his or her determination on each incident(s) and non-performance prior to authorizing
2053 the assessment of liquidated damages. Subject to the limits of "material impact" described in Section
2054 8.10, with respect to the cumulative amount of any liquidated damages assessed during the preceding
2055 twelve month period the decision of Authority Contract Manager shall be final and Contractor shall not
2056 be subject to, or required to exhaust, any further administrative remedies.

2057 **8.19.3 Amount**

2058 Authority may assess liquidated damages for each Calendar Day or event, as appropriate, that
2059 Contractor is determined to be liable in accordance with this Agreement in the amounts specified in
2060 Exhibit 8.19, subject to a rule of reason regarding when Contractor should have known or been notified
2061 by the Authority Contract Manager, as appropriate.

2062 **8.19.4 Payment of Liquidated Damages**

2063 Contractor shall pay any liquidated damages assessed by Authority Contract Manager within ten (10)
2064 Calendar Days after they are assessed. If they are not paid within that period, Authority may proceed
2065 against the Performance Surety.

2066 **8.19.5 Administrative Nature of Liquidated Damages**

2067 The assessment of liquidated damages as described in this Section 8.19 shall be an administrative
2068 function within the sole discretion of the Authority Contract Manager and shall not be subject to appeal.
2069 In the event that the liquidated damages assessed by the Authority Contract Manager exceed the
2070 monetary limits of the Authority Contract Manager's administrative discretion, as described in Section
2071 8.10, Contractor may appeal the Authority Contract Manager's decision to the Authority's Board of
2072 Directors and their determination shall be conclusive.

2073 **8.20 Guaranty of Contractor's Performance**

2074 The Guarantor has agreed to guaranty Contractor's performance of this Agreement including
2075 Contractor's Indemnification obligations Hereunder pursuant to a Guaranty Agreement in substantially

2076 the form attached as Exhibit 8.20. The Guaranty Agreement is being provided concurrently with
2077 Contractor's execution of this Agreement.

2078 **8.21 Exercise of Discretionary Actions**

2079 Parties shall exercise any approval, disapproval, consent, option, discretion, election, opinion, judgment,
2080 or choice under this Agreement, make a requirement under this Agreement or interpret this Agreement
2081 ("Discretionary Action") reasonably and in writing. Any mediator or court must find the Party's exercise
2082 to be reasonable. Recognizing the essential public health and safety protections this Agreement serves,
2083 where this Agreement specifically provides that the exercise of any Discretionary Action is in each
2084 respective Party's independent, sole, exclusive, or absolute discretion, control, or judgment, the other
2085 Party shall not question or challenge the other Party's exercise thereof. Parties shall, nevertheless,
2086 exercise their rights and remedies in good faith in accordance with Applicable Law.

2087 Unless otherwise provided in this Agreement, Authority's Discretionary Actions shall be deemed
2088 disapproved or denied, as the case may be, if Authority has not otherwise taken that Discretionary
2089 Action within three (3) weeks of Contractor's request.

2090 **8.22 Jurisdiction, Venue**

2091 To the extent permitted by Applicable Law and subject to choice of venue laws, venue is appropriate in
2092 courts sitting in Contra Costa County, California. For cases adjudicated in Federal Court, the appropriate
2093 venue is the United States District Court for the Northern District of California.

2094 The site of any other hearing or action, whether mediation, arbitration, or non-judicial, of whatever
2095 nature or kind regarding this Agreement, shall be conducted in the County of Contra Costa, California, or
2096 as otherwise mutually agreed upon by the Parties.

2097 **8.23 Costs and Expenses**

2098 Each Party, regardless of the decision of the court, shall pay their own expenses incurred in the process
2099 of adjudication.
2100

2101 **8.24 Golden Bear Franchise Agreement**

2102 Nothing in this Agreement shall or is intended to apply to, supersede or affect the Exclusive Franchise
2103 Agreement Between the City of Richmond and Golden Bear Transfer Services, Inc., dated June 28, 2004
2104 as it may be amended from time to time ("Richmond-Golden Bear Agreement") in any way.
2105 Furthermore, with respect to Contractor's representation and warranty set forth in section 9.1 of this
2106 Agreement, Contractor represents and warrants that its entry into this Agreement is not a breach of the
2107 Richmond-Golden Bear Agreement, so long as all Solid Waste is being directed by the Authority to the
2108 Golden Bear Transfer Station, the Approved Transfer Facility, for handling and transport to other
2109 facilities, including without limitation Newby Island or Keller Canyon Landfill. The Authority agrees that
2110 it shall direct and continue to direct such Solid Waste to the Golden Bear Transfer Station. Such
2111 direction of Solid Waste to Golden Bear Transfer Station is limited only by the provisions set forth in
2112 Sections 4.12 and 8.12.

2113
2114

ARTICLE 9 REPRESENTATIONS AND WARRANTIES OF CONTRACTOR

2115

9.1 Accuracy of Representations

2116 The Contractor has made, and the Authority is relying on the accuracy of, certain representations in its
2117 response to the Authority's requirements regarding its: corporate authorization to enter the Agreement;
2118 ability to do so without causing a breach of any agreement or Violation of any Applicable Law or judicial
2119 decision subject to the provisions in section 8.24; current or pending litigation; regulatory compliance
2120 with regard to the Landfill and Approved Processing Facilities; and, ability to provide the proposed
2121 Services in accordance with the permitted capacity of the Landfill and Approved Processing Facilities.

2122 The Contractor understands that the Authority and Franchise Agencies are relying upon the accuracy of
2123 the Contractor's representations with regard to the legal and regulatory matters described above as well
2124 as with regard to the Contractor's operational plans and costs for implementing the Services described
2125 Herein. would be in default of this Agreement, pursuant to Section 7.1.3, in the event that the Authority
2126 or Contractor were to determine that any material representation made as an inducement to or
2127 explanation of the costs incurred by Contractor under this Agreement was inaccurate.

2128

9.2 Representations and Warranties Regarding Negotiation of Agreement

2129 This Agreement contains all material and required terms to be effective and there shall be no conditions
2130 precedent, conditions subsequent, or other conditions or qualifications required or imposed by the
2131 Authority or any Franchise Agency, including without limitation, any other or different amendments or
2132 modifications to Franchise Agency Collection Franchise Agreements for purposes of that Franchise
2133 Agency's approval and execution of the Agreement.

2134 **A. Status.** Contractor is a corporation duly organized, validly existing and in good standing under the
2135 laws of California and is qualified to do business in the State.

2136 **B. Authority and Authorization.** The Contractor has full legal right, power and authority to execute and
2137 deliver this Agreement and perform its obligations under this Agreement. This Agreement has been
2138 duly executed and delivered by the Contractor and constitutes a legal, valid and binding obligation of
2139 the Contractor enforceable against the Contractor in accordance with its terms.

2140 **C. Statements and Information.** That portion of the Contractor's Proposal compiled, drafted, made or
2141 otherwise delivered by the Contractor, Subcontractors and Affiliates is correct and complete in all
2142 material respects at the time originally submitted by Contractor to the Authority.

2143 **D. No Conflicts.** Neither the execution or delivery by the Contractor of this Agreement, the
2144 performance by the Contractor of its Service obligations, nor the fulfillment by the Contractor of the
2145 terms and conditions of this Agreement: (1) conflicts with, violates or results in a breach of any
2146 Applicable Law; or (2) conflicts with, violates or results in a breach of any term or condition of any
2147 judgment, order or decree of any court, administrative agency or other governmental authority. or any

2148 agreement or instrument to which the Contractor or any of its Affiliates is a Party or by which the
2149 Contractor or any of its Affiliates' properties or assets are bound, or constitutes a default thereunder.

2150 **E. No Approvals Required.** No approval, authorization, license, permit, order or consent of, or
2151 declaration, registration or filing with any governmental or administrative authority, commission, board,
2152 agency or instrumentality is required for the valid execution and delivery of this Agreement by the
2153 Contractor, except those as have been duly obtained from its Board of Directors.

2154 **F. No Litigation.** As of January 1, 2014 there is no action, suit, proceeding or investigation, at law or in
2155 equity, before or by any court or governmental authority, commission, board, agency or instrumentality
2156 pending or, to the best of the Contractor's knowledge, threatened, against the Contractor wherein an
2157 unfavorable decision, ruling or finding, in any single case or in the aggregate, would materially adversely
2158 affect the performance by the Contractor of its obligations under this Agreement or in connection with
2159 the transactions contemplated by this Agreement, or which, in any way, would adversely affect the
2160 validity or enforce ability of this Agreement or any other agreement or instrument entered into by the
2161 Contractor in connection with the transactions contemplated by this Agreement.

2162 **G. Due Diligence.** Contractor has made an independent investigation, examination and research
2163 satisfactory to it of the conditions and circumstances surrounding the Agreement and best and proper
2164 method of providing Services (including Service types) and labor, equipment and materials for the
2165 volume of Services to be provided. Contractor agrees that it shall make no claim against the Authority
2166 based on any estimates, statements or interpretations made by any officer, employee, agent or
2167 consultant of the Authority in connection with the procurement of this Agreement which proves to be in
2168 any respect erroneous.

2169 **H. Compliance with Applicable Law.** Contractor further represents and warrants that it has fully
2170 complied with all Applicable Law, including without limitation law relating to conflicts of interest, in the
2171 course of procuring this Agreement.

2172 **I. Ability to Perform.** Contractor warrants that it possesses the business, professional and technical
2173 capabilities to provide Services; has secured and maintains in full force and effect Permits; and
2174 possesses the equipment, facility and employee resources required to fully and timely perform Services.

2175 **J. Capacity.** Contractor warrants that as of January 1, 2014 it has capacity at the Landfill and the
2176 Approved Processing Facilities to perform the services required under this Agreement throughout the
2177 Term and that it shall maintain that capacity through the Term.

2178

2179
2180

ARTICLE 10 MISCELLANEOUS PROVISIONS

2181 **10.1 Exhibits**

2182 If any provisions contained in the text of Articles 1 through 10 are inconsistent or conflict with any
2183 Exhibits to this Agreement, then the provisions of the text shall govern.

2184 **10.2 Section Headings**

2185 Any captions or headings following the Exhibit, Section, subsection, paragraph and Article numbers and
2186 preceding the operative text of this Agreement is for convenience of reference only and do not control
2187 or affect the scope, intent, meaning, construction, interpretation, or effect of this Agreement.

2188 **10.3 Interpretation and Construction**

2189 **10.3.1 Drafting**

2190 This Agreement must be interpreted and construed reasonably and neither for nor against either Party,
2191 regardless of the degree to which either Party participated in its drafting. Contractor acknowledges that
2192 it determined to participate in the procurement of this Agreement upon its own choice and initiative
2193 and during the course of that procurement Authority solicited Contractor's comments, exceptions and
2194 proposals with respect to provisions in the Agreement. The Parties have negotiated this Agreement at
2195 arms length and with advice of their respective attorneys, and no provision Herein is construed against
2196 the Authority solely because it prepared this Agreement in its executed form.

2197 **10.3.2 Gender and Plurality**

2198 Words of the masculine gender include correlative words of the feminine and neuter genders, and vice
2199 versa. Words importing the singular number mean and include the plural number, and vice versa,
2200 unless the context demands otherwise.

2201 **10.3.3 Font**

2202 Any underlined, italicized, bold-faced, upper captioned or other font style are for ease of reading and
2203 contract administration only and do not imply relative importance or unimportance of any provision of
2204 this Agreement.

2205 **10.3.4 References to Parts**

2206 References to Sections and Articles refer to Sections and Articles of this Agreement, unless specified
2207 otherwise. References to Exhibits refer to Exhibits attached to this Agreement. Reference to
2208 "subsections" refers to the subsection contained in the same Section in which the reference occurs,
2209 unless otherwise provided.

2210 **10.3.5 Examples**

2211 Examples are for purpose of illustration only. If any example is ambiguous or is inconsistent or conflicts
2212 with the text that it illustrates, the text governs.

2213 **10.3.6 Specifics No Limitation on Generalities**

2214 The mention of any specific duty or liability imposed upon the Contractor may not be construed as a
2215 limitation or restriction of any general liability or duty imposed upon the Contractor by this Agreement
2216 or Applicable Law.

2217 **10.4 Amendment**

2218 The Parties may change, modify, supplement, or amend this Agreement only upon written agreement
2219 duly authorized and executed by both Parties. However, wherever reports, forms, or other documents
2220 are attached to this Agreement in substantially the form provided in the Exhibits, the Authority
2221 Representative and Contractor Representative may edit and revise them upon their agreement or
2222 otherwise provided in the related sections of this Agreement, evidenced in writing *unless* this
2223 Agreement or Applicable Law specifically requires approval of the Authority Board of Directors pursuant
2224 to resolution or otherwise.

2225 **10.5 Severability**

2226 If any clause, sentence, provision, subsection, Section, or Article of this Agreement or Exhibit to this
2227 Agreement (an Agreement Provision) is ruled unconstitutional, illegal, invalid, non-binding, or
2228 unenforceable by any court of competent jurisdiction, then the Parties shall:

2229 (1) Promptly meet and negotiate a substitute for those Agreement Provisions and any related
2230 amendments, deletions, or additions to other provisions of this Agreement, which together effect the
2231 Parties' original intent to the greatest extent allowable under Applicable Law; and,

2232 (2) If necessary or desirable to accomplish preceding item (1), apply to the court that made that
2233 ruling for a judicial construction of the substituted Agreement Provision and any amendments,
2234 deletions, or additions to this Agreement. Contractor shall pay Authority half of the Direct Costs of
2235 that application within twenty (20) Calendar Days of Authority's request if Contractor or a third Person
2236 other than the Authority instituted proceedings resulting in the ruling.

2237 The unconstitutionality, illegality, invalidity, non-binding nature, or unenforceability of any Agreement
2238 Provision shall not affect any of the remaining provisions of this Agreement. This Agreement shall be
2239 construed and enforced as if that Agreement Provision did not exist.

2240 **10.6 Costs of Enforcing Agreement**

2241 Contractor shall pay to the Authority the Authority's Costs, including attorneys' fees, reasonably
2242 incurred by or on behalf of the Authority enforcing payment or performance of Contractor's obligations
2243 under this Agreement if non-payment or non-performance results in a Contractor Default.

2244 **10.7 Authority**

2245 Authority warrants that the officers listed below have been duly authorized by the Authority to execute
2246 this Agreement on behalf of the Authority. Contractor warrants that the individuals listed below have
2247 been duly authorized by the Contractor to execute this Agreement on behalf of the Contractor.

2248 The Authority and Member Agencies represent and warrant that the Authority and Member Agency
2249 negotiating team consisting of representatives from the Cities of Richmond, Pinole, Hercules and San
2250 Pablo, and the Authority Executive Director each and collectively have the full right and authority from
2251 the Authority Board or the Member Agencies' city councils, as the case may be, to negotiate fully and in
2252 good faith a mutually acceptable Agreement.

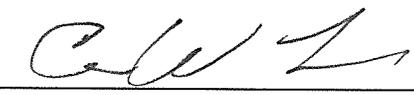
2253 **10.8 Counterparts**

2254 This Agreement may be executed in any number of counterparts, some of which may not bear the
2255 signatures of all Parties to this Agreement. Each counterpart, when so executed and delivered, is
2256 deemed to be an original and all counterparts, taken together, shall constitute one and the same
2257 instrument; *provided, however*, that in pleading or proving this Agreement, it shall not be necessary to
2258 produce more than one (1) copy (or sets of copies) bearing the signature of the Contractor or Authority.

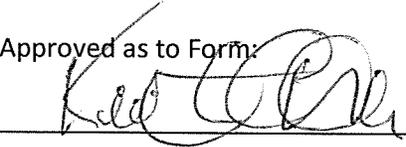
2259 IN WITNESS WHEREOF, the Parties have caused the Agreement to be executed as of the latter of the
2260 date written below.

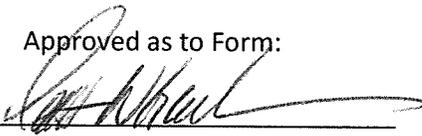
2261 **West Contra Costa**
2262 **Integrated Waste Management Authority**

Contractor

2263
2264 By: 
2265 Executive Director

By: 
Area President

2266 Approved as to Form:
2267 
2268 Attorney

Approved as to Form:

Contractor Legal Counsel

2270 Attest:
2271 
2272 Authority Clerk

EXHIBIT 1 DEFINITIONS

2273
2274

2275 For purposes of this Agreement, unless a different meaning is clearly required, the following words and
2276 phrases shall have the following meanings respectively ascribed to them by this Exhibit and shall be
2277 capitalized throughout this Agreement:

2278 **“Act”** means the California Integrated Waste Management Act of 1989 set forth in PRC Section 40000,
2279 *et seq.*

2280 **“Actions”** means all actions including claims, demands, causes of action, suits, mediation, arbitration,
2281 hearings, investigations, inquiries and proceedings, whether legal, judicial, quasi-judicial, governmental
2282 or administrative in nature and whether threatened, brought, instituted or settled.

2283 **“Affiliate”** means all businesses (including corporations, limited and general partnerships, and sole
2284 proprietorships) which are directly or indirectly related to Contractor by virtue of direct or indirect
2285 Ownership interests or common management shall be deemed to be “Affiliated with” Contractor and
2286 included within the term “Affiliates” as used Herein. An Affiliate shall include a business in which
2287 Contractor Owns a direct or indirect Ownership interest, a business which has a direct or indirect
2288 Ownership interest in Contractor and/or a business which is also Owned, controlled, or managed by any
2289 business or individual which has a direct or indirect Ownership interest in Contractor. For purposes of
2290 determining whether an indirect Ownership interest exists, the constructive Ownership provisions of
2291 Section 318(a) of the Internal Revenue code of 1986, as in effect on the date of this Agreement, shall
2292 apply; provided, however, the (i) “ten percent (10%)” shall be substituted for “fifty percent (50%)” in
2293 Section 318(a)(2)(C) and in Section 318(a)(3)(C) thereof; and (ii) Section 318(a)(5)(C) shall be
2294 disregarded. For purposes of determining Ownership under this paragraph and constructive or indirect
2295 Ownership under Section 318(a), Ownership interest of less than ten percent (10%) shall be disregarded
2296 and percentage interests shall be determined on the basis of the percentage of voting interest or value
2297 which the Ownership interest represents, whichever is greater.

2298 **“Authority Contract Manager”** means the Authority’s Executive Director or his/her designee who is
2299 responsible for the administrative management of this Agreement.

2300 **“Agreement”** means this Agreement between the Authority and Contractor, including all exhibits,
2301 schedules and attachments, which are incorporated in this Agreement by reference, as this Agreement
2302 may be amended and supplemented.

2303 **“Alternative Daily Cover (ADC)”** means cover material used to cover compacted Solid Wastes in a
2304 landfill, other than Organic Materials and other than at least six (6) inches of earthen material, placed on
2305 the surface of the active face of the refuse fill area at the end of each operating day to control vectors,
2306 fires, odors, blowing litter, and scavenging, as defined in Section 20164 of the California Code of
2307 Regulations as may be amended from time to time.

2308 **“Applicable Law”** means all laws, statutes, rules, regulations, guidelines, Permit conditions, Permits,
2309 Actions, determinations, orders, approvals or requirements of the United States, State, regional or local
2310 government authorities, agencies, boards, commissions, courts or other bodies having applicable
2311 jurisdiction, that from time to time apply to or govern Services or the performance of the Parties'
2312 respective obligations under this Agreement, *including* any of the foregoing which concern health,
2313 safety, fire, environmental protection, labor relations, mitigation conditions and monitoring plans in
2314 accordance with environmental impact statements, conditional use permits; building codes, zoning,
2315 non-discrimination; and the Transfer or Disposition of Solid Waste, Organic Materials, and Recyclable
2316 Materials, and including but not limited to:

2317 (1) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, (42 U.S.C.
2318 Section 9601 *et seq.*);

2319 (2) the Resource Conservation and Recovery Act, (42 U.S.C. Section 6901 *et seq.*);

2320 (3) the Clean Air Act, (42 U.S.C. Section 7401 *et seq.*); and the California Clean Air Act (Health and
2321 Safety Code Sections 39000 *et seq.*);

2322 (4) the Emergency Planning and Community Right to Know Act, (42 U.S.C. Section 11001 *et seq.*)

2323 (5) the Occupational Safety and Health Act, (29 U.S.C. Section 651 *et seq.*), including the Solid
2324 Waste Disposal Facility Criteria promulgated by the U.S. EPA on October 9, 1991 (40 C.F.R., Parts
2325 257 and 258); and the California Occupational Safety and Health Act (California Labor Code,
2326 Division 5, Parts 1-10, Section 6300 *et seq.*);

2327 (6) the California Hazardous Waste Control Act, (California Health & Safety Code, Section 25100 *et*
2328 *seq.*);

2329 (7) California Hazardous Materials Release Response Plan and Inventory Act (California Health &
2330 Safety Code Section 25500 *et seq.*);

2331 (8) the Carpenter-Presley-Tanner Hazardous Substance Account Act, (California Health & Safety
2332 Code Section 25300 *et seq.*);

2333 (9) California Underground Storage Tank Act, (California Health & Safety Code, Section 25280 *et*
2334 *seq.*);

2335 (10) the Clean Water Act (33 U.S.C. Section 1251 *et seq.*) and the Porter-Cologne Water Quality
2336 Control Act, (California Water Code Section 13000 *et seq.*);

2337 (11) the Safe Drinking Water and Toxic Enforcement Act “Proposition 65” , (California Health and
2338 Safety Code Section 25249.5 *et seq.*);

2339

- 2340 (12) California Public Resources Code Sections 45300-04, 45700, California Health & Safety Code
2341 Sections 40511, 41805.5, and 42311.5, and California Water Code Section 13273);
- 2342 (13) Title 14 California Code of Regulations;
- 2343 (14) Title 22 California Code of Regulations;
- 2344 (15) Title 23 California Code of Regulations, Chapter 15, Sections 2510-2610; and
- 2345 (16) Title 27 California Code of Regulation.
- 2346 Any other government required rules, laws, statutes, regulations, guidelines, or policies which are
2347 imposed upon Contractor and not discretionary, governing the provision of the Services outlined within
2348 this Agreement.
- 2349 **“Approved Construction and Demolition Processing Facility”** means the West Contra Costa Sanitary
2350 Landfill Organic Materials Processing Facility located at 1 Parr Blvd. in Richmond, California, which was
2351 selected by the Contractor and approved by the Authority as the site for the performance of services
2352 under Section 4.1.6 of this Agreement. Change in facility designation for the performance of such
2353 services shall require written authorization of the Authority Contract Manager.
- 2354 **“Approved Dry Materials Processing Facility”** means either the Newby Island Resource Recovery Park
2355 located at 1601 Dixon Landing Road in Milpitas California or the West County Resource Recovery Facility
2356 located at 101 Pittsburg Ave, Richmond, California, which were selected by the Contractor and approved
2357 by the Authority as the sites for the performance of services under Section 4.1.4 of this Agreement.
2358 Change in facility designation for the performance of such services shall require written authorization of
2359 the Authority Contract Manager.
- 2360 **“Approved Household Hazardous Waste (HHW) Facility”** means the West County HHW Collection
2361 Facility at 101 Pittsburg Avenue in North Richmond, California which is used by the Contractor as the site
2362 for accepting and managing household hazardous waste from residents and conditionally exempt small
2363 quantity generators within the Authority’s service area as well as the surrounding unincorporated
2364 communities of Crockett, Kensington, Port Cost and Tormey pursuant to the terms of an agreement
2365 between the Authority, Contractor and the County.
- 2366 **“Approved Organic Materials Processing Facility”** means the West Contra Costa Sanitary Landfill
2367 Organic Materials Processing Facility located at 1 Parr Blvd, Richmond, California, which was selected by
2368 the Contractor and approved by the Authority as the site for the performance of services under Section
2369 4.1.5 of this Agreement. Change in facility designation for the performance of such services shall require
2370 written authorization of the Authority Contract Manager.
- 2371 **“Approved Processing Facility(ies)”** means the Approved Organic Materials Processing Facility,
2372 Approved Construction and Demolition Processing Facility, Approved Transfer Station, and/or the
2373 Approved Recyclable Materials Processing Facility.

2374 **“Approved Recyclable Materials Processing Facility”** means West County Resource Recovery Facility
2375 located at 101 Pittsburg Ave, Richmond, California or the Newby Island Resource Recovery Park located
2376 at 1601 Dixon Landing Road in Milpitas, CA which were selected by the Contractor and approved by the
2377 Authority as the locations for the performance of services under Section 4.1.3 of this Agreement.
2378 Change in facility designation for the performance of such services shall require written authorization of
2379 the Authority Contract Manager.

2380 **“Approved Transfer Station”** means the Golden Bear Transfer Station owned by the Contractor and
2381 located 1 Parr Blvd, in Richmond California, which was selected by the Contractor and approved by the
2382 Authority as the site for the performance of services under Section 4.1.1 of this Agreement.

2383 **“Assign or Assignment”** means:

2384 (i) selling, exchanging or otherwise transferring effective control of management of the Contractor
2385 (through sale, exchange or other transfer of outstanding stock or otherwise);

2386 (ii) issuing new stock or selling, exchanging or otherwise transferring 20% or more of the then
2387 outstanding common stock of the Contractor;

2388 (iii) any dissolution, reorganization, consolidation, merger, re-capitalization, stock issuance or re-
2389 issuance, voting trust, pooling agreement, escrow arrangement, liquidation or other transaction
2390 which results in a change of Ownership or control of Contractor;

2391 (iv) any Assignment by operation of law, including insolvency or bankruptcy, making Assignment for
2392 the benefit of creditors, writ of attachment of an execution, being levied against Contractor,
2393 appointment of a receiver taking possession of any of Contractor’s tangible or intangible
2394 property;

2395 (v) any combination of the foregoing (whether or not in related or contemporaneous transactions)
2396 which has the effect of any that transfer or change of Ownership or control of Contractor.

2397 **“Authority”** means the West Contra Costa Integrated Waste Management Authority, its Board of
2398 Directors, staff, and/or agents.

2399 **“Calendar Year”** means a successive period of twelve (12) months commencing on January 1 and ending
2400 on December 31.

2401 **“CCR”** means California Code of Regulations.

2402 **“Change in Law”** means the occurrence of any event or change in Applicable Law as follows:

2403 (1) the adoption, promulgation, repeal, modification, amendment or other change in Applicable Law
2404 or change in judicial or administrative interpretation thereof occurring after January 1, 2014, *other*
2405 *than* laws with respect to taxes based on or measured by net income, or any unincorporated
2406 business, payroll, franchise taxes levied by any tax board (other than franchise fees levied by the
2407 Authority) or employment taxes; or

2408 (2) any order or judgment of any federal, State or local court, administrative agency or governmental
2409 body issued after January 1, 2014 and the order or judgment is not also the result of the willful
2410 misconduct or negligent action or inaction of the Party relying thereon or of any third party for
2411 whom the Party relying thereon is directly responsible; or

2412 (3) the imposition by a governmental authority or agency of any new or different material conditions
2413 in connection with the issuance, renewal, update or modification of any Permit after the date of
2414 this Agreement; or

2415 (4) the failure of a governmental authority or agency to issue or renew, or delay in the issuance or
2416 renewal of, or the suspension, interruption or termination of, any Permit after the date of this
2417 Agreement; *provided* the failure to issue or the suspension or termination of any Permit is not the
2418 result of negligent action or inaction of the Party relying thereon or any third party for whom the
2419 Party relying thereon is directly responsible.

2420 **“Closure”** means closure of the Landfill or portions of the Landfill in accordance with Applicable Law,
2421 including all planning, design, regulatory approvals, plan implementation, construction and monitoring.

2422 **“Collection Franchise Agreement(s)”** refers to the franchise agreements between the Franchise
2423 Agencies and their Franchised Collector, either individually or collectively.

2424 **“Commercial”** shall mean of, from or pertaining to non-Residential premises where business activity is
2425 conducted, including, but not limited to, retail sales, services, wholesale operations, manufacturing, and
2426 industrial operations, but excluding businesses conducted upon Residential property which are
2427 permitted under applicable zoning regulations and are not the primary use of the property.

2428 **“Compost”** means a controlled biological decomposition of organic materials that are Source Separated
2429 from the municipal Solid Waste stream, or which are separated at a centralized facility.

2430 **“Compostable Food Ware”** means a subset of Organic Material, Compostable Food Ware is a product
2431 capable of Composting as of the Effective Date and labeled in accordance with California law, or is
2432 consistent with the timeline and specifications of ASTM D6400 and D6868, without regard to material
2433 type. The Parties’ intention is to maximize composting of such materials; as new commodities become
2434 available, and as long as materials are compostable in a commercially feasible and reasonable manner,
2435 they will be considered to be Organic Material.

2436 **“Compost Product”** means the product resulting from Composting, the controlled biological
2437 decomposition of organic materials, that are source separated from the municipal solid waste stream, or
2438 which are separated at a centralized facility.

2439 **“Contractor”** means West County Resource Recovery, Inc., West Contra Costa Sanitary Landfill, Inc.,
2440 Golden Bear Transfer Services, Inc., Richmond Sanitary Service, Inc. and Keller Canyon Landfill Company,
2441 Inc. organized and operating under the laws of the State of California. For purposes of Indemnities,
2442 Contractor shall include Contractor’s employees, officers, agents, subcontractors and consultants
2443 performing or responsible for performing Services; provided that only signatory Contractors,

2444 corporations, are obligated to provide Indemnities and its employees, officers, agents, subcontractors,
2445 and consultants shall not be liable therefore as individuals.

2446 **“Contractor Default”** has the meaning provided in Section 7.1.

2447 **“Construction and Demolition (C&D) Materials”** includes but is not limited to concrete, cinder blocks,
2448 brick, mortar, wood, glass and other material removed and discarded during the alteration, renovation,
2449 remodeling, repair, construction or demolition of pavements, houses, commercial buildings or
2450 structures which can be separated from Solid Waste for the purpose of reuse, Processing or re-
2451 manufacture.

2452 **“Conviction”** means a Plea, criminal Conviction, permanent mandatory or prohibitory injunction, or a
2453 final judgment or order from a court or regulatory agency of competent jurisdiction with respect to
2454 Criminal Activity.

2455 **“Criminal Activity”** means, but is not limited to:

2456 (1) any criminal offense in connection with obtaining, attempting to obtain, procuring or performing a
2457 public or private agreement related to Solid Waste, Organic Materials, or Recyclable Materials
2458 Services of any kind (including collection, hauling, Transfer, Processing, Composting, or Disposal),
2459 including this Agreement; or

2460 (2) bribery or attempting to bribe a public officer or employee of a local, State, or federal agency; or

2461 (3) fraud, embezzlement, extortion, racketeering, false claims, false statements, forgery, falsification
2462 or destruction of Records, obstruction of justice, knowingly receiving stolen property, theft, or
2463 misprision (failure to disclose) of a felony; or

2464 (4) unlawful Disposal of Hazardous or Designated Waste; or

2465 (5) Violation of antitrust laws, including laws relating to price-fixing, bid-rigging and sales and market
2466 allocation, and of unfair and anti-competitive trade practice laws, including with respect to
2467 inflation of waste collection, hauling or Disposal fees.

2468 **“Day”** means calendar day.

2469 **“Designated Waste”** means non-Hazardous Material which may pose special Disposal problems because
2470 of its potential to contaminate the environment and which may be Disposed of only in Class II Disposal
2471 sites, or Class III Disposal sites pursuant to a variance issued by the California Department of Health
2472 Services or pursuant to applicable Permits. Designated Waste consists of those substances classified as
2473 Designated Waste by the State, in CCR Title 23, Section 2522.

2474 **“Direct Costs”** means the sum of:

2475 (1) payroll costs directly related to the Contractor’s performance, or supervision of any obligation
2476 pursuant to the provisions of this Agreement, or Authority’s administration and enforcement of

- 2477 this Agreement, comprised of compensation and fringe benefits, including vacation, sick leave,
2478 holidays, retirement, workers compensation insurance, federal and State unemployment taxes
2479 and all medical and health insurance benefits, plus
- 2480 (2) the costs of materials, Services, direct rental costs and supplies, plus
- 2481 (3) the reasonable costs of any payments to subcontractors necessary to and in connection with the
2482 performance under or administration and enforcement of this Agreement; plus
- 2483 (4) any other cost or expense which is directly or normally associated with the task performed.
- 2484 Such Direct Costs are to be substantiated by (i) a certificate signed by the principal financial officer of
2485 the Contractor or the authorized representative of the Authority or his or her designee, as the case may
2486 be, setting forth the amount of the cost and the reason why the cost is properly chargeable to the
2487 Authority or the Contractor, as the case may be, and representing that the cost is an arm's length and
2488 competitive price, if there are competitive prices, for Service or materials supplied; and (ii) if the
2489 Authority or the Contractor requests, as the case may be, additional back-up documentation as may be
2490 available to reasonably substantiate any Direct Cost, including invoices from suppliers and
2491 subcontractors. Direct Costs excludes Non-Allowable Costs.
- 2492 **"Disposal or Dispose** (or other variation thereof)" means the final Disposition of Solid Waste in
2493 accordance with this Agreement at the Landfill.
- 2494 **"Diversion or Divert"** means to Divert from landfill Disposal or transformation through source reduction,
2495 reuse, Recycling, Composting, or other means within the meaning of the Public Resources Code Section
2496 41780.
- 2497 **"Diversion Goal Meeting"** means a triennial meeting, described in Section 4.21 of this Agreement,
2498 between the Authority and Contractor, where the parties assess the progress towards achieving a
2499 seventy five percent (75%) Diversion goal by 2020. Nothing in this definition is to be interpreted as a
2500 75 % diversion guarantee.
- 2501 **"Dry Material"** means discarded material which is placed for Collection by the Generator as Solid Waste,
2502 but is Collected separately from other Generator's Solid Waste by a Franchised Collector for the purpose
2503 of Diversion. This material is generally characterized as having a large amount of Recoverable paper,
2504 cardboard, and plastic and having fifteen percent (15%) or less by weight of Organic Materials.
- 2505 **"Food Scraps"** means materials that shall decompose and/or putrefy including: (i) all kitchen and table
2506 food waste; (ii) animal or vegetable waste that is generated during or results from the storage,
2507 preparation, cooking or handling of food stuffs; (iii) discarded paper that is contaminated with Food
2508 Scraps; (iv) fruit waste, grain waste, dairy waste, meat, and fish waste; and, (v) non-Recyclable paper or
2509 contaminated paper. Food Scraps are a subset of Organic Materials.
- 2510 **"Franchise Agency(ies) or Franchising Agencies"** means the County of Contra Costa and the cities of
2511 Hercules, Pinole, Richmond and San Pablo, collectively.

2512

2513 **"Franchised Collector"** means the company given the exclusive or limited right, by a Franchise Agency,
2514 to Collect Solid Waste, Organic Materials, and/or Recyclable Materials within the physical jurisdiction of
2515 that agency.

2516 **"Generator"** means any Person whose act or process produces Solid Waste or Unpermitted Waste or
2517 other material that becomes part of the overall waste stream.

2518 **"Goods or Services"** means subcontracted Goods or Services used in providing Services, specifically
2519 labor, equipment, and supplies related to furnishing Services.

2520 **"Governmental Fees"** are federal, state or local fees or general or special taxes, including a business
2521 license tax, imposed on Solid Waste management and handling facilities, including the Landfill and any
2522 and all Approved Processing Facilities pursuant to this Agreement. Governmental Fees do not include
2523 any costs imposed upon or incurred by the Landfill or Approved Processing Facility(ies) in connection
2524 with a governmentally required repair, remediation and improvement of the subject facility, except to
2525 the extent that such requirement is the result of a Change in Law under this Agreement.

2526 **"Gross Receipts"** shall mean total cash receipts collected from Customers by the Contractor for the
2527 provision of Services pursuant to this Agreement, without any deductions. Gross Receipts do not include
2528 revenues from the sale of Recyclable Materials.

2529 **"Guarantor"** means Republic Services, Inc.

2530 **"Guaranty Agreement"** is the agreement in substantially the form attached as Exhibit 8.21 executed by
2531 the Guarantor.

2532 **"Hazardous Materials or Hazardous Waste"** are materials that by reason of their quality, concentration,
2533 composition or physical, chemical or infectious characteristics may cause or significantly contribute to
2534 an increase in mortality or an increase in serious illness or pose a substantial threat or potential hazard
2535 to human health or the environment when improperly treated, stored, Transported or Disposed of or
2536 otherwise mismanaged; or any waste which is defined and/or regulated as a Hazardous Waste, toxic
2537 waste, hazardous chemical substance or mixture, or asbestos under Applicable Law, and:

2538 (1) "Hazardous Waste" pursuant to Section 40141 of the California Public Resources Code; regulated
2539 under Chapter 7.6 (commencing with Section 25800) of Division 20 of the California Health and
2540 Safety Code; all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely
2541 Hazardous Waste by Sections 25110.02, 25115, and 25117 of the California Health and Safety
2542 Code (the California Hazardous Waste Control Act), California Health and Safety Code Section
2543 25100 *et seq.*, including 23 CCR Sections 2521 and 2522;

2544 (2) materials regulated under the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 *et*
2545 *seq.*, as amended (including amendments thereto made by the Solid Waste Disposal Act
2546 Amendments of 1980),

- 2547 (3) materials regulated under the Toxic Substance Control Act, 15 U.S.C. Section 2601 et seq., as
2548 amended, and related federal, State and local laws and regulations, including the California Toxic
2549 Substances Account Act, California Health and Safety Code Section 25300 et seq.;
- 2550 (4) materials regulated under the Comprehensive Environmental Response, Compensation and
2551 Liability Act, 42 U.S.C. 9601, et seq.;
- 2552 (5) materials regulated under any future additional or substitute federal, State or local laws and
2553 regulations pertaining to the identification, Transportation, treatment, storage or Disposal of toxic
2554 substances or Hazardous Waste; and
- 2555 (6) Any substance the presence of which at the Landfill is prohibited by Applicable Law.
- 2556 If two (2) or more governmental agencies having concurrent or overlapping jurisdiction over Hazardous
2557 Waste adopt conflicting definitions of "Hazardous Waste", for purposes of collection, Transportation,
2558 Processing and/or Disposal, the broader, more restrictive definition is employed for purposes of this
2559 Agreement.
- 2560 "**Holidays**" are defined as New Year's Day, Martin Luther King Holiday, President's Holiday, Easter
2561 Sunday, Memorial Day, Fourth of July, Labor Day, Columbus Day, Thanksgiving Day, and Christmas Day.
- 2562 "**Household Hazardous Waste**" means any Hazardous Waste generated incidental to owning or
2563 maintaining a place of residence, excluding any Hazardous Waste generated in the course of operation
2564 of a business concern at a residence, in accordance with Section 25218.1 of the California Health and
2565 Safety Code.
- 2566 "**Immediate or Immediately**" means within twelve (12) hours.
- 2567 "**Indemnities or Indemnification**" means all defense and Indemnities under this Agreement.
- 2568 "**Landfill**" means Keller Canyon Landfill which is owned and operated by Contractor and located in
2569 Contra Costa County at 901 Bailey Road, Pittsburg, CA.
- 2570 "**Liabilities**" means all Liabilities, including:
- 2571 (1) Actions;
- 2572 (2) Awards, judgments and damages, both: (i) actual damages, whether special and consequential, in
2573 contract or in tort, such as natural resource damages, damage for injury to or death of any Person;
2574 and damage to property; and (ii) punitive damages;
- 2575 (3) Contribution or indemnity claimed by Persons other than the Parties;
- 2576 (4) Injuries, losses, debts, liens, Liabilities;
- 2577 (5) Costs, such as response remediation and removal costs;

- 2578 (6) Interest;
- 2579 (7) Fines, charges, penalties, forfeitures; and
- 2580 (8) Expenses such as attorney's and expert witness fees, expenditures for investigation and
2581 remediation, and costs incurred in connection with defending against any of the foregoing or in
2582 enforcing Indemnities.

2583 **"Medical Waste"** means those waste materials that have disease transmission potential and are
2584 classified as Hazardous Wastes by the State Department of Health Services, including pathological and
2585 surgical wastes, medical clinic wastes, wastes from biological laboratories, syringes, needles, blades,
2586 tubing, bottles, drugs, patient care items that as linen or personal or food service items from
2587 contaminated areas, chemicals, personal hygiene wastes, and carcasses used for medical purposes or
2588 with known infectious diseases, where "Infectious Waste" means biomedical waste generated at
2589 hospitals, public or private medical clinics, dental offices, research laboratories, pharmaceutical
2590 industries, blood banks, mortuaries, veterinary facilities and other similar establishments that are
2591 identified in the California Health and Safety Code Section 25117.5;

2592 **"Member Agencies"** means the cities of El Cerrito, Hercules, Pinole, Richmond and San Pablo,
2593 collectively. The City of El Cerrito is a Member Agency as defined in the Authority's Joint Powers
2594 Agreement, however is not covered by or included in this Agreement.

2595 **"Niche Service(s)"** means performance of additional post-collection materials Recovery services or
2596 activities that are:

2597 (1) Specific recovery methods or programs;

2598 (2) Solely targeting Recovery of certain materials within the municipal waste stream (e.g., mattress
2599 recovery); or,

2600 (3) that individually and in the aggregate of all Niche Services requested represent less than the
2601 percentages in the associated time line of the total waste stream Tons delivered by the Franchise
2602 Collector(s) as follows:

2603 i) For calendar years 2015 through 2017 the maximum percentage shall be two and one half
2604 percent (2.5%); and,

2605 ii) For calendar years 2018 through the remaining Term of this Agreement, including any
2606 extensions, the maximum percentage shall be five percent (5%).

2607 "Niche Services" does not include, without limitation, processes and methodologies that are designed to
2608 capture and process all or significant portions of the post-collection municipal solid waste stream,
2609 including use of waste material as feedstock for waste conversion or destruction technologies such as
2610 autoclaving or plasma arc gasification. Niche Services are limited to the post-collection waste stream
611 materials and do not conflict with Franchise Collection Agreements.

2612 **“Non-Allowable Costs”** include the following:

2613 (1) fines, penalties, assessments and other amounts paid for Violations or noncompliance with
2614 Applicable Law or in settlement of claims or allegations of noncompliance with Applicable Law;

2615 (2) any costs of indemnifications, including Indemnification, Liabilities, or any mediation, arbitration
2616 or judicial proceeding, whether formal or informal;

2617 (3) any contributions or donations to any Person (including charitable, non-profit, service or other
2618 community groups, and elected officials), including cash, property and services in kind;

2619 (4) lobbying costs, whether cash, property or services in kind, such as:

2620 -costs incurred in any direct or indirect attempt to influence the outcome of any federal, State
2621 or local election, referendum, initiative or similar process by citizen electorate or vote upon
2622 resolutions, ordinances or other action items by elected officials (including members of the
2623 Authority Board of Directors, city council, or a county board of supervisors), through cash
2624 contributions, endorsements, publicity or other action;

2625 -establishing, administering, contributing to, or paying the expense of a candidate, political
2626 party, campaign, political action committee, or other Person or organization established for the
2627 purpose of influencing the outcomes of elections or vote, including votes on resolutions,
2628 ordinances or other actions by elected bodies such as the Authority Board of Directors, city
2629 council, or a county board of supervisors;

2630 -attempts to influence (i) the introduction of federal, State or local legislation or (ii) the
2631 enactment or modification of any pending federal, State or local legislation through
2632 communication with any member or employee of Congress, a State legislature or local
2633 governing body, or by preparing, distributing or using publicity;

2634 -legislative liaison activities when those activities are carried on in support of, or in knowing
2635 preparation for, an effort to engage in unallowable activities; and

2636 (5) costs of preparing documentation, including cost, financial and accounting books and Records,
2637 upon request of Authority or any accountant, auditor, financial analyst or consultant retained by
2638 Authority, incurred to substantiate Direct Costs, or allocation thereof.

2639 **“Notice”** means a Notice given in accordance with Section 8.9.

2640 **“Organic Materials”** means those Yard Trimmings and Food Scraps which are specifically accepted at
2641 the Approved Organic Materials Processing Facility. No Discarded Material shall be considered to be
2642 Organic Materials, however, unless it is separated from Solid Waste and Recyclable Material.

2643 **“Overs”** means portion(s) of Organic Material that is/are not suitable for composting. Also called
2644 compost-overs, these are large, woody parts of the compost pile that have not completely broken down

2645 during the composting process. Overs also include plastics and other non-compostable items in the
2646 Organic Material. Overs comprise approximately 7.5 percent of the Organic Material composted.

2647 **“Ownership”** has the meaning provided under the constructive Ownership provisions of Section 318(a)
2648 of the Internal Revenue Code of 1986 *except* that (1) ten percent (10%) is substituted for fifty percent
2649 (50%) in Section 318(a)(2)(C) and in Section 318(a)(3)(C) thereof; (2) Section 318(a)(5)(C) is disregarded;
2650 (3) Ownership interest of less than ten percent (10%) is disregarded; and, (4) percentage interests is
2651 determined on the basis of the percentage of voting interest or value which the Ownership interest
2652 represents, whichever is greater.

2653 **“Party or Parties”** refers to the Authority and Contractor, individually or together.

2654 **“Permits”** means applicable federal, State, Authority, other local or regional governmental unit Permits,
2655 orders, licenses, approvals, authorizations, consents and entitlements that are required under
2656 Applicable Law to be obtained or maintained by Contractor in order to perform the Services, as renewed
2657 or amended from time to time.

2658 **“Person(s)”** includes an individual, firm, association, organization, partnership, corporation, trust, joint
2659 venture, the United States, the State, local governments and municipalities and special purpose districts
2660 and other entities.

2661 **“Pleas”** means the Contractor or any of its representatives has pled “guilty” or entered a Plea of “*nolo*
2662 *contendere*” or “no contest” to Criminal Activity relating to this Agreement.

2663 **“Post-Closure”** means Post-Closure of the Landfill or portions of the Landfill in accordance with
2664 Applicable Law, including all maintenance and monitoring.

2665 **“Post-Collection Rate” or “PCR”** means the maximum amount Contractor, through the Franchise
2666 Collector’s billing system, may charge Customers based on their Sector and collection service level which
2667 are established in the manner described in Section 5.4. Contractor may, in its sole discretion, charge any
2668 amount up to and including the maximum Post-Collection Rate approved by the Authority for the
2669 Customer’s collection service level. The Post-Collection Rate is distinct from the Rate.

2670 **“Process(ing)”** means to prepare, treat, or convert through some special method.

2671 **“PRC”** means the California Public Resources Code.

2672 **“Quarterly Report”** is described in Section 4.14.

2673 **“Rate(s)”** means the maximum amount, expressed as a dollar unit per ton, approved by the Authority as
2674 initially established in Section 5.2 and annually adjusted consistent with the requirements of Section 5.3
2675 of this Agreement. The Rate is established to provide the basis for calculating the allowable Post-
2676 Collection Rate(s). The components of the Rate, as described in Section 5.2, have been established and
2677 the initial Rate and its components are presented in Section 5.

2678 **“RCRA”** means the Resource Conservation and Recovery Act (42 U.S.C. Section 6900 *et. seq.*).

2679 **“Reasonable Business Efforts”** means those efforts a reasonably prudent business Person would expend
2680 under the same or similar circumstances in the exercise of that Person’s business judgment, intending in
2681 good faith to take steps calculated to satisfy the obligation that that Person has undertaken to satisfy.

2682 **“Records”** means all ledgers, books of account, invoices, vouchers, canceled checks, logs,
2683 correspondence and other Records or documents evidencing or relating to Rates, Tonnages, satisfaction
2684 of Contractor’s obligations under this Agreement and performance of the terms of this Agreement,
2685 damages payable under this Agreement and Contractor Defaults, including those Records described in
2686 Sections 4.3, 4.4, 4.14, 4.17, 4.18, 8.14, 8.15 and 10.1.

2687 **“Recovered Material”** means Recyclable Materials, Organic Materials, C&D materials, and Dry Materials
2688 that are Recovered.

2689 **“Recovery or Recover or Recovered (or other variations thereof)”** means the picking, pulling, sorting,
2690 separating, classifying and Recovery of Recyclable Materials from Solid Waste whether by manual or
2691 mechanical means, after acceptance of the materials and before marketing of Recovered Materials,
2692 including Recycling, material reuse and Recovery, mulching, Composting, land application or
2693 transformation.

2694 **“Recycle(ing)”** means the process of sorting, cleansing, treating and reconstituting materials that would
2695 otherwise be Disposed of at a landfill for the purpose of returning such materials to the economy in the
2696 form of raw materials for new, reused or reconstituted products.

2697 **“Recyclable Materials”** means materials that are reused, remanufactured, or processed. This definition
2698 is inclusive of both Traditional Recyclable and Specialty Recyclable Materials.

2699 **“Residential”** shall mean of, from, or pertaining to a single-family premises or multi-family premises
2700 including single-family homes, apartments, condominiums, townhouse complexes, mobile home parks,
2701 cooperative apartments, and yacht harbors and marinas where residents live aboard boats.

2702 **“Residue”** means Solid Waste remaining as non-marketable commodities following Processing of
2703 Recyclable Materials.

2704 **“Services”** mean all obligations of Contractor under and in accordance with this Agreement to
2705 Authority.

2706 **“Solid Waste”** means and includes all putrescible and nonputrescible solid, semisolid, and liquid wastes,
2707 including garbage, trash, refuse, rubbish, ashes, industrial wastes, demolition and construction wastes,
2708 discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes, and
2709 other discarded solid and semisolid wastes, as defined in California Public Resources Code §40191 as
2710 that section may be amended from time to time. For the purposes of this Agreement, “Solid Waste”
2711 does not include abandoned vehicles and parts thereof, Hazardous Waste, or low-level radioactive
2712 waste, medical waste, Recyclable Materials, Dry Material, C&D Materials, or Organic Materials.

2713 **“Specialty Recyclable Materials”** means Recyclable Materials that are not specified as Traditional
2714 Recyclable Materials that can be Collected by the Franchised Collector for purposes of Recycling by any

2715 Person, including the Authority or the Franchised Collector. For example, Specialty Recyclable Materials
2716 include, but are not limited to, large pieces of scrap metal, mattresses, C&D material, pallets, tires,
2717 plastic film, carpet, used motor oil, and used motor oil filters.

2718 **“Standard Industry Practice”** means (1) the then-current development and operations practices and
2719 standards of the northern California Solid Waste management industry with respect to Recovery,
2720 Diversion, Transfer, Transport and Disposal Services, and (2) the then-current development, operations,
2721 Closure, and Post-Closure practices and Solid Waste Association of North America (or any successor
2722 organization) Manager of Landfill Operations standards in meeting Contractor’s obligations under this
2723 Agreement for Recovery, Diversion, and Disposal Services.

2724 **“State”** means the State of California.

2725 **“Subcontractors”** includes any Person that provides Goods or Services to Contractor, whether pursuant
2726 to formal, written agreement or merely in fact; subcontract means any arrangement, formal or informal,
2727 written or otherwise, between Contractor and a Subcontractor for providing Goods or Services. In no
2728 case shall the Contractor’s use of a Subcontractor confer upon that subcontractor any third party
2729 beneficiary rights under this Agreement.

2730 **“Term”** is defined in Section 2.2.

2731 **“Ton(nage)”** means a short Ton of two thousand (2,000) standard pounds where each pound contains
2732 sixteen (16) ounces.

2733 **“Traditional Recyclable Materials”** means Recyclable Materials which are included in the Processing
2734 and marketing plan of the Approved Recyclable Materials Processing Facility. The initial list of
2735 Traditional Recyclable Materials includes: All mixed paper, cardboard, #1 - #7 plastic beverage and food
2736 containers, mixed rigid plastic packaging and other food containers, glass containers (no Pyrex,
2737 windows, or mirrors), aluminum cans, tin cans, small pieces of scrap metal, plastic bags (properly
2738 bagged together), all mixed plastics, paper cartons, and milk and juice cartons.

2739 **“Transfer(ing) (or other variations thereof)”** means transferring Solid Waste at the Golden Bear Transfer
2740 Station, if any, from Residential Collection vehicles, Commercial Collection vehicles and self-haulers into
2741 Transfer Vehicles.

2742 **“Transfer Vehicle”** means a tractor and trailer designed to haul Solid Waste from any Transfer Station to
2743 the Landfill.

2744 **“Transport(ation)”** means the Transportation of Solid Waste, Organic Materials, and/or Recyclable
2745 Materials from any Transfer Station to the Landfill in accordance with Section 4.1.8.

2746 **“Uncontrollable Circumstance(s)”** means any act, event or condition, whether affecting (i) Services or
2747 (ii) either Party, that is beyond the reasonable control of the Party relying thereon and not the result of
2748 willful or negligent action or inaction of that Party (other than the contesting in good faith or the failure
2749 in good faith to contest that action or inaction), which materially and adversely affects the ability of
2750 either Party to perform any obligation under this Agreement, comprised of:

- 2751 (1) An act of nature, landslide, lightning, earthquake, fire, tsunami, flood, or other natural disaster
 2752 (excluding reasonably anticipated weather conditions within the jurisdictional Service Area of the
 2753 Authority), explosion, sabotage, terrorism, , war, blockade or insurrection, riot, civil disturbance,
 2754 or other similar catastrophic events;
- 2755 (2) The failure of any appropriate federal, State or local public agency or private utility having
 2756 operational jurisdiction in the area in which the Landfill or Approved Processing Facility is located
 2757 to provide and maintain utilities, services, water, sewer or power transmission lines thereto;
- 2758 (3) A Change in Law other than a Change in Law excluded in item (ii) below; and
- 2759 (4) Strikes, work stoppages or other labor disputes or disturbances of Persons other than Contractor
 2760 or any Affiliates performing Services;
- 2761 **Uncontrollable Circumstances** *excludes*, without limitation:
- 2762 (i) Either Party's own breach of its obligations under this Agreement;
- 2763 (ii) Adverse changes in the financial condition of either Party or any Change in Law with respect to
 2764 any taxes based on or measured by net income, or any unincorporated business, payroll, franchise
 2765 or employment taxes;
- 2766 (iii) Strikes, work stoppages or other labor disputes or disturbances lasting longer than ninety-six (96)
 2767 hours affecting Contractor or any Affiliates performing Services, or Contractor's or Affiliates'
 2768 inability to hire adequate numbers of personnel who are competent and skilled in the work to
 2769 which they are assigned;
- 2770 (iv) The failure of the Contractor to secure Permits necessary for Services; and,
- 2771 (v) As to the Contractor, the failure of any facilities and/or equipment to perform in accordance with
 2772 any warranties, unless caused by Uncontrollable Circumstances.
- 2773 **"Unpermitted Waste"** means wastes or other materials that the Landfill may not receive under their
 2774 Permits, including:
- 2775 (1) All materials that the Landfill is not permitted to accept;
- 2776 (2) Asbestos, including friable materials that can be crumbled with pressure and are therefore likely
 2777 to emit fibers, being a naturally occurring family of carcinogenic fibrous mineral substances, which
 2778 may be Hazardous Materials if it contains more than one percent (1%) asbestos;
- 2779 (3) Ash residue from the incineration of solid wastes, including Solid Waste, infectious waste
 2780 described in Item (8) below, wood waste, sludge not meeting at a minimum Class B standards as
 2781 defined by Title 40 of the Code of Federal Regulations, Part 503 (The Standards for the Use or
 2782 Disposal of Sewage Sludge) and agricultural wastes;

- 2783 (4) Hazardous Materials;
- 2784 (5) Medical Waste;
- 2785 (6) Liquid wastes that are not spadeable, usually containing less than fifty percent (50%) solids,
 2786 including cannery and food Processing wastes, landfill leachate and gas condensate, boiler
 2787 blowdown water, grease trap pumpings, oil and geothermal field wastes, septic tank pumpings,
 2788 rendering plant byproducts, sewage sludge not meeting certain quality criteria (i.e., unclassified
 2789 sludge less than B), and those liquid wastes that may be Hazardous Wastes;
- 2790 (7) Radioactive wastes under Chapter 7.6 (commencing with Section 25800) of Division 20 of the
 2791 State Health and Safety Code, and any waste that contains a radioactive material, the storage or
 2792 Disposal of which is subject to any other state or federal regulation;
- 2793 (8) Sewage sludge comprised of human (not industrial) residue, excluding grit or screenings, removed
 2794 from a wastewater treatment facility or septic tank, whether in a dry or semi-dry form not
 2795 meeting certain quality criteria (i.e., unclassified sludge less than "B"); and/or
- 2796 (9) Designated Waste, but only if not permitted at the Landfill under Applicable Law, including
 2797 Permits.
- 2798 This definition shall be promptly amended to reflect any applicable changes in permits or Applicable
 2799 Law.
- 2800 **"Violation"** means any Notice, assessment or determination of non-compliance with Applicable Law
 2801 from any Regulatory Agency to Contractor, after the exhaustion of all appeals and judicial processes, if
 2802 applicable, whether or not a fine or penalty is included, assess, levied or attached, where Regulatory
 2803 Agency means any federal, State or local governmental agency that regulates Transfer, Transportation
 2804 and Disposal of Solid Waste, including California Department of Transportation, California Department
 2805 of Motor Vehicles, EDD, U.S. Immigration and Naturalization Services, California Air Resources Board,
 2806 regional water quality management districts, California Department of Toxic Substances, CalRecycle, the
 2807 Local Enforcement Agency, federal and State Environmental Protection Agencies and other federal or
 2808 State health and safety department, applicable to Services.
- 2809 **"Working Days or Work Day (or other variations thereof)"** means each day of the week excepting
 2810 Saturdays, Sundays, and Holidays.
- 2811 **"Yard Trimmings"** means materials that shall decompose and/or putrefy, including, but not limited to,
 2812 green trimmings, grass, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead
 2813 trees, small pieces of unpainted and untreated wood, and other types of organic waste. Yard Trimmings
 2814 are a subset of Organic Materials.

2815
2816
2817
2818

**EXHIBIT 2.4.6
ENHANCED COLLECTION SERVICES AND
COLLECTION FRANCHISE AGREEMENT
AMENDMENT**

2819
2820
2821

AMENDMENT TO FRANCHISE AGREEMENT

2822
2823

BETWEEN

2824
2825
2826

**CITY OF [insert] [or] CONTRA COSTA COUNTY AND
RICHMOND SANITARY SERVICE, INC.**

2827 This Amendment to the Franchise Agreement is entered into effective [date] by and
2828 between the [City of [insert], a municipal corporation (“City”), [County of Contra Costa, a
2829 subdivision of the state of California (“County”)], and Richmond Sanitary Service, Inc., a
2830 California corporation and subsidiary of Republic Services, Inc. (“Contractor”).

2831
2832

RECITALS

2833
2834 1. On [date], the [City][County] and Contractor entered into a Franchise Agreement
2835 for an exclusive right to provide collection and disposal services within the [City][County], and
2836 the Franchise Agreement has since been amended several times.

2837 2. On [date], West County Resource Recovery, Inc., Richmond Sanitary Service,
2838 Inc., West Contra Costa Sanitary Landfill, Inc., Keller Canyon Landfill, Inc. and Golden Bear
2839 Transfer Services, Inc. and the West Contra Costa Integrated Waste Management Authority
2840 (“Authority”) authorized execution of an Agreement for Enhanced Recycling Services, Post-
2841 Collection Recycling, and Disposal Services (hereinafter “Post-Collection Agreement”)
2842 governing the handling of waste and recyclables collected in the franchise areas served by the
2843 Contractor.

2844 3. The Authority is a joint powers agency created by the Cities of El Cerrito,
2845 Hercules, Pinole, Richmond, and San Pablo (individually and collectively referred to herein as
2846 “Member Agencies”) in a Joint Exercise of Powers Agreement dated April 2, 1991, and as
2847 amended.

2848 4. Pursuant to the Post-Collection Agreement, Contractor agrees to specific
2849 enhancements of its collection services within the County and Member Agencies for which it is
2850 the current franchisee collector (“Franchise Agencies”), by providing weekly recycling and
2851 organic materials collection to residential customers; weekly mixed residential organics services;
2852 weekly or source separated commercial recyclable and organic materials collection and
2853 processing; routing of commercial customers for dry load collection and processing; expansion
2854 of recyclable materials accepted curbside; and two full-time recycling coordinators to

2855 exclusively serve the Authority's service area with certain new services beginning on the start
2856 dates specified herein (hereinafter collectively referred to as "Enhanced Collection Services").

2857 5. The [Cities/County], through the [Authority Joint Powers Agreement/County-
2858 Authority Contract], and the 1994 Exhibit to the City/County Franchise Agreement entitled
2859 "Requirements for Franchise Agreements and Covenants Made A Part of Franchise
2860 Agreements," authorize the Authority to direct the waste stream for processing and disposal to
2861 designated facilities, and the Post-Collection Agreement exercises that authority on behalf of the
2862 [City/County].

2863 6. The initial Enhanced Collection Services rate adjustments being approved for
2864 residential and commercial customers shall be the sole means of compensation due to Contractor
2865 for providing the Enhanced Collection Services, with the exception of any annual CPI-
2866 adjustments provided for herein to which the Enhanced Collection Services are subject to.

2867 AGREEMENT

2868 In consideration of the above and the promises and other provisions in this Amendment,
2869 the Parties agree to amend the Franchise Agreement as follows effective [DATE], 2013.

2870 1. For the remaining term of the Franchise Agreement between [City/County] and the
2871 Contractor, Contractor shall provide the following Enhanced Collection Services at the agreed-
2872 upon compensation as set forth below:

2873 a. Weekly Recycling and Organic Materials Collection. No later than October 31,
2874 2014, Contractor shall convert the every-other-week collection program for all residential
2875 recyclable materials and organic materials to a weekly collection program. Such weekly
2876 recycling and organic materials collection will apply to both single family and multi-family
2877 customers. For commercial customers, no later than October 31, 2014, Contractor shall convert
2878 all commercial recyclable materials cart customers from every-other-week to weekly collection
2879 and shall service all cart and bin commercial recycling containers weekly, at a minimum.
2880

2881 b. [Pinole, Hercules and Contra Costa County only] Mixed Residential Organics.
2882 Beginning January 1, 2014, in addition to yard waste, all residential customers including those in
2883 Pinole, Hercules and the County Franchise area, will be allowed to place food scraps and food-
2884 soiled paper, into their green waste containers upon the [City/County's] request. Contractor
2885 shall be responsible for distributing education and outreach collateral (e.g. stickers, mailers, food
2886 pails, etc.) purchased with Authority grant funding, at no additional charge to the Authority, the
2887 City/County, or customers.
2888

2889 c. Source Separated Commercial Recyclable Materials Collection and Processing.
2890 Beginning January 1, 2014, Contractor shall offer commercial customers (including multi-family
2891 customers receiving service in carts and bins) recyclable materials collection from carts and bins
2892 ranging from one to six cubic yards in capacity, and shall offer such service up to three times per
2893 week, at the customer's request.
2894

2895 d. Source Separated Commercial Organic Materials Collection and Processing.
2896 Prior to April 1, 2014, Contractor shall identify, educate, and sign up restaurants, institutional
2897 kitchens, and food processors for source separated organic materials collection service.
2898 Beginning April 1, 2014, Contractor shall commence collection service for commercial source
2899 separated organics accounts that have signed up for such service. Commercial organic materials
2900 accepted under this program shall include all compostable food waste and food soiled paper.
2901 Prohibited materials under this program shall include hazardous materials, metals, glass,
2902 ceramics, and plastics (except certain compostable bio-plastic bags and food service ware
2903 specified by Contractor). Contractor shall provide such customers the option of using sixty-five
2904 (65) gallon carts and one or two cubic yard bins, at the customer's request. Collection of source
2905 separated commercial organic materials shall be provided up to three times per week, at the
2906 customer's request. This service shall be provided at no additional charge to customers who
2907 subscribe to garbage service.
2908

2909 e. Routing of Commercial Customers for Dry Load Collection and Processing.
2910 Beginning December 1, 2013, Contractor shall commence a review of commercial customer
2911 accounts and waste characterization with the purpose of identifying customers where the primary
2912 constituents of their garbage containers are dry and recyclable. The goal for this program is to
2913 identify a sufficient volume of material for one full-time equivalent route. No later than March
2914 1, 2014, Contractor shall have completed this review and shall submit a report to the Authority
2915 identifying the customers who have been selected for the dry routing program. No later than
2916 May 1, 2014, Contractor shall have implemented the dry material collections from customers.
2917 All material collected under this program shall be processed in a manner that maximizes the
2918 recovery of materials, and no material collected under this program shall be disposed of prior to
2919 processing without written approval from the Authority as may be required in Section 4.4 of the
2920 Post-Collection Agreement.
2921

2922 f. Expansion of Recyclable Materials Accepted Curbside. Beginning January 1,
2923 2014, Contractor shall accept the following new or additional recyclable materials curbside:
2924

- 2925 i. #1-#7 plastic beverage and food containers;
- 2926 ii. Mixed rigid plastic packaging and other food containers;
- 2927 iii. Scrap metal;
- 2928 iv. Plastic film and wrapping (properly bagged);
- 2929 v. All mixed plastics;
- 2930 vi. Milk and juice cartons.

2931 g. Recycling Coordinators. By December 1, 2013, Contractor shall hire two full-
2932 time recycling coordinators dedicated to work exclusively within the Authority service area.
2933 Responsibilities of the recycling coordinators include, but are not limited to, supervising,
2934 coordinating, and implementing all approved public education and outreach activities and
2935 recycling and diversion programs; serving as liaisons between the Authority, [City/County], and
2936 Contractor; interacting with residents, businesses, community groups, and public agencies. The
2937 full scope of the recycling coordinators' duties are set forth in Exhibit 4.1.9 of the Post-
2938 Collection Agreement. Public education and outreach materials prepared by Contractor shall be
2939 subject to the review and approval of [City/County].
2940

2941 2. Implementation dates specified in Sections 1.a and 1.c through 1.e. will remain
2942 unchanged as long as all Franchise Agreement amendments are approved no later than
2943 November 15, 2013. If one or more Franchise Agreement Amendments are not approved on or
2944 before November 15, 2013, the following shall apply:

2945 a. Franchise Agencies approving franchise amendments by November 15, 2013,
2946 containing provisions substantially in the form included as Exhibit 2.4.6 of the Post-Collection
2947 Agreement will be able to implement the new reduced post-collection rates established in the
2948 Post-Collection Agreement on January 1, 2014.

2949 b. Franchise Agencies not approving franchise amendments by November 15, 2013,
2950 containing provisions substantially in the form included as Exhibit 2.4.6 of the Post-Collection
2951 Agreement will not be allowed to implement the new post-collection rates established in the
2952 Post-Collection Agreement on January 1, 2014. In this circumstance, the current (2013) post-
2953 collection rates will continue to apply in 2014 until thirty (30) days after the franchise
2954 amendment is approved by that Franchise Agency.

2955 c. With the exception of the specific services outlined in section 2.d below,
2956 implementation dates for the other Enhanced Collection Services in sections 1.a and 1.c through
2957 1.e will be delayed one month for each successive month past November 15, 2013. For
2958 example, if all of the Member Agencies approve their respective franchise amendments between
2959 November 16 and December 15, the implementation dates will be delayed one month.

2960 d. Regardless of whether all of the Member Agencies have approved their franchise
2961 amendments by November 15, 2013, Contractor will begin implementing the following
2962 Enhanced Collection Service by December 1, 2013: 1.g (recycling coordinators). In addition,
2963 Contractor will begin implementing the following Enhanced Collection Services by January 1,
2964 2014: 1.b (food scraps in the mixed residential organics containers in jurisdictions that do not
2965 already have this in place); and 1.f (acceptance of the expanded list of recyclables in the curbside
2966 recycling carts placed out for collection).

2967 3. The Contractor's sole compensation for any costs associated with providing Enhanced
2968 Collection Services shall be the revenue derived from the initial collection rate adjustment(s)
2969 approved by the [City/County] which would go into effect at the same time as the new post-
2970 collection rates discussed in Sections 2.a – 2.b, plus any subsequent CPI-adjustments to this
2971 initial collection rate adjustment as authorized pursuant to the [City's/County's] rate setting
2972 methodology and process.

2973 4. The Franchise Agreement as amended by this and any prior Amendment executed by
2974 both Parties shall be construed together as one and the same agreement and is the entire
2975 agreement between the Parties.

2976 5. The term of this Amendment shall be coterminous with the remaining term of the
2977 Franchise Agreement.

2978 IN WITNESS WHEREOF, the [City/County] and Contractor have duly authorized execution of
2979 this Amendment and have executed this Amendment as of the date last set forth in the signatures
2980 below.

2981

2982

2983

2984

CITY/COUNTY OF [insert]

By: _____

Chair, xxx

Date: _____

Attest: xxx, Clerk

By: _____

Deputy/Secretary

RICHMOND SANITARY SERVICE, INC.,
a California Corporation

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

Note: Two officers must sign on behalf of corporations. The first must be the chairman of the board, president or any vice president; the second must be the secretary, assistant secretary, chief financial officer or any assistant treasurer. (Corp. Code, § 313; Civ. Code, § 1190.)

2985

2186761.1

2986

.987
2988

EXHIBIT 4.1.4
DRY MATERIAL PROCESSING

2989

2990

<Insert DOCUMENT referred to in Section 4.1.4 here>



Scope of Work: Commercial Visual Audits Richmond Sanitary Services/Republic Services

Objective and Overview

Richmond Sanitary Services/Republic Services (Republic) seeks to understand the types of material in commercial customers' disposed waste bins to inform routing of the commercial sector.

Cascadia will perform visual audits to evaluate the contents of Republic commercial waste bins in Richmond, San Pablo, Hercules, Pinole, and West Contra Costa Counties. During these audits, Cascadia field staff will perform a visual volumetric composition assessment of the materials in the waste containers, and will provide the resulting data to Republic in an electronic format that Republic can upload directly into InfoPro. While in the field, Cascadia will also document site-specific information related to operational or customer service issues.

Detailed Scope of Work

Cascadia will perform up to 2,500 visual audits for commercial accounts within the Richmond Sanitary Service / Republic Services' West Contra Costa County service area beginning January 2014. Republic and Cascadia will jointly decide what routes to target, the total number of businesses to audit, and the project timeline. The following sections describe Cascadia's methodology for completing these visual audits:

- Task 1. Preparation
- Task 2. Conduct Visual Audits
- Task 3. Data Entry and Complete Analysis
- Task 4. On-site Technical Assistance (Optional)

TASK 1: Preparation

Our approach to the planning process is detailed below.

Step 1: Conduct Kick-off

Cascadia will conduct a kick-off meeting with key Republic staff to gather input and decide on project details that ensure that we meet all expectations, collect all required data, and efficiently address all elements of the study.

Prior to the kick-off meeting, Republic will provide Cascadia with information about the accounts that Cascadia will visually audit. This information should include a list of the businesses in a routed order,



including the business name, address, account number, contact person, contact phone number, container size, number of containers, number of collection days, and day of collection days.

During the kick-off meeting, Cascadia and Republic will:

- Review the proposed data collection methods and process.
- Finalize the list of materials to be identified in the visual audit.
- Discuss any questions Cascadia has about the account data Republic provided prior to the meeting.
- Confirm Cascadia's proposed timeline for visual audits and final data submittal deadlines.
- Discuss the thresholds that determine whether an account is eligible for the dry route.

Step 2: Finalize Data Points

Cascadia will document information around the data points proposed below during visual waste audits. These data points are based on previous visual audits Cascadia conducted on behalf of Republic Services in other service areas; we anticipate that these will change slightly based on Republic's specific information needs in Richmond, San Pablo, Hercules, Pinole, and West Contra Costa Counties.

Bin information

- Confirm bin size (in cubic yards)
- Bin fullness (as a percentage)

Material types present (as a percentage of the total materials in the bin; material definitions are listed in Appendix A):

- Readily Recyclable Items
- Glass
- Food
- Compostable paper
- Green waste

How materials are placed in bin:

- Clear Bags
- Opaque Bags
- Loose materials

Miscellaneous information:

- Large bulky items
- Other recyclables
- Container number



- Notes such as bin repairs needed (wheel missing, lid broken, graffiti on bin), additional service needs of customers, etc.
- Presence of other service providers' roll-off collection containers (including compactors and roll-off containers) for garbage and/or recycling at all sites visited, including the name of the service provider, size of bin, and commodity type collected.

Cascadia expects that Republic will provide input on the definition for each material category and will approve the final list of data points.

Step 3: Preparation for Visual Audits

Once Republic Services provides the commercial route information and customer data, Cascadia will:

- Develop audit database that lists each container to be audited, and associates each container with the customer-specific information that Republic provided to Cascadia in Step 1. This database will also identify the date for each site audit, assign field staff to each audit, and accommodate each of the data points identified in Step 2.
- Organize audits into routes using online GPS software.
- Load audit database onto electronic tablets for use by the field crew.
- Conduct a meeting with field staff to review safety procedures, audit protocol, and the audit database and data to be collected.

Appendix B provides an example of a visual audit database. We are actively working with Republic's IT Department to ensure that the data we receive from Republic in Step 1 is in a format that we can easily incorporate into our database template, and that the data we send back to Republic cleanly interfaces with InfoPro.

TASK 2: In-Field Data Collection

Upon completion of Task 1, Cascadia's field crew will begin performing visual audits of selected commercial waste collection routes.

Step 1: Perform Visual Audits

Cascadia field staff will observe the contents of each commercial trash bin on selected routes. Staff will look into each container and estimate composition by volume for each material type. To estimate composition, staff will consider each material type separately and estimate the percentage of each material type that makes up the material visible in the container (opening bags if necessary). Concurrently, staff will input composition and other relevant data into the database.



Step 2: Input Data into Spreadsheet

As Cascadia field staff perform visual audits, they will input information into the audit database in "real-time" via electronic tablets. This method is more efficient than using paper forms since it eliminates data entry.

TASK 3: Complete Analysis

After field staff perform the visual audits, we will compile the audit spreadsheets and provide analysis to identify those accounts suitable for dry routing.

Step 1: Data Compilation and QA/QC

Once back in the office, Cascadia's data specialist will combine data for the entire route, confirm in-database calculations, check for in-field data entry errors, and prepare the spreadsheet for QA/QC (Quality Assurance / Quality Control).

Step 2: Conduct Composition Analysis

After the Cascadia data specialist compiles the audit spreadsheet, we will determine whether each account meets thresholds for placement on a dry route according to material percentages agreed upon by Republic Services. Cascadia will provide Republic with both a summary sheet and the complete database contents to identify overall audit findings.

TASK 4: On-site Technical Assistance (OPTIONAL)

This task is optional and can be used on an as-needed basis depending on Republic's vision and requirements on assistance in working with the Commercial sector. Cascadia will work directly with Republic Services on customer education and other activities that will assist Republic in reaching their diversion goals.

991
2992

EXHIBIT 4.1.9 PUBLIC EDUCATION AND OUTREACH

2993 Republic and its subsidiaries West County Resource Recovery and Richmond Sanitary Service
2994 (“Republic”) understand and recognize the importance of promotion as the key to helping residents and
2995 businesses understand more about Source reduction, Reuse, Recycling, and Composting.

2996
2997 Republic shall, with coordination with the Authority, Member Agencies and the TAC, develop and
2998 implement an approved public education and outreach program. The public education and outreach
2999 program shall include comprehensive, linguistically and culturally appropriate public outreach and
3000 community engagement, with the goal of guiding all customers in effectively implementing source
3001 reduction, reuse, recycling, and composting. The focus and goal of the program is to make recycling and
3002 composting easy, understandable, and convenient for all customers, assisting RecycleMore and Member
3003 Agencies in achieving AB939, AB341, and additionally specified waste diversion goals. Consistent with
3004 these goals, Republic shall:

- 3005 1. Develop and implement a public education and outreach strategy for the community-wide
3006 launch of supplemental collection services as approved by RecycleMore and Member Agencies,
3007 including weekly residential collection, commercial organics, and commercial dry routing, and
3008 others as appropriate
- 3009 2. Provide an approved public education, outreach, and customer service delivery that is approved
3010 by RecycleMore and Member Agencies to be linguistically and culturally appropriate consistent
3011 with the community needs of RecycleMore and its Member Agencies.
- 3012 3. Create and implement a strategy for public outreach and education, approved by RecycleMore
3013 and the Member Agencies, to meet subscription and diversion goals listed in the Term Sheet
3014 and as prioritized by RecycleMore and Member Agencies
- 3015 4. Design engaging and visually-based or bilingual/multilingual guides, mailers, brochures,
3016 webpages, and other educational materials with final design and content approved by
3017 RecycleMore and Member Agencies
- 3018 5. Distribute mailers and other educational materials to households, businesses, and other
3019 customers
- 3020 6. Develop and implement a strategy for outreach and education to community-based
3021 organizations, approved by RecycleMore and Member Agencies, to facilitate participation in
3022 diversion and recycling programs

3023
3024 For purposes of this Public Education and Outreach Program, the term “linguistically and culturally
3025 appropriate consistent with the community needs of RecycleMore and its Member Agencies” means
3026 targeted outreach that considers the linguistic and cultural diversity within the WCCIWMA service area
3027 and addresses dialectic or unique circumstances relative to ethnic communities, as determined and
3028 approved by RecycleMore and the Member Agencies.

3029
3030 To best achieve the highest possible level of public education and awareness, Republic shall designate
3031 the Recycling Coordinators to supervise, coordinate and implement all approved public education and
3032 outreach activities on our behalf. Republic agrees that the Recycling Coordinators are designated to

3033 serve Republic within the WCCIWMA service area, and shall not, except in cases of emergency or
3034 extraordinary circumstances, have duties and responsibilities outside the WCCIWMA service area. The
3035 Recycling Coordinators will, in addition to their other employment responsibilities, assist and provide
3036 support to RecycleMore for outreach development. RecycleMore may, at its election, also engage City
3037 staff for outreach development. The Recycling Coordinator job description shall include the following
3038 tasks in his/her principal areas of responsibility.

3039 **Partnership with RecycleMore and Member Agency**

- 3040 1. Serve as a liaisons between RecycleMore and Republic
- 3041 2. Attend RecycleMore Board of Directors, City Council, City staff, and City strategy
3042 development meetings, as appropriate
- 3043 3. Work with the RecycleMore, and Member Agencies as may be requested by
3044 RecycleMore, to develop, coordinate and incorporate municipal activities into
3045 Republic activities, and vice versa
- 3046 4. Participate and represent Republic in community activities
- 3047 5. Ensure customer satisfaction and participation of all program services

3048 **Assist local community service organizations with diversion and recycling programs**
3049 **Media Relations**

- 3050 1. Develop relationships with local television, radio, and newspapers reporters
- 3051 2. Track local media coverage

3052 **Community Outreach**

- 3053 1.
- 3054 2. Coordinate, develop, and produce an approved education and outreach plan
- 3055 3. Coordinate implementation of the approved public education and outreach plan
- 3056 4. Conduct culturally appropriate approved outreach in English and Spanish (or
3057 predominant second language within the service area) as needed
- 3058 5. Produce visually engaging outreach materials and use social media to as approved
3059 by RecycleMore to promote services and programs Provide draft copies of all
3060 written public education and outreach information for distribution to customers,
3061 such as notices and outreach materials (includes but is not limited to new
3062 customer service package, annual collection calendars, service information updates,
3063 customer reminders, pending RecycleMore rate change notices) to the WCCIWMA
3064 for review, comment and final approval prior to production and distribution to
3065 customers. Concurrently submit one sample of said information in hardcopy form
3066 directly to RecycleMore.

3067

SINGLE-FAMILY EDUCATION PROGRAMS

3068

Public Education Activities

3069

3070

3071

3072

3073

3074

3075

1. Prepare a flyer/poster illustrating acceptable materials in Recyclable and Organic Materials Containers, providing instruction on how to prepare Source Separated Recyclable and Source Separated Organic Materials for collection describe the acceptable materials that can be included in the Recyclable and Organic Materials Containers and listing relevant contacts The flyer should emphasize any new Recyclable Materials to be included in Single-Stream Collection and the Organics Collection program.

3076

3077

2. Prepare a "how-to" flyer describing the proper set out procedures for Collection Containers.

3078

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

3079

3080

3081

Promoting Recycling and Diversion Programs

1. Visit homeowner associations or other groups to promote and explain programs.

3082

3083

3084

3085

3086

2. Prepare a tenant outreach plan identifying feasible and effective options Republic Services could implement, if approved by the WCCIWMA, to better ensure residential and commercial tenants not currently receiving customer notices/bills are made aware how they can take advantage of the full range of garbage and recycling services available to them.

3087

3088

3089

3090

3091

3092

3093

3094

3. Prepare an outreach plan for on-call & optional services identifying feasible options Republic could implement to inform customers and remind them about what additional services are available upon request to customers at no additional charge (including existing optional services like free on-call pick-ups and Christmas tree recycling as well as future enhancements like the small interior containers to be offered upon request for indoor use by tenants/occupants of multi-family complexes or businesses to temporarily store their recyclables until they can be placed in the appropriate centralized collection point, etc.)

3095

3096

3097

3098

3099

4. Prepare and distribute (4) quarterly newsletters in the form of a bill insert or other media that inform residents about topics such as availability of on-call Bulky Item/clean-up events, Bulky Item pick-ups, home Composting, proper handling of Household Hazardous Waste, E-Waste, and U-Waste, and environmental conservation.

3100

3101

3102

3103

3104

3105

5. Prepare and distribute bill inserts, brochures, and/or featured quarterly newsletter article describing how to prepare Source Separated Recyclable and Source Separated Organic Materials for Collection. Information shall inform residents as to the acceptable materials that can be included in the Recyclable Materials and Organic Materials Containers and any common contaminants to be excluded from Collection to customers.

3106

3107

3108

3109

6. Prepare Corrective Action Notices (Oops Tags) for drivers to use in the event of set-out problems. Tags shall be tailored to residential generator types, and may be used as a courtesy notice, or a notice of non-Collection. When used as a courtesy notice, the materials in question shall be collected, but Customers are informed of the

3110 improper element of the set-out and advised of how to ensure proper set-out in the
3111 future. When used as a non-Collection notice, the Container in question is not
3112 collected, and the tag shall advise Customer of the specific problem.

3113 Prepare and make available through WCRR and RSS's website "how-to" information on Recycling,
3114 Composting, and proper Container set-outs in Adobe Acrobat PDF and provide Single-Family Customers
3115 with links for additional resources. Enable Single-Family Customers to access information regarding
3116 copies of newsletters and other outreach materials. Multi-Family Education Programs (to include mobile
3117 homes)

3118 **Public Education Activities**

- 3119 1. Prepare and distribute information on new programs, Recycling and Diversion
3120 programs available, special services available, proper handling and disposal of
3121 Household Hazardous Waste, etc.
- 3122 2. Prepare a "how-to" flyer describing how to prepare Source Separated Recyclable
3123 and Source Separated Organic Materials for Collection and describe the acceptable
3124 materials that can be included in the Recyclable and Organic Materials Containers.
- 3125 3. Prepare a "how-to" flyer describing the Recyclables Collection program for
3126 distribution to tenants and distribute to Multi-Family property managers for
3127 distribution to tenants.
- 3128 4. Prepare posters describing Collection programs and distribute to Multi-Family
3129 property managers for on-site use.

3130 **Promoting Recycling and Diversion Programs**

- 3131 1. Visit apartment managers or home owners' association meetings or other groups to
3132 promote and explain WCRR and RSS's Collection programs.
- 3133 2. Prepare public education material on Recycling, the State and County mandatory
3134 Recycling requirements and how to comply, and proper handling of Household
3135 Hazardous Waste, E-Waste, and U-Waste and distribute (or arrange for distribution
3136 of) materials directly to tenants of Multi-family Premises.
- 3137 3. Conduct site visits and provide technical assistance.
- 3138 4. Offer and respond to requests for on-site meetings and workshops. WCRR and RSS
3139 will conduct workshops (when requested by RecycleMore) that will show property
3140 managers and residents, in a hands-on interactive format, how to use the Recycling
3141 and Organics program and will provide resources for additional information and
3142 support.
- 3143 5. Prepare and distribute "move-in" kits for property managers and owners of Multi-
3144 Family complexes to provide new tenants. Move-in kits shall provide Recycling
3145 information and WCRR and RSS's Customer service phone number where questions
3146 can be answered.
- 3147 6. As part of WCRR and RSS's website, provide tenants and property managers with
3148 access to a dedicated multi-family page which will present "how-to" information for
149 tenants and property managers as well as links to other resources.

3150
3151
3152
3153
3154
3155
3156

3157
3158

3159
3160

3161
3162
3163
3164
3165
3166
3167
3168

7. Prepare Corrective Action Notices (Oops Tags) for drivers to use in the event of set-out problems. Tags shall be tailored to residential generator types, and may be used as a courtesy notice, or a notice of non-Collection. When used as a courtesy notice, the materials in question shall be collected, but Customers are informed of the improper element of the set-out and advised of how to ensure proper set-out in the future. When used as a non-Collection notice, the Container in question is not collected, and the tag shall advise Customer of the specific problem.
8. Prepare and distribute notices to Customers that are not compliant with mandatory Recycling requirements of AB 341.
9. If a Multi-family/Source Separated Commercial Organic Materials program is implemented, conduct the following activities:
 - Provide a starter kit to educate property managers on the Source Separated Commercial Organic Materials Collection program;
 - Conduct initial site visits to all Multi-Family premises to encourage participation in the program and customize the program to fit the Customer's needs; and,
 - Produce and distribute periodically, but at WCRR and RSS's discretion newsletters or bill inserts that inform customers about the Multi-Family/Commercial Food Scrap Collection program.

3169 **COMMERCIAL EDUCATION PROGRAMS**

3170 **Public Education Activities**

3171
3172
3173

3174
3175
3176

3177
3178
3179

1. Prepare and distribute a flyer and/or "how-to" brochure to businesses explaining the Recycling services provided to each general business type (restaurants, office/commercial buildings, strip malls, and large commercial businesses).
2. Prepare and distribute a flyer and/or "how-to" brochure describing the Source Separated Organic Materials Collection services available to each business type and how to prepare Organic Materials for Collection.
3. Meet with business associations (Chamber of Commerce, Rotary Club, etc.) in separate venues to educate businesses on the Recycling and Organics Collection programs, answer questions, and provide service information.

3180 **Promoting Recycling and Diversion Programs**

3181
3182
3183

3184

3185
3186

3187
3188

1. Prepare and distribute a newsletter to Commercial Customers promoting and explaining Source Separated Recyclable Materials and Source Separated Organic Materials Collection programs.
2. Conduct site visits and provide technical assistance.
3. For Source Separated Commercial Organic Materials Collection, conduct the following activities, at a minimum:
 - Provide a starter kit to educate businesses on the Source Separated Commercial Organic Materials Collection program;

3189
3190
3191
3192
3193
3194
3195
3196
3197
3198
3199
3200
3201
3202
3203
3204
3205
3206
3207
3208
3209
3210
3211
3212
3213
3214
3215
3216
3217
3218
3219
3220
3221
3222
3223
3224

- Conduct initial site visits to all schools, institutions, restaurants, bakeries, grocery stores, and other food scrap generators to encourage participation in the program and customize the program to fit the Customer’s needs;
 - Produce and distribute periodically, newsletters or bill inserts that inform customers about the Source Separated Commercial Organic Materials Collection program.
 - (Insert details: number of sites, outcomes, etc.) Individual site visits to each commercial, multifamily and mobile home park customer to help the customer determine the appropriate mix of diversion services and achieve diversion goals pursuant to AB 341 (refer to Site Visit section)
 - (Insert details: number of sites, outcomes, etc.) Ongoing audits of multi-family and commercial locations to help these customers develop and take advantage of programs to eliminate waste and increase diversion (refer to Site Visit section)
4. Attend business associations’ meetings to promote and explain the Collection programs and the State and County mandatory Recycling requirements.
 5. Provide employee training to businesses that participate in Source Separated Recyclable Materials and/or Source Separated Organic Materials Collection programs, annually upon the Customer’s request.
 6. Prepare Corrective Action Notices (Oops Tags) for drivers to use in the event of set-out problems. Tags shall be tailored to Commercial generator types (based on the program, and may be used as a courtesy notice, or a notice of non-Collection. When used as a courtesy notice, the materials in question shall be collected, but Customers are informed of the improper element of the set-out and advised of how to ensure proper set-out in the future. When used as a non-Collection notice, the Container in question is not collected, and the tag shall advise Customer of the specific problem.
 7. Prepare and distribute notices to Customers that are not compliant with mandatory Recycling requirements of AB 341 which identify why the Customer is not compliant and what actions Customer can take to be compliant.
 8. WCRR and RSS shall reach out to various community organizations such as the Chamber of Commerce, Rotary, business associations and other appropriate groups to provide detailed Recycling outreach education and offer tools and support for successful programs.

SCHOOL OUTREACH

3225
3226 Recycling coordinators will cooperate and partner with RecycleMore in a public school education
3227 curriculum to teach children how to Recycle and Compost at school and at home.

3228
3229 Recycling coordinators shall communicate the availability of its educational resources to each school
 through a variety of media prior to the opening of school each fall, and follow up and respond to

3230 school/teacher requests for educational materials, resources, and presentations throughout the
3231 year.

3232 Recycling coordinators will be available to meet with administrators, faculty, facilities personnel, and
3233 parents (through PTA meetings and other means) initially and as needed to establish and provide
3234 training on internal materials capture systems. Recycling coordinators shall provide educational
3235 curriculum and program how-to information in a fun format—such as through story-telling,
3236 Recycling relays, competitions, waste audits, and via video. Educational curriculum, activities, and
3237 presentations are geared toward grade level/age group.

3238 Recycling coordinators shall work with all schools within the District to identify a Recycling champion
3239 within each school who will act as the school’s Recycling coordinator to monitor faculty, staff, and
3240 administrators for optimal, proper Recycling program participation, know of and utilize educational
3241 resources provided by WCRR and RSS and other sources, and communicate Recycling program
3242 results to students.

3243 **SPECIAL EVENTS**

3244 Arrange for and staff a booth or table at events to promote source reduction, reuse, Recycling,
3245 Composting, and proper handling of E-Waste, U-Waste, and Hazardous Waste and answer questions
3246 about Collection services. WCRR and RSS will develop a stand-alone and table-top professional
3247 display for use at events and will provide corresponding educational components that can be used
3248 to educate Customers and the general public about Recycling in general.

3249 Special event activities will be identified, scheduled, and coordinated through Recycling
3250 Coordinator’s participation with RecycleMore and Member Agency staff. Number of annual special
3251 events to be determined.

3252 **OTHER OUTREACH**

3253 Produce press releases and advertisements tied to specific community recycling events. Press
3254 releases shall be developed regarding new or enhanced services as needed. Advertisements shall be
3255 developed in conjunction with workshops, training programs, etc.

3256 Conduct educational tours of the WCRR, RSS, GBTS, and WCCSL facilities to familiarize residents,
3257 businesses, and school children with the facilities’ activities.

3258 Attend community workshops to explain Collection services and respond to questions from the
3259 community.

3260 Develop and maintain a website describing services provided.

3261 A translator service based on the predominant secondary language of the service area will be
3262 employed by Republic Services for educational materials.

3263 **EDUCATION FOR PUBLIC EVENTS**

3264 The Recycling Coordinators will partner with RecycleMore to develop and launch a sustainability-themed
3265 outreach for public events. The program can involve creating a family of “green” Recycling-specific

3266 educational hand-outs, and a common, customizable booth design that could be used at special events.
3267 The Recycling Coordinators will also work with event planners to bring additional value. This would
3268 include upfront planning for logistics detail, such as placement of Containers, providing a full contingent
3269 of Containers at each Collection point with clear messaging to encourage Recycling participation, clean
3270 up services, sponsorships, and educational materials. This is limited to an agreed upon list of public
3271 events to attend within the service area.

3272

3273 **SITE VISITS**

3274

3275 We have developed a comprehensive support program to maximize commercial, multifamily and
3276 mobile home park customers' understanding and participation in the program. Comprehensive waste
3277 stream audit of each customer facility will be made by Republic Services to maximize participation in
3278 the new recycling programs, as well as evaluate the most cost-effective and convenient service
3279 required for our customers. The program's four core elements include:

3280

- 3281 • Site Evaluation. Trained Republic Services staff visits the facility to review existing services,
3282 determine recycling potential, and assess space constraints for additional bins or carts.
- 3283 • Property Manager/Owner Buy in and Education. The Recycling - Public Outreach
3284 Coordinators make phone calls and meetings to contact the manager or owner about
3285 the expanded services and how they will benefit the facility.
- 3286 • Employees/ Resident Buy In and Education. The Recycling - Public Outreach
3287 Coordinators host meetings and delivers educational materials to explain the new
3288 program to employees or residents and why they should participate.
- 3289 • Regular Follow -Up. The continued success of the program depends on regular contact
3290 with the customer to address additional concerns, space or contamination problems,
3291 reeducation, education for new employees/tenants, etc.

3292

3293 **CART AND BIN LABELING / LID REPLACEMENT**

3294

3295 At the Authority's request, the Company shall ensure that all company containers are labeled with
3296 durable full color labels and / or lid imprints that illustrate and spell out the range of items that are
3297 and are not acceptable within all containers (including garbage, green waste, debris boxes, and other
3298 Company provided services).

3299

3300 The Company agrees to place labels and / or imprinted lids on all new carts and bins placed into
3301 service and when carts and bins are replaced / repaired.

3302

3303 If the Authority and / or a Member Agency direct the Company to label all existing carts and bins per
3304 this provision, the Company will be allowed to recover the cost of producing the labels and / or
3305 imprints in the collection rates. The parties will meet and discuss costs funded through other
3306 avenues. The Company will complete installation of the labels and/or lids and shall complete
3307 installation within an agreed upon time line or one (1) year of the decision to do so.

3308

3309 Prior to procuring any lids or labels the Company shall seek and be granted Authority approval for the
3310 design and content of the lids and labels. Labels / lids shall be replaced as needed to ensure that the
3311 appropriate use of each container is readily understandable to the Company's subscribers.
3312

3313 PRESENTATIONS

3314
3315 A typical presentation will start with an introduction of who we are and what we do at Republic
3316 Services. A brief history on the evolution of solid waste collection, the introduction of recycling and
3317 more recent innovations is outlined. Students are introduced to what role we play in their
3318 communities, with an emphasis on how we can become partners in the collection and diversion
3319 process. The Recycling – Public Outreach Coordinator talks about AB341, AB939, natural
3320 resources, and the landfill. We also discuss the 4 R's and explain the *closing the loop* process.
3321 Examples are shown of what items are recyclable in their area. Additional time is provided for any
3322 questions and discussion.
3323

3324 Presentations are available for upper elementary, junior high, high school, adult classes or groups,
3325 business organizations, and clubs. The presentations can be modified according to audience and time
3326 constraints. Topics covered include:

- 3327 • a brief history of garbage and the industry
- 3328 • what is recycling?
- 3329 • why do we recycle?
- 3330 • what do we recycle?
- 3331 • curbside and commercial recycling
- 3332 • the recycle process and closing the loop
- 3333 • products made from recycled material
- 3334 • markets
- 3335 • household hazardous waste and collection
- 3336 • yard waste program and composting
- 3337

3338 MEDIA SECTION

- 3339 1. All materials shall rely primarily on images, at a minimum be bilingual (English and Spanish (or
3340 predominant second language within the service area)), and design and distribution coordinated
3341 with RecycleMore and Member Agencies. At a minimum, Republic shall provide on an annual
3342 basis:
- 3343 2. One (1) flyer/poster for residential customers and one (1) flier/poster for commercial customers
3344 illustrating acceptable materials in Recyclable and Organic Materials Containers, providing
3345 instruction on how to prepare Source Separated Recyclable and Source Separated Organic
3346 Materials for collection, and listing relevant contacts, for residential and customers
- 3347 3. Four (4) quarterly newsletters in the form of bill inserts for residential customers and four (4)
3348 quarterly bill inserts for commercial customers
- 3349 4. One (1) handout illustrating acceptable household hazardous waste, e-waste, and universal
3350 waste materials, providing locations for drop off, and listing relevant contacts
- 3351 5. One (1) starter kit for residential customers and one (1) starter kit for commercial customers for
3352 at the initiation of Recycling Collection Services, and one (1) starter kit for residential customers
3353 and one (1) starter kit for commercial customers at the initiation of Organics Collection Services.
3354
6. Three (3) newspaper ads annually that communicate commercial program and recycling

3355 information

3356

3357 Additional calendars, brochures, and other material may be developed mutually by the Authority
3358 and the Company. Development and distribution costs may be substituted for one, of the six listed
3359 above. Additional such material may be mutually developed with costs funded through other
3360 avenues.

3361 Provide improved bill message option(s)/alternative(s), such as offering more space, billing inserts
3362 (stuffers), stickers, stamps (rubber), printed messages directly on the outside of envelopes, etc.

3363

3364 **INITIAL OUTREACH SCHEDULE**

3365 **Beginning December 2013**

3366 General (All Programs)

- 3367 1. Hire two recycling coordinators. RecycleMore (RM) staff or TAC member can help with
3368 interview process if Republic desires.
- 3369 2. Create and finalize outreach and education plan (Annual Plan) (annually)
- 3370 3. Republic to create a flyer (single or multiple versions) to provide information about what new
3371 materials can be recycled (organics & recyclables)
- 3372 4. Prepare "how-to" flyer describing proper set out procedures for collection containers
- 3373 5. Prepare and distribute PSA to local newspapers

3374 Residential

- 3375 1. RM and Republic coordinate print media production for the new food scraps programs for
3376 Hercules, Pinole and County residents.
 - 3377 a. RM to create postcard, tri-fold flyer and bill insert, put advertisement in local paper and
3378 do a press release.
 - 3379 b. RM prints and sends bill inserts to Republic for distribution
 - 3380 c. RM purchases the counter top pails.
- 3381 2. Food Scrap pails will be distributed at Republic locations/facilities to residents in Pinole,
3382 Hercules and County by request. IRRF office to distribute pails as well. Member agencies will
3383 distribute pails from City Hall.

3384 **January 2014 – December 2014**

3385 General

- 3386 1. Republic to distribute flyer (single or multiple versions) to provide information about what new
3387 materials can be recycled (organics & recyclables) to all business, residents and multi-family
3388 tenants by January 31, 2014.
- 3389 2. Prepare and distribute 4 quarterly newsletters to all residential and commercial customers
3390 promoting and explaining new recyclable materials and organics program, etc. The information
3391 provided in newsletter can be collaboration with RM staff. RM staff will review content before

- 3392 distribution. Cycle 1: January to March; Cycle 2: April to June; Cycle 3: July to September; Cycle
3393 4: October to December
- 3394 3. Recycling Coordinators to present information about new programs at business chamber events,
3395 expos and other associations throughout the year.
- 3396 4. The Recycling Coordinators shall make quarterly status presentations/report (ongoing)
- 3397 5. Republic to create a comprehensive recycling guide about new programs and materials that are
3398 recyclable for residents and businesses (including but not limited to programs offered by
3399 RecycleMore, HHW programs, grants, school programs, compost giveaways, bulky pickup, on-
3400 call services). This guide is for the RSS service area.
- 3401 6. RecycleMore to coordinate a recycling guide with the City of El Cerrito.
- 3402 7. Make all the information about rates, services and “How to” available on the Companies’
3403 websites by December 31, 2014. RM will continue to maintain their website with information
3404 and the Republic website should provide a direct link to www.recyclemore.com
- 3405 8. 4 to 5 weeks prior to the start of weekly collection (October 2014) Republic will create, print and
3406 mail (at the latest September 2014) the new Recycling Guide to all residents and businesses. In
3407 addition, ads will be placed in newspaper and local publications (i.e.: Marketplace).
- 3408 9. October - December 2014: Create and finalize outreach and education plan with RM staff
3409 (Annual Plan).
- 3410 10. Prepare and distribute notices to customers who are not in compliance with AB341 (annually)
- 3411 11. Cart and Bin Labeling

3412 Commercial

- 3413 1. Prepare and distribute a flyer and/or “how-to” brochure to businesses explaining the Recycling
3414 services provided to each general business type (restaurants, office/commercial buildings, strip
3415 malls, and large commercial businesses).
- 3416 2. Prepare and distribute a flyer and/or “how-to” brochure describing the Source Separated
3417 Organic Materials Collection services available to each business type and how to prepare
3418 Organic Materials for Collection.
- 3419 3. January-March, Republic to identify educated and subscribe new commercial food scrap
3420 recycling accounts (200 accounts the first year).
- 3421 4. April 1, 2014 begin the commercial organics collection route.
- 3422

3423 Multi-Family (January – June)

- 3424 1. Prepare Move-in kits for property managers/owners for new tenants
- 3425 2. Schedule training meetings/workshops and presentations to tenant councils
- 3426 3. Multi-family residents need to be mailed information about weekly collection service (October).
- 3427 4. If an organics program is implemented, then conduct the following activities:
- 3428 a. Provide a starter kit to educate property managers on the Source Separated Organic
3429 Materials Collection program;
- 3430 b. Conduct initial site visits to all multi-family premises to encourage participation in the
3431 program and customize the program to fit the Customer’s needs.

3432

3433 C&D

- 3434 1. Construction and demolition information about certification, services and recycling opportunities provided to customers at the scale house, etc. This can be in the form of a flyer or
- 3435 guide.
- 3436
- 3437 2. RM staff will continue to provide CALGreen information to Member City planning departments.
- 3438

3439 Special Events

- 3440 1. Arrange for and staff a booth/table at events throughout the year.
- 3441 2. Create a professional informative display to be used at special events (Fourth of July, Cinco de
- 3442 Mayo, Home Front Festival, Juneteenth etc.). Attend at least 10 special events per year.
- 3443 3. Upfront planning for logistics detail, such as placement of containers, providing a full contingent
- 3444 of containers.
- 3445

3446 **January 2015-December 2015**

3447

3448 Commercial

- 3449 1. Add 100 more commercial food scraps customers and maintain existing accounts.
- 3450

3451 Schools

- 3452 1. RM and Recycling coordinators cooperate on outreach. Recycling Coordinators will begin to
- 3453 work with RM staff to understand the educational programs offered. The expectation is that
- 3454 facility tours will be arranged by Republic.
- 3455 2.
- 3456 3. Communicate the availability of educational resources to each school prior to the opening of
- 3457 school each fall
- 3458 4. Respond to school/teacher requests for educational materials, resources, and presentations
- 3459 throughout the year.
- 3460 5. Conduct educational tours of Company’s facilities (field trips).
- 3461 6. Work with schools to identify recycling champion who will act as the school’s recycling
- 3462 coordinator and provide appropriate training
- 3463 7. Available to meet with administrators, faculty, facilities personnel, and parents (through PTA
- 3464 meetings and other means) initially and as needed to establish and provide training on internal
- 3465 materials capture systems.
- 3466 8. Other school outreach programs
- 3467

3468 **January 2016 – December 2016**

3469 General/Commercial

- 3470 1. At least 400 commercial organics accounts need to be signed up for food scrap diversion
- 3471 program and maintained customer base.
- 3472 2. Prepare press releases and advertisements ongoing about the success of new programs/services
- 3473 (3 times per year).

- 3474 3. Maintain website information.
- 3475 4. Create and finalize outreach and education plan with RM staff (Annual Plan) with measurable
- 3476 goals. Present quarterly progress on goals to RM staff and Member Agencies (TAC Meetings).
- 3477

3478 Schools

- 3479 1. 4Rs and compost classroom presentations; promotional materials including posters, internal
- 3480 classroom bins, fliers for school programs will be conducted by RM and Republic.
- 3481 2. Presentations can continue to be collaboration with RM as well as the school newsletter.
- 3482 3. RM staff would like to add food scrap diversion at schools with cooperation with Republic.

3483 Republic can implement any item sooner. RecycleMore, with input from Republic, may at its discretion
3484 create informative guides that supplement the ones created by Republic.

3485
3486

EXHIBIT 4.14 REPORTING

3487

3488

<Insert Sample Report Format here>

Solid Waste Container Count - Carts								
Size	Units	County	El Cerrito	Hercules	Pinole	Richmond	San Pablo	TOTAL
20	Gal							0
32	Gal							0
64	Gal							0
96	Gal							0
Total Containers		0	0	0	0	0	0	0
Gallons of Service		0	0	0	0	0	0	0
% of Service Total		0%	0%	0%	0%	0%	0%	0%

Dry Route Container Count - Carts								
Size	Units	County	El Cerrito	Hercules	Pinole	Richmond	San Pablo	TOTAL
20	Gal							0
32	Gal							0
64	Gal							0
96	Gal							0
Containers		0	0	0	0	0	0	0
Gallons of Service		0	0	0	0	0	0	0
% of Service Total		0%	0%	0%	0%	0%	0%	0%

Solid Waste Container Count - Bins							
	County	El Cerrito	Hercules	Pinole	Richmond	San Pablo	TOTAL
Yards of Service	0	0	0	0	0	0	0
% of Service Total	0%	0%	0%	0%	0%	0%	0%

Dry Route Container Count - Bins							
	County	El Cerrito	Hercules	Pinole	Richmond	San Pablo	TOTAL
Yards of Service	0	0	0	0	0	0	0
% of Service Total	0%	0%	0%	0%	0%	0%	0%

Contra Costa County								
Size	Units	1	2	3	4	5	6	Total
1 CY								0
2 CY								0
3 CY								0
4 CY								0
5 CY								0
6 CY								0
7 CY								0
8 CY								0
Total Containers		0	0	0	0	0	0	0
Yards of Service		0	0	0	0	0	0	0

Contra Costa County								
Size	Units	1	2	3	4	5	6	Total
1 CY								0
2 CY								0
3 CY								0
4 CY								0
5 CY								0
6 CY								0
7 CY								0
8 CY								0
Total Containers		0	0	0	0	0	0	0
Yards of Service		0	0	0	0	0	0	0

El Cerrito								
Size	Units	1	2	3	4	5	6	Total
1 CY								0
2 CY								0
3 CY								0
4 CY								0
5 CY								0
6 CY								0
7 CY								0
8 CY								0
Total Containers		0	0	0	0	0	0	0
Yards of Service		0	0	0	0	0	0	0

El Cerrito								
Size	Units	1	2	3	4	5	6	Total
1 CY								0
2 CY								0
3 CY								0
4 CY								0
5 CY								0
6 CY								0
7 CY								0
8 CY								0
Total Containers		0	0	0	0	0	0	0
Yards of Service		0	0	0	0	0	0	0

Hercules								
Size	Units	1	2	3	4	5	6	Total
1 CY								0
2 CY								0
3 CY								0
4 CY								0
5 CY								0
6 CY								0
7 CY								0
8 CY								0
Total Containers		0	0	0	0	0	0	0
Yards of Service		0	0	0	0	0	0	0

Hercules								
Size	Units	1	2	3	4	5	6	Total
1 CY								0
2 CY								0
3 CY								0
4 CY								0
5 CY								0
6 CY								0
7 CY								0
8 CY								0
Total Containers		0	0	0	0	0	0	0
Yards of Service		0	0	0	0	0	0	0

Pinole								
Size	Units	1	2	3	4	5	6	Total
1 CY								0
2 CY								0
3 CY								0
4 CY								0
5 CY								0
6 CY								0
7 CY								0
8 CY								0
Total Containers		0	0	0	0	0	0	0
Yards of Service		0	0	0	0	0	0	0

Pinole								
Size	Units	1	2	3	4	5	6	Total
1 CY								0
2 CY								0
3 CY								0
4 CY								0
5 CY								0
6 CY								0
7 CY								0
8 CY								0
Total Containers		0	0	0	0	0	0	0
Yards of Service		0	0	0	0	0	0	0

Richmond								
Size	Units	1	2	3	4	5	6	Total
1 CY								0
2 CY								0
3 CY								0
4 CY								0
5 CY								0
6 CY								0
7 CY								0
8 CY								0
Total Containers		0	0	0	0	0	0	0
Yards of Service		0	0	0	0	0	0	0

Richmond								
Size	Units	1	2	3	4	5	6	Total
1 CY								0
2 CY								0
3 CY								0
4 CY								0
5 CY								0
6 CY								0
7 CY								0
8 CY								0
Total Containers		0	0	0	0	0	0	0
Yards of Service		0	0	0	0	0	0	0

San Pablo								
Size	Units	1	2	3	4	5	6	Total
1 CY								0
2 CY								0
3 CY								0
4 CY								0
5 CY								0
6 CY								0
7 CY								0
8 CY								0
Total Containers		0	0	0	0	0	0	0
Yards of Service		0	0	0	0	0	0	0

San Pablo								
Size	Units	1	2	3	4	5	6	Total
1 CY								0
2 CY								0
3 CY								0
4 CY								0
5 CY								0
6 CY								0
7 CY								0
8 CY								0
Total Containers		0	0	0	0	0	0	0
Yards of Service		0	0	0	0	0	0	0

Roll-off Service Summary								
		County	El Cerrito	Hercules	Pinole	Richmond	San Pablo	TOTAL
Solid Waste	Pulls							0
	Tons							0
	Percent	0%	0%	0%	0%	0%	0%	0%
Dry Routing	Pulls							0
	Tons							0
	Percent	0%	0%	0%	0%	0%	0%	0%
Recycling	Pulls							0
	Tons							0
	Percent	0%	0%	0%	0%	0%	0%	0%
Organics	Pulls							0
	Tons							0
	Percent	0%	0%	0%	0%	0%	0%	0%
C&D	Pulls							0
	Tons							0
	Percent	0%	0%	0%	0%	0%	0%	0%

Recycling Container Count - Carts								
Size	Units	County	El Cerrito	Hercules	Pinole	Richmond	San Pablo	TOTAL
20	Gal							0
32	Gal							0
64	Gal							0
96	Gal							0
Containers		0	0	0	0	0	0	0
Gallons of Service		0	0	0	0	0	0	0
% of Service Total		0%	0%	0%	0%	0%	0%	0%

Organics Container Count - Carts								
Size	Units	County	El Cerrito	Hercules	Pinole	Richmond	San Pablo	TOTAL
20	Gal							0
32	Gal							0
64	Gal							0
96	Gal							0
Containers		0	0	0	0	0	0	0
Gallons of Service		0	0	0	0	0	0	0
% of Service Total		0%	0%	0%	0%	0%	0%	0%

Recycling Container Count - Bins							
	County	El Cerrito	Hercules	Pinole	Richmond	San Pablo	TOTAL
Yards of Service	0	0	0	0	0	0	0
% of Service Total	0%	0%	0%	0%	0%	0%	0%

Organics Container Count - Bins							
	County	El Cerrito	Hercules	Pinole	Richmond	San Pablo	TOTAL
Yards of Service	0	0	0	0	0	0	0
% of Service Total	0%	0%	0%	0%	0%	0%	0%

Contra Costa County								
Size	Units	1	2	3	4	5	6	Total
1 CY								0
2 CY								0
3 CY								0
4 CY								0
5 CY								0
6 CY								0
7 CY								0
8 CY								0
Total Containers		0	0	0	0	0	0	0
Yards of Service		0	0	0	0	0	0	0

Contra Costa County								
Size	Units	1	2	3	4	5	6	Total
1 CY								0
2 CY								0
3 CY								0
4 CY								0
5 CY								0
6 CY								0
7 CY								0
8 CY								0
Total Containers		0	0	0	0	0	0	0
Yards of Service		0	0	0	0	0	0	0

El Cerrito								
Size	Units	1	2	3	4	5	6	Total
1 CY								0
2 CY								0
3 CY								0
4 CY								0
5 CY								0
6 CY								0
7 CY								0
8 CY								0
Total Containers		0	0	0	0	0	0	0
Yards of Service		0	0	0	0	0	0	0

El Cerrito								
Size	Units	1	2	3	4	5	6	Total
1 CY								0
2 CY								0
3 CY								0
4 CY								0
5 CY								0
6 CY								0
7 CY								0
8 CY								0
Total Containers		0	0	0	0	0	0	0
Yards of Service		0	0	0	0	0	0	0

Hercules								
Size	Units	1	2	3	4	5	6	Total
1 CY								0
2 CY								0
3 CY								0
4 CY								0
5 CY								0
6 CY								0
7 CY								0
8 CY								0
Total Containers		0	0	0	0	0	0	0
Yards of Service		0	0	0	0	0	0	0

Hercules								
Size	Units	1	2	3	4	5	6	Total
1 CY								0
2 CY								0
3 CY								0
4 CY								0
5 CY								0
6 CY								0
7 CY								0
8 CY								0
Total Containers		0	0	0	0	0	0	0
Yards of Service		0	0	0	0	0	0	0

Pinole								
Size	Units	1	2	3	4	5	6	Total
1 CY								0
2 CY								0
3 CY								0
4 CY								0
5 CY								0
6 CY								0
7 CY								0
8 CY								0
Total Containers		0	0	0	0	0	0	0
Yards of Service		0	0	0	0	0	0	0

Pinole								
Size	Units	1	2	3	4	5	6	Total
1 CY								0
2 CY								0
3 CY								0
4 CY								0
5 CY								0
6 CY								0
7 CY								0
8 CY								0
Total Containers		0	0	0	0	0	0	0
Yards of Service		0	0	0	0	0	0	0

Richmond								
Size	Units	1	2	3	4	5	6	Total
1 CY								0
2 CY								0
3 CY								0
4 CY								0
5 CY								0
6 CY								0
7 CY								0
8 CY								0
Total Containers		0	0	0	0	0	0	0
Yards of Service		0	0	0	0	0	0	0

Richmond								
Size	Units	1	2	3	4	5	6	Total
1 CY								0
2 CY								0
3 CY								0
4 CY								0
5 CY								0
6 CY								0
7 CY								0
8 CY								0
Total Containers		0	0	0	0	0	0	0
Yards of Service		0	0	0	0	0	0	0

San Pablo								
Size	Units	1	2	3	4	5	6	Total
1 CY								0
2 CY								0
3 CY								0
4 CY								0
5 CY								0
6 CY								0
7 CY								0
8 CY								0
Total Containers		0	0	0	0	0	0	0
Yards of Service		0	0	0	0	0	0	0

San Pablo								
Size	Units	1	2	3	4	5	6	Total
1 CY								0
2 CY								0
3 CY								0
4 CY								0
5 CY								0
6 CY								0
7 CY								0
8 CY								0
Total Containers		0	0	0	0	0	0	0
Yards of Service		0	0	0	0	0	0	0

Inbound Tonnage Report			Jan-14		Feb-14		Mar-14		Apr-14		May-14		Jun-14	
Truck Type	Material Type	Facility	Loads	Tons										
ASL	Solid Waste	GBTS												
FEL	Solid Waste	GBTS												
R/O	Solid Waste	GBTS												
ASL	Dry Routing	GBTS												
FEL	Dry Routing	GBTS												
R/O	Dry Routing	GBTS												
ASL	Recycling	IRRF												
FEL	Recycling	IRRF												
R/O	Recycling	IRRF												
ASL	Organics	WCC - GMPF												
FEL	Organics	WCC - GMPF												
R/O	Organics	WCC - GMPF												
R/O	C&D	WCC - CRD												
Transfer	Authority Allocated Portion of Solid Waste	KCLF												
Transfer	Authority Allocated Portion of Recycling Residue	KCLF												
Transfer	Authority Allocated Portion of Organics Residue	KCLF												
Transfer	Authority Allocated Portion of C&D Residue	KCLF												
Transfer	Dry Routing	NIRRP												
Transfer	Authority Allocated Portion of Dry Residue	NILF												

1. Company to consider how vehicle data is coded in their system
2. Add facilities, vehicle types, and material types, as appropriate.

Inbound Tonnage Report			Jul-14		Aug-14		Sep-14		Oct-14		Nov-14		Dec-14		Annual	
Truck Type	Material Type	Facility	Loads	Tons												
ASL	Solid Waste	GBTS													0	0
FEL	Solid Waste	GBTS													0	0
R/O	Solid Waste	GBTS													0	0
ASL	Dry Routing	GBTS													0	0
FEL	Dry Routing	GBTS													0	0
R/O	Dry Routing	GBTS													0	0
ASL	Recycling	IRRF													0	0
FEL	Recycling	IRRF													0	0
R/O	Recycling	IRRF													0	0
ASL	Organics	WCC - OMFF													0	0
FEL	Organics	WCC - OMFF													0	0
R/O	Organics	WCC - OMFF													0	0
R/O	C&D	WCC - C&D													0	0
Transfer	Authority Allocated Portion of Solid Waste	KCLF													0	0
Transfer	Authority Allocated Portion of Recycling Residue	KCLF													0	0
Transfer	Authority Allocated Portion of Organics Residue	KCLF													0	0
Transfer	Authority Allocated Portion of C&D Residue	KCLF													0	0
Transfer	Dry Routing	NIRRP													0	0
Transfer	Authority Allocated Portion of Dry Residue	NILF													0	0

1. Company to consider how vehicle data is coded in their system
2. Add facilities, vehicle types, and material types, as appropriate.

IRRF - Recyclable Commodities Detail

	Jan-14		Feb-14		Mar-14		Apr-14		May-14		Jun-14	
	%	Tons										
Cardboard		0		0		0		0		0		0
News #6		0		0		0		0		0		0
News #8		0		0		0		0		0		0
White Ledger		0		0		0		0		0		0
Office Pack		0		0		0		0		0		0
Post Consumer Ledger		0		0		0		0		0		0
Mixed Paper		0		0		0		0		0		0
Amber/Brown Glass		0		0		0		0		0		0
Flint/Clear Glass		0		0		0		0		0		0
Green Glass		0		0		0		0		0		0
Mixed Glass		0		0		0		0		0		0
Aluminum Scrap		0		0		0		0		0		0
Aluminum		0		0		0		0		0		0
Copper		0		0		0		0		0		0
Stainless Steel		0		0		0		0		0		0
Steel Scrap		0		0		0		0		0		0
Tin		0		0		0		0		0		0
HDPE Colored		0		0		0		0		0		0
HDPE Natural		0		0		0		0		0		0
Mixed Plastic		0		0		0		0		0		0
PET		0		0		0		0		0		0
Wood		0		0		0		0		0		0
Film Plastics		0		0		0		0		0		0
Other Recovery		0		0		0		0		0		0
Residue/Contamination sent to ADC/AIC		0		0		0		0		0		0
Residue/Contamination sent to Landfill		0		0		0		0		0		0
TOTAL	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0

Facility-wide averages acceptable

IRRF - Recyclable Commodities Detail

	Jul-14		Aug-14		Sep-14		Oct-14		Nov-14		Dec-14	
	%	Tons										
Cardboard		0		0		0		0		0		0
News #6		0		0		0		0		0		0
News #8		0		0		0		0		0		0
White Ledger		0		0		0		0		0		0
Office Pack		0		0		0		0		0		0
Post Consumer Ledger		0		0		0		0		0		0
Mixed Paper		0		0		0		0		0		0
Amber/Brown Glass		0		0		0		0		0		0
Flint/Clear Glass		0		0		0		0		0		0
Green Glass		0		0		0		0		0		0
Mixed Glass		0		0		0		0		0		0
Aluminum Scrap		0		0		0		0		0		0
Aluminum		0		0		0		0		0		0
Copper		0		0		0		0		0		0
Stainless Steel		0		0		0		0		0		0
Steel Scrap		0		0		0		0		0		0
Tin		0		0		0		0		0		0
HDPE Colored		0		0		0		0		0		0
HDPE Natural		0		0		0		0		0		0
Mixed Plastic		0		0		0		0		0		0
PET		0		0		0		0		0		0
Wood		0		0		0		0		0		0
Film Plastics		0		0		0		0		0		0
Other Recovery		0		0		0		0		0		0
Residue/Contamination sent to ADC/AIC		0		0		0		0		0		0
Residue/Contamination sent to Landfill		0		0		0		0		0		0
TOTAL	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0

Facility-wide averages acceptable

Dry Processing Commodities Detail

	Jan-14		Feb-14		Mar-14		Apr-14		May-14		Jun-14	
	%	Tons										
Cardboard		0		0		0		0		0		0
News #6		0		0		0		0		0		0
News #8		0		0		0		0		0		0
White Ledger		0		0		0		0		0		0
Office Pack		0		0		0		0		0		0
Post Consumer Ledger		0		0		0		0		0		0
Mixed Paper		0		0		0		0		0		0
Amber/Brown Glass		0		0		0		0		0		0
Flint/Clear Glass		0		0		0		0		0		0
Green Glass		0		0		0		0		0		0
Mixed Glass		0		0		0		0		0		0
Aluminum Scrap		0		0		0		0		0		0
Aluminum		0		0		0		0		0		0
Copper		0		0		0		0		0		0
Stainless Steel		0		0		0		0		0		0
Steel Scrap		0		0		0		0		0		0
Tin		0		0		0		0		0		0
HDPE Colored		0		0		0		0		0		0
HDPE Natural		0		0		0		0		0		0
Mixed Plastic		0		0		0		0		0		0
PET		0		0		0		0		0		0
Wood		0		0		0		0		0		0
Film Plastics		0		0		0		0		0		0
Other Recovery		0		0		0		0		0		0
Organics sent for compost/digestion												
Material sent for ADC/AIC												
Residue/Contamination sent to Landfill		0		0		0		0		0		0
TOTAL	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0

Facility-wide averages acceptable

Dry Processing Commodities Detail

	Jul-14		Aug-14		Sep-14		Oct-14		Nov-14		Dec-14	
	%	Tons										
Cardboard		0		0		0		0		0		0
News #6		0		0		0		0		0		0
News #8		0		0		0		0		0		0
White Ledger		0		0		0		0		0		0
Office Pack		0		0		0		0		0		0
Post Consumer Ledger		0		0		0		0		0		0
Mixed Paper		0		0		0		0		0		0
Amber/Brown Glass		0		0		0		0		0		0
Flint/Clear Glass		0		0		0		0		0		0
Green Glass		0		0		0		0		0		0
Mixed Glass		0		0		0		0		0		0
Aluminum Scrap		0		0		0		0		0		0
Aluminum		0		0		0		0		0		0
Copper		0		0		0		0		0		0
Stainless Steel		0		0		0		0		0		0
Steel Scrap		0		0		0		0		0		0
Tin		0		0		0		0		0		0
HDPE Colored		0		0		0		0		0		0
HDPE Natural		0		0		0		0		0		0
Mixed Plastic		0		0		0		0		0		0
PET		0		0		0		0		0		0
Wood		0		0		0		0		0		0
Film Plastics		0		0		0		0		0		0
Other Recovery		0		0		0		0		0		0
Organics sent for compost/digestion												
Material sent for ADC/AIC												
Residue/Contamination sent to Landfill		0		0		0		0		0		0
TOTAL	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0

Facility-wide averages acceptable

WCC - OMPF Detail

	Jan-14		Feb-14		Mar-14		Apr-14		May-14		Jun-14	
	%	Tons										
Finished Compost		0		0		0		0		0		0
Natural Mulch Products		0		0		0		0		0		0
Colorized Mulch Products		0		0		0		0		0		0
Other Recovery		0		0		0		0		0		0
Non-Saleable Overs used as ADC/AIC		0		0		0		0		0		0
Residue/Contamination sent to Landfill		0		0		0		0		0		0
TOTAL	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0

Facility-wide averages acceptable

WCC - OMPF Detail

	Jul-14		Aug-14		Sep-14		Oct-14		Nov-14		Dec-14	
	%	Tons										
Finished Compost		0		0		0		0		0		0
Natural Mulch Products		0		0		0		0		0		0
Colorized Mulch Products		0		0		0		0		0		0
Other Recovery		0		0		0		0		0		0
Non-Saleable Overs used as ADC/AIC		0		0		0		0		0		0
Residue/Contamination sent to Landfill		0		0		0		0		0		0
TOTAL	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0

Facility-wide averages acceptable

C&D Processing Commodities Detail

	Jan-14		Feb-14		Mar-14		Apr-14		May-14		Jun-14	
	%	Tons										
Cardboard		0		0		0		0		0		0
Mixed Paper		0		0		0		0		0		0
Ferrous Scrap		0		0		0		0		0		0
Non-Ferrous Scrap		0		0		0		0		0		0
Mixed Rigid Plastics		0		0		0		0		0		0
Wood		0		0		0		0		0		0
Film Plastics		0		0		0		0		0		0
Organics sent for compost/beneficial use		0		0		0		0		0		0
Other Recovery		0		0		0		0		0		0
Residue/Contamination sent to ADC/AIC		0		0		0		0		0		0
Residue/Contamination sent to Landfill		0		0		0		0		0		0
TOTAL	0%	0										

Facility-wide averages acceptable

C&D Processing Commodities Detail

	Jul-14		Aug-14		Sep-14		Oct-14		Nov-14		Dec-14	
	%	Tons										
Cardboard		0		0		0		0		0		0
Mixed Paper		0		0		0		0		0		0
Ferrous Scrap		0		0		0		0		0		0
Non-Ferrous Scrap		0		0		0		0		0		0
Mixed Rigid Plastics		0		0		0		0		0		0
Wood		0		0		0		0		0		0
Film Plastics		0		0		0		0		0		0
Organics sent for compost/beneficial use		0		0		0		0		0		0
Other Recovery		0		0		0		0		0		0
Residue/Contamination sent to ADC/AIC		0		0		0		0		0		0
Residue/Contamination sent to Landfill		0		0		0		0		0		0
TOTAL	0%	0										

Facility-wide averages acceptable

489

3490

EXHIBIT 6.2 INSURANCE

3491 **1. General Liability** Insurance Services Office form number GL 0002 covering Comprehensive
3492 General Liability and Insurance Services Office form number GL 0404 covering Broad Form
3493 Comprehensive General Liability; or Insurance Services Office Commercial General Liability coverage
3494 ("occurrence" form CG 0001). \$10,000,000 combined single limit per occurrence for bodily injury,
3495 personal injury and property damage.

3496 The Commercial General Liability Business policy must contain endorsements in substantially the
3497 following form:

3498 (i) "Thirty (30) Calendar Days prior written notice shall be given to the Authority in the event of policy
3499 cancellation. Such Notice shall be sent via e-mail to:

3500 West Contra Costa Integrated Waste Management Authority
3501 Executive Director
3502 1 Alvarado Square
3503 San Pablo, CA 94806
3504

3505 (ii) "The Authority, its officers, employees, and agents are additional insureds on this policy." The
3506 Authority requires form CG2010 0704.

3507 (iii) "This policy shall be considered primary insurance as respects any other valid and collectible
3508 insurance maintained by the Authority, including any self-insured retention or program of self-
3509 insurance, and any other such insurance shall be considered excess insurance only."

3510 (iv) "Inclusion of the Authority as an additional insured shall not affect the Authority's rights as
3511 respects any claim, demand, suit or judgment brought or recovered against the Contractor. This policy
3512 shall protect Contractor and the Authority in the same manner as though a separate policy had been
3513 issued to each, but this shall not operate to increase the Contractor's liability as set forth in the policy
3514 beyond the amount shown or to which the Contractor would have been liable if only one (1) Party had
3515 been named as an insured."

3516 **2. Automobile Liability** Insurance Services Office form number CA 0001 covering Automobile
3517 Liability, code 1 "any auto" and endorsement CA 458 002 0611 (occurrence form). \$10,000,000
3518 combined single limit per accident for bodily injury and property damage. The Automobile Liability
3519 policy must contain the same endorsements as required for Comprehensive General Liability and MCS
3520 90 endorsement.

3521 **3. Workers' Compensation and Employers Liability Insurance.** Workers' compensation limits as
3522 required by State Labor Code Section 3700.
3523

3524 The Workers' Compensation policy must contain a broad form waiver of subrogation: endorsement.

3525 The insurer must waive all rights of subrogation against the Authority, its officers, employees and
3526 volunteers for losses arising from work performed by the Contractor for the Authority, except for the
3527 willful misconduct or sole negligence of the Authority.

3528 **4. Pollution Legal Liability** in the amount of ten million dollars (\$10,000,000) covering liability
3529 arising from the release of pollution at the Landfill. The Pollution Legal Liability policy must contain the
3530 same endorsements as required for Comprehensive General Liability.

531

3532

EXHIBIT 8.19 LIQUIDATED DAMAGES

3533 The performance standards and liquidated damages below are intended to identify the damages
 3534 associated with the Contractor's willful or negligent acts or omissions under the Agreement which
 3535 reduce the value of the services provided under this Agreement to the Authority and ratepayers. In the
 3536 event that a failure to achieve a performance standard is the result of a foreseeable, but uncontrollable
 3537 circumstance, Contractor shall notify the Authority, in writing, of its prospective failure and the means
 3538 and date by which Contractor intends to remedy the failure. In the event that a failure to achieve a
 3539 performance standard is the result of an unforeseeable and uncontrollable circumstance, Contractor
 3540 shall notify the Authority in writing within one business day of the failure and shall notify the Authority
 3541 of Contractor's plans to prevent future failures for similar reasons. The determination of the
 3542 unforeseeable and/or uncontrollable nature of the circumstances shall be made in the reasonable
 3543 discretion of the Authority's Contract Manager. This determination may consider the information
 3544 provided by the Contractor and any other information which may be relevant. In the event such
 3545 circumstances are determined to be unforeseeable and/or uncontrollable, the Authority's Contract
 3546 Manager shall waive the assessment of damages.

3547

3548

Company WCCIWMA

3549

Initial Here MAC Initial Here CWZ

3550

Performance Standard	Liquidated Damages
1. Failure to implement and conduct operational services. For each day that contractor is delayed in implementing or conducting any operational service(s) required under Sections 4.1.1 through 4.1.7 of this Agreement beyond the specified implementation date	\$1,000/service/day
2. Use of Authorized Facilities. For each ton of Solid Waste, Dry Materials, Recyclable Materials, Organic Materials, or C&D Debris delivered to a facility not approved for use under the provisions of this Agreement. This performance standard and associated liquidated damage would not apply in the event that Contractor provides notice in writing within 48 hours to the Authority of the need to use an alternative facility due to an unforeseen and uncontrollable circumstance.	\$125/ton
3. Disposal of Organic or Recyclable Materials. For each ton of otherwise marketable Organic Materials or Recyclable Materials Disposed, either pre- or post-processing, without the prior written approval of the Authority. This provision explicitly excludes Dry Materials processing, Compost Overs, and Residue from C&D and Curbside Processing.	\$125/ton
4. Timely submission of required reports and rate adjustment requests. For each day that a report or rate adjustment request required by this agreement is overdue past the specified due date. No submittal shall be deemed responsive to this requirement unless it is complete and accurate. In the event that a report is submitted and complete, but contains information the Authority reasonably believes is inaccurate, Contractor shall have ten (10) Working Days to correct or substantiate the information prior to this liquidated damage being imposed.	\$200/day for each day until accurate and complete submittal received
5. Timely response to requested information. For each day that contractor fails to respond to an Authority request for information or data that is authorized by the Agreement and which exceeds the allowable timeframes defined by the Agreement. The Authority shall request the information in writing and provide the Contractor a	\$200/day for each day until accurate and complete submittal received

<p>minimum of 15 business days to respond. No submittal shall be deemed responsive to this requirement unless it is complete and accurate. In the event that a report is submitted and complete, but contains information the Authority reasonably believes is inaccurate, Contractor shall have ten (10) Working Days to correct or substantiate the information prior to this liquidated damage being imposed.</p>	
<p>6. Failure to record accurate weights. For each failure to accurately weigh, record, and store the required details related to each and every load of material received at each of the approved facilities. Loads shall be considered inaccurately weighed if Contractor has not received required scale certification or if Contractor fails to update stored tare weights as needed (e.g. when major repairs are done to vehicles). Exceptions include power failures and equipment failures beyond Contractor's control. In such an event, the Contractor shall comply with the requirements of Section 4.9 of the Agreement in order to record accurate weights.</p>	\$250/load
<p>7. Inaccurate disposal reporting. For each ton of waste that is incorrectly attributed to the Authority or any Franchise Agency resulting from an error in Contractor's submission to the County Disposal Reporting Coordinator, after notice and opportunity for correction of State DRS reports, for the purposes of the State Disposal Reporting System.</p>	\$125/ton
<p>8. Delay in producing and/or delivering public education. For each day, up to 30, that Contractor is delayed in the production and/or delivery of public education materials required to be provided to the customers of Richmond Sanitary Service within the Authority service area under Section 4.1.9 of the Agreement, provided that the delay was an event under the control of the Contractor. In the event that a piece of public education is required monthly, quarterly, or annually, the item will be past due on the first day of the following calendar month, quarter, or year respectively.</p> <p>In the event Contractor is delayed more than thirty (30) days, Contractor shall have failed to perform under the Agreement and the Authority may utilize the funds available under the performance surety to produce and deliver the required education materials.</p>	<p>\$100/day for each day until delivered, up to 30 days per item</p> <p>AND</p> <p>\$2,500/event if delayed more than 30 days</p>
<p>9. Failure to provide technical assistance and outreach. Any failure to provide ongoing technical assistance (e.g. site visits requested by customer, the Authority, a Franchise Agency, or required in Section 4.1.8 or the annual education and outreach plan) and community outreach services (e.g. attending public events and venues to promote recycling and diversion programs) as required by the Agreement. Failure to provide technical assistance to Customers shall be counted as one event per Customer.</p>	\$750/event
<p>10. Accuracy of customer service information. Any documented (e.g. voice recording, copy of written materials or email, etc.) instance of any Contractor employee or agent providing inaccurate information to the public regarding the services provided under the Agreement. Information shall be determined inaccurate if it is in direct contradiction to the services and terms of the Agreement and/or any public education materials (e.g. website, brochures, posters, etc.) which have been approved by the Authority or applicable Franchise Agency. Information shall also be determined inaccurate if it fails to provide complete information on the subject which would educate the Customer about Diversion opportunities (e.g. omitting food waste from a list of accepted materials in the green cart, failing to inform Commercial customers that recycling or organics services are provided at no additional charge, etc.).</p>	\$250/event

Company

WCCIWMA

Initial Here MAC

Initial Hei CHZ

<p>11. Insufficient number of active source separated organics accounts. For each Customer below the target number of active Source Separated Organics Customers at or after each milestone date (i.e. 200 accounts by December 31, 2014; 300 accounts by December 31, 2015; 400 accounts by December 31, 2016). An account shall only be deemed active if they have subscribed to service, have received a container, and are actively separating organic materials from other solid waste. This measurement may be performed monthly using actual account information from the preceding calendar month. An account shall be considered active for the purposes of this performance standard, regardless of their actual separation of organic materials, if Contractor can demonstrate to the satisfaction of the Authority that Contractor's Recycling Coordinators have made a good faith effort to work repeatedly with that account to identify and overcome barriers to their use of the program.</p>	<p>\$200/customer/ month</p>
<p>12. Failure to achieve dry processing diversion. For each ton that actual calendar year dry processing is below 10,000 tons processed in 2014 and 18,250 tons processed in each subsequent calendar year. This measurement may be performed annually using actual results from the preceding calendar year. In the event that actual processing tonnage is at least 90% of the standard for any given calendar year, Contractor may notify the Authority in writing of its intent cure the failure by processing a commensurate volume of additional dry material in the following calendar quarter. If the Contractor fails to provide such notice or process sufficient additional volumes in the following quarter, the performance standard shall not have been met.</p>	<p>\$150/ton</p>
<p>13. Failure to maintain diversion of C&D recycling. For each month that Contractor fails to maintain 70% or more of mixed C&D processed by Contractor is diverted. Damages shall be assessed based on the actual percentage of diversion achieved relative to the target, where two percentage points is used to measure the scale of the damage.</p> <p>For example, if Contractor achieves a diversion rate of 68.2% for a given month, the Authority may assess liquidated damages of up to \$1,000 for that month because 68.2% is within two percentage points of the 70.0% target diversion rate. As another example, if Contractor achieves a diversion rate of 67.9% the Authority may assess liquidated damages of up to \$2,000 for that month because 67.9% is more than two and less than four percentage points from the 70.0% target diversion rate.</p> <p>The measurement criteria to be based on overall C&D processing system diversion. The facility, in whole or in part, shall be certified from a certifying public agency (e.g. StopWaste.org, City/County of San Francisco, etc.) or industry group acceptable to the Authority. In the absence of a certifying public agency, the Authority and Contractor will meet and confer on certification criteria. In the event of a Change in Law associated with the diversion credit provided for using construction and demolition debris fines as ADC or other beneficial use, the Parties shall agree on a reduced diversion standard based on the elimination of that credit.</p>	<p>\$1,000 per two percentage points per month</p>

3551
3552

3553
3554

Company
Initial Here MAC

WCCIWMA
Initial Here CWZ

3555
3556

EXHIBIT 8.19.A PERFORMANCE STANDARDS

3557
3558

Company

WCCIWMA

3559

Initial Here MAK

Initial Here CWL

3560 Expansion of Acceptable Material for Residential Single Stream Curbside Recycling & Weekly Collection
3561 of Residential Curbside Recycling

- 3562
- Implementation of expanded acceptable material as of January 1, 2014
 - 3563 • Implementation of weekly collection of residential curbside recycling as of October 31, 2014
 - 3564 • The combined impact is estimated 7-10% (1,264 to 1,805 tons year) increase in collected
 - 3565 tonnage by October 2015. Performance to be measured based on prior 12 month review
 - 3566 (October 2014 – Oct 2015) for the 7-10% increase in collected tonnage.
 - 3567 • Public education material delivered December 2013 for expanded collection material and
 - 3568 September 1, 2014 for weekly collection services
 - 3569 • Future performance for Public Education to be measured as timely delivery of public education
 - 3570 material delivered to maintain program effectiveness

3571

3572 Weekly Collection of Residential Food & Green Organics Curbside Collection

- 3573
- Implement as of October 31, 2014
 - 3574 • City of Hercules, City of Pinole, and Unincorporated Contra Costa County begin Food Waste
 - 3575 Collection in Green Waste Cart beginning January 1, 2014
 - 3576 • Estimated 5% increase in collected tonnage within first 18 months and 10% increase in collected
 - 3577 tonnage within 36 months (seasonally adj.)
 - 3578 • Estimated tonnage impact of an additional 1,000 tons/year within 18 months and an overall
 - 3579 tonnage increase of 1,900 tons over 36 months (estimate may have to be seasonally adjusted)
 - 3580 • Initial period performance to be based upon program implementation and public education
 - 3581 rollout by September 1, 2014 for weekly collection and November 1, 2013 for Food Waste
 - 3582 Collection
 - 3583 • Future performance to be measured by ability to maintain the diversion level achieved
 - 3584 (estimated 5% in first 18 months with an additional 5% for a total of 10% increase in collected
 - 3585 tonnage within 36 months), maintaining the diversion expressed as a percentage of the pre-
 - 3586 program baseline. 10% is over pre-program baseline, not an annual percentage increase. Public
 - 3587 education material to be delivered to maintain program effectiveness

3588

3589 Commercial Source Separated Organics Collection

- 3590
- January 1, 2014 to March 31, 2014
 - 3591 ○ Identification of the area's largest organics generating accounts
 - 3592 ○ Education of targeted accounts
 - 3593 ○ Subscription to organics service
 - 3594 • April 1, 2014 commencement of dedicated organics collection route
 - 3595 • 200 accounts contacted and 100 accounts subscribed to service and participating by December
 - 3596 2014

- 3597 • 300 accounts contacted and 150 accounts subscribed to service and participating by December
- 3598 2015
- 3599 • 400 accounts contacted and 200 accounts subscribed to service and participating by December
- 3600 2016
- 3601 • Company and Authority/Member Agencies will meet in 2016 to set an ongoing goal of achieving
- 3602 a 50% customer saturation rate of subscription to organics service from the targeted food
- 3603 generating accounts
- 3604 • Company and Authority/Member Agencies have a 3 year planning horizon to maintain program
- 3605 effectiveness
- 3606 • Public education material delivered to maintain program effectiveness
- 3607 • Actual tonnage information from initial 100 accounts (phase 1) during the first 6 months of
- 3608 route collection will be compiled. Report data collected to Authority/member agencies.
- 3609 Mutually set estimated tonnage (%) increase target for each future rollout of additional
- 3610 customers
- 3611

3612 Commercial Dry Routing, Collection, and Processing

- 3613 • Implementation begins February 1, 2014 with review of commercial accounts and waste audits
- 3614 to identify targetable customers
- 3615 • May 1, 2014 report due to Authority outlining the results of customer audits
- 3616 • June 30, 2014 implementation of dry collection route
- 3617 • Phase I collection target of 25% of commercial/industrial stream (estimated at 10,000 tons but
- 3618 ultimately determined through detailed audits of waste stream and review of data with
- 3619 Authority)
- 3620 • 50% minimum diversion rate of collected material (5000 tons of new diversion) within 12
- 3621 months, or by June 30, 2015
- 3622 • Phase II collection target of an additional 20% of the process-able dry stream (estimated 8,250
- 3623 tons but ultimately determined through detailed audits of waste stream and review of data with
- 3624 Authority)
- 3625 • 50% minimum diversion rate of additional Phase II collected material (4,125 tons of new
- 3626 diversion) with 24 months of program startup
- 3627

3628 Mixed Construction and Demolition Materials Processing

- 3629 • Performance Standard review period begins January 1, 2014
- 3630 • Achieve diversion of 70% from mixed Construction and Demolition materials processed over the
- 3631 sort line delivered from Authority.
- 3632 • Measurement criteria to be based on overall C&D processing system diversion; Total diversion
- 3633 based upon material delivered and process at C&D facility with acceptance of source separated
- 3634 material
- 3635 • C&D plant will be a certified recycling facility. Certification criteria will be based on recognized
- 3636 agencies or trade organizations. In the absence of suitable recognized agencies/trade
- 3637 organizations, the Company and the Authority will meet and confer in good faith on acceptable
- 3638 certification criteria.
- 3639

3640

Company

WCCIWMA

3641

Initial Here MAC

Initial Her. CAW

3642
3643

EXHIBIT 8.20 GUARANTY AGREEMENT

3644 This Guaranty, made as of the date written below by Republic Services, Inc. (Guarantor), to and for the
3645 benefit of the West Contra Costa Integrated Waste Management Authority (Authority), a municipal
3646 corporation of the State of California (State).

3647 WITNESSETH

3648 **WHEREAS**, the Contractor and the Authority have negotiated the Agreement between the Authority for
3649 Solid Waste, Recyclable Materials, and Organic Materials Transport, Processing, and Disposal Services
3650 dated as of the later of the date of execution thereof by the Authority or the Contractor, as may be
3651 supplemented and amended from time to time in accordance with the terms thereof (Agreement),
3652 which Agreement is incorporated in this Agreement by reference and by this Agreement made part of
3653 this Agreement;

3654 **WHEREAS**, it is in the interest of Guarantor that the Contractor enter into the Agreement with the
3655 Authority;

3656 **WHEREAS**, the Authority is willing to enter into the Agreement only upon the condition that the
3657 Guarantor execute this Guaranty;

3658 **WHEREAS**, in the event Contractor fails to timely and fully perform its obligations, including the
3659 payment of moneys, pursuant to the Agreement, Guarantor is willing to Guaranty, Contractor's timely
3660 and full performance thereof; and

3661 **WHEREAS**, it is a condition precedent to the Authority's obligations under the Agreement that the
3662 Guarantor provide this Guaranty.

3663 **NOW, THEREFORE**, as an inducement to the Authority to enter into the Agreement, the Guarantor
3664 agrees as follows:

3665 Capitalized terms used in this Agreement and not otherwise defined in this Agreement, shall have the
3666 meaning assigned to them in the Agreement.

3667 **(1) Guaranty of Contractor's Performance Under Agreement.** Guarantor by this Guaranty directly,
3668 unconditionally, irrevocably, and absolutely guaranties the timely and full performance of Contractor's
3669 obligations under the Agreement in accordance with the terms and conditions contained therein or to
3670 cause that timely and full performance. Within thirty (30) Calendar Days written request therefore by
3671 the Authority, Guarantor shall honor the Guaranty. Notwithstanding the unconditional nature of the
3672 Guarantor's payment obligations set forth in this Agreement, the Guarantor may assert the defenses
3673 provided in the paragraph entitled Defenses under Section 8 of this Guaranty, against claims made
3674 under this Guaranty.

3675 **(2) Governing law; consent to jurisdiction; service of Process.** This Guaranty is governed by the laws of
3676 the State of California. The Guarantor by this Guaranty agrees to the service of Process in the State for
3677 any claim or controversy arising out of this Guaranty or relating to any breach. The Guarantor by this
3678 Guaranty agrees that the Superior Court of Contra Costa County, and to the extent permitted by law, the
3679 United States District Court for the Northern District of California, shall have the exclusive jurisdiction of
3680 all suits, Actions, and other proceedings involving itself and to which the Authority may be party for the
3681 adjudication of any claim or controversy arising out of this Guaranty or relating to any breach of this
3682 Guaranty, waives any objections that it might otherwise have to the venue of any Court for the trial of
3683 any suit, action, or proceeding, and consents to the service of process in any suit, action, or proceeding
3684 by prepaid registered mail, return receipt requested.

3685 **(3) Enforceability; no Assignment.** This Guaranty is binding upon and enforceable against Guarantor, its
3686 successors, Assignees, and lawful representatives. It is for the benefit of the Authority, its successors
3687 and Assignees. The Guarantor may not Assign or delegate the performance of this Guaranty without the
3688 prior written consent of the Authority in its sole discretion. Any Assignment made without the consent
3689 of Authority is voidable by the Authority in its sole discretion. Together with its request for Authority
3690 consent, Guarantor shall pay Authority fifty thousand dollars (\$50,000) to pay Authority its reasonable
3691 expenses for private attorneys' fees and investigation costs ("Assignment expenses") necessary to
3692 investigate the suitability of any proposed Assignee, and to review and finalize any documentation
3693 required as a condition for approving any Assignment. Authority shall reimburse Guarantor the excess, if
3694 any, over those Assignment expenses it incurs. Contrariwise, Guarantor shall pay Authority the excess
3695 Assignment expenses, if any, over fifty thousand dollars (\$50,000) Authority incurs within thirty (30)
3696 Calendar Days of Authority's request thereof. Guarantor shall further pay to Authority the Authority's
3697 Reimbursement Costs for fees of attorneys who are not Authority employees and investigation costs
3698 necessary to enjoin the Assignment or to otherwise enforce this provision within thirty (30) Calendar
3699 Days of Authority's request thereof ("injunction costs").

3700 For purposes of this Guaranty "Assign" and "Assignment" means:

- 3701 (i) selling, exchanging or otherwise transferring effective control of management of the Guarantor
3702 (through sale, exchange or other transfer of outstanding stock or otherwise);
- 3703 (ii) issuing new stock or selling, exchanging or otherwise transferring twenty percent (20%) or more of
3704 the then outstanding common stock of the Guarantor which results in a change of control of
3705 Guarantor;
- 3706 (iii) any dissolution, reorganization, consolidation, merger, re-capitalization, stock issuance or re-
3707 issuance, voting trust, pooling agreement, escrow arrangement, liquidation or other transaction
3708 which results in a change of Ownership or control of Guarantor;
- 3709 (iv) any Assignment by operation of law, including insolvency or bankruptcy, making Assignment for
3710 the benefit of creditors, writ of attachment of an execution, being levied against Guarantor,
3711 appointment of a receiver taking possession of any of Guarantor's tangible or intangible property;
3712 and

3713 (v) any combination of the foregoing (whether or not in related or contemporaneous transactions)
3714 which has the effect of any transfer or change of Ownership or control of Guarantor.

3715 For purposes of determining Ownership, the constructive Ownership provisions of Section 318(a) of the
3716 Internal Revenue Code of 1986, as in effect on the date here, shall apply, provided that (1) ten percent
3717 (10%) is substituted for fifty percent (50%) in Section 318(a)(2)(C) and in Section 318(a)(3)(C) thereof;
3718 and (2) Section 318(a)(5)(C) is disregarded. For purposes of determining Ownership under this
3719 paragraph and constructive or indirect Ownership under Section 318(a), Ownership interest of less than
3720 twenty percent (20%) is disregarded and percentage interests is determined on the basis of the
3721 percentage of voting interest or value which the Ownership interest represents, whichever is greater.
3722 Notwithstanding the foregoing, "Assign" and "Assignment" shall not include any acquisition of shares or
3723 other increase in ownership or ownership percentage by William H. Gates III, Cascade Investment, L.L.C.,
3724 the Bill & Melinda Gates Foundation Trust, and/or any of their affiliates.

3725 **(4) Guaranty absolute and unconditional.** The undertakings of Guarantor set forth in this Agreement
3726 are absolute and unconditional, and the Authority is entitled to enforce any or all of those undertakings
3727 against Guarantor without being first required to enforce any remedies or to seek to compel the
3728 Contractor to perform its obligations under the agreement or to seek, or obtain recourse against any
3729 other Party or Parties, including but not limited to the Contractor or any Assignee of the Contractor, who
3730 are, or may be, liable therefore, in whole or in part, irrespective of any cause or state of facts whatever.
3731 Without limiting the generality of the foregoing, the Guarantor expressly agrees that its obligations
3732 under this Guaranty shall not be affected, limited, modified or impaired by any state of facts or the
3733 happening from time to time of an event, other than the payment of monetary obligations by the
3734 Contractor to Authority under the Agreement in accordance with the terms of the Agreement, including,
3735 without limitation, any of the following, each of which is by this Guaranty expressly waived as a defense
3736 to its liability under this Guaranty, except to the extent those defenses would be available to the
3737 Contractor and release, discharge or otherwise offset Contractor's obligations under the Agreement:

3738 (a) the invalidity, irregularity, illegality or unenforceability, of any defect in or objections to the
3739 Agreement;

3740 (b) any modification or amendment or compromise of or waiver of compliance with or consent to
3741 variation from any of the provisions of the Agreement by the Contractor;

3742 (c) any release of any collateral or lien thereof, including, without limitation, any performance bond;

3743 (d) any defense based upon the election of any remedies against the Guarantor of the Contractor, or
3744 both, including without limitation, any consequential loss by the Guarantor of its right to recover
3745 any deficiency, by way of subrogation or otherwise, from the Contractor or any other Person or
3746 entity;

3747 (e) the recovery of any judgment against the Contractor to enforce any of that collateral or
3748 performance bond;

3749 (f) the Authority or its Assignees taking or omitting to take any of the actions which it or any of that
3750 Assignee is required to take under the Agreement; any failure, omission or delay on the part of the
3751 Authority or its Assignees to enforce, assert or exercise any right, power or remedy conferred on it
3752 or its Assignees by the Agreement, except to the extent that failure, omission or delay gives rise to
3753 an applicable statute of limitations defense by the Contractor with respect to a specific obligation;

3754 (g) the default or failure of the Guarantor to fully perform any of its obligations set forth in this
3755 Guaranty;

3756 (h) the bankruptcy, insolvency, or similar proceeding involving or pertaining to the Contractor or the
3757 Authority, or any order or decree of a court, trustee or receiver in any proceeding;

3758 (i) in addition to those circumstances described in item (h), any other circumstance which might
3759 otherwise constitute a legal or equitable discharge of a Guarantor or limit the recourse of the
3760 Authority to the Guarantor;

3761 (j) the existence or absence of any action to enforce the Agreement;

3762 (k) subject to the provisions of the Agreement relating to Uncontrollable Circumstances, any present
3763 or future law or order of any government or of any agency thereof, purporting to reduce, amend
3764 or otherwise affect the Agreement or to vary any terms of payment or performance under the
3765 Agreement;

3766 *provided* that, notwithstanding the foregoing, Guarantor shall not be required to pay any monetary
3767 obligation of Contractor to Authority from which Contractor would be discharged, released or otherwise
3768 excused under the provisions of the Agreement.

3769 **(5) Waivers.** Guarantor by this Guaranty waives:

3770 (a) Notice of acceptance of this Guaranty and of the creation, renewal, extension and accrual of the
3771 limited financial obligations Guaranteed under this Guaranty;

3772 (b) Notice that any Person has relied on this Guaranty;

3773 (c) diligence, demand of payment and Notice of default or nonpayment under this Guaranty or the
3774 Agreement, and any and all other Notices required under the Agreement;

3775 (d) filing of claims with a court in the event of reorganization, insolvency, or bankruptcy of the
3776 Contractor;

3777 (e) any right to require a proceeding first against the Contractor or with respect to any collateral or
3778 lien, including, without limitation, any performance bond, or any other requirement that the
3779 Authority exercise any remedy or take any other action against the Contractor or any other
3780 Person, or in respect of any collateral or lien, before proceeding under this Guaranty;

3781 (f) (i) any demand for performance or observance of, or (ii) any enforcement of any provision of, or
3782 (iii) any pursuit or exhaustion of remedies with respect to, any security (including, with limitation,
3783 any performance bond) for the obligations of the Contractor under the Agreement; any pursuit of
3784 exhaustion of remedies against the Contractor or any other obligor or Guarantor of the
3785 obligations; and any requirement of promptness or diligence on the part of any Person in
3786 connection therewith; and

3787 (g) to the extent that it lawfully may do so, any and all demands or Notices of every kind and
3788 description with respect to the foregoing or which may be required to be given by any statute or
3789 rule of law, and any defense of any kind which it may now or hereafter have with respect to this
3790 Guaranty or the obligations of the Contractor under the Agreement, except any Notice to the
3791 Contractor required pursuant to the Agreement or Applicable Law which Notice preconditions the
3792 Contractor's obligation or the defenses listed in Section (8) below.

3793 To the extent that it may lawfully do so, the Guarantor by this Guaranty further agrees to waive, and
3794 does by this Guaranty absolutely and irrevocably waive and relinquish, the benefit and advantage of,
3795 and does by this Guaranty covenant not to assert, any appraisal, valuation, stay, extension,
3796 redemption or similar laws, now or at any time hereafter in force, which might delay, prevent or
3797 otherwise impede the due performance or proper enforcement of this Guaranty, the Agreement, or the
3798 obligations of the Contractor under the Agreement, and by this Guaranty expressly agrees that the right
3799 of the Authority under this Guaranty may be enforced notwithstanding any partial performance by the
3800 Contractor or the Guarantor, or the foreclosure upon any security (including, with limitation, any
3801 performance bond) given by the Contractor for its performance of any of its obligations under the
3802 Agreement.

3803 **(6) Agreements between Authority and Contractor; Waivers by Authority.** The Guarantor agrees that,
3804 without the necessity for any additional endorsement or Guaranty by or any reservation of rights against
3805 Guarantor and without any further assent by Guarantor, by mutual agreement between the Authority
3806 and Contractor, the Authority and Contractor may, from time to time

3807 (a) renew, modify, or compromise the liability of the Contractor for or upon any of the obligations by
3808 this Guaranty Guaranteed; or

3809 (b) consent to any amendment or change of any terms of the Agreement; or

3810 (c) accept, release, or surrender any security (including, without limitation, any performance bond),
3811 or

3812 (d) grant any extensions or renewals of the obligations of the Contractor under the Agreement, and
3813 any other indulgence with respect thereto, and to effect any release, compromise or settlement
3814 with respect thereto,

3815 all without releasing or discharging the liability of Guarantor under this Guaranty.

3816 The Guarantor further agrees that the Authority or any of its Assignees shall have and may exercise full
3817 power in its uncontrolled discretion, without in any way affecting the liability of the Guarantor under
3818 this Guaranty, to waive compliance with and any default of the Contractor under, the Agreement.

3819 **(7) Continuing Guaranty.** This Guaranty is a continuing Guaranty and shall continue to be effective or
3820 be reinstated, as applicable, if at any time any payment of any of the obligations under this Guaranty is
3821 rescinded or is otherwise required to be returned upon reorganization, insolvency or bankruptcy of the
3822 Contractor or Guarantor or otherwise, all as though payment had not been made.

3823 **(8) Defenses.** Notwithstanding any provision in this Guaranty to the contrary, the Guarantor may
3824 exercise or assert any and all legal or equitable rights, defenses, counter claims or affirmative defenses
3825 under the Agreement or Applicable Law which the Contractor could assert against any Party seeking to
3826 enforce the Agreement against the Contractor, and nothing in this Guaranty shall constitute a waiver
3827 thereof by the Guarantor.

3828 **(9) Payment of costs of enforcing Guaranty.** Guarantor agrees to pay all costs, expenses and fees,
3829 including all reasonable attorney's fees, which may be incurred by the Authority in enforcing this
3830 Guaranty following the default on the part of the Guarantor under this Guaranty whether the same is
3831 enforced by suit or otherwise.

3832 **(10) Enforcement.** The terms of this Guaranty may be enforced as to any one (1) or more breaches
3833 either separately or cumulatively.

3834 **(11) Remedies cumulative.** No remedy in this Agreement conferred upon or reserved to the Authority
3835 under this Guaranty is intended to be exclusive of any other available remedy or remedies, but each and
3836 every remedy is cumulative and is in addition to every other remedy given under the Guaranty and the
3837 Agreement or in this Agreement after existing at law or in equity or by statute.

3838 **(12) Severability.** The invalidity or unenforceability of any one (1) or more phrases, sentences or
3839 clauses in this Guaranty contained shall not affect the validity or enforce ability of the remaining
3840 portions of this Guaranty, or any part thereof.

3841 **(13) Amendments.** No amendment, change, modification or termination of this Guaranty is made
3842 except upon the written consent of Guarantor and the Authority.

3843 **(14) Term.** The obligations of the Guarantor under this Guaranty shall remain in full force and effect
3844 until (i) all monetary obligations of the Contractor under the Agreement shall have been fully performed
3845 or provided for in accordance with the Agreement, or (ii) the discharge, release or other excuse of those
3846 obligations in accordance with the terms of the Agreement.

3847 **(15) No set-offs**

3848 **By Guarantor.** The obligation of Guarantor under this Guaranty shall not be affected by any set-off,
3849 counterclaim, recoupment, defense or other right that Guarantor may have against the Authority on
3850 account of any claim of the Guarantor against the Authority; *provided* that Guarantor reserves the right

3851 to bring independent claims not arising from the Agreement against the Authority so long as any claims
3852 shall not be used to set-off or deduct from any claims which the Authority may have against the
3853 Guarantor arising from this Guaranty.

3854 **By Contractor.** The obligation of Guarantor under this Guaranty is subject to any set-off, counterclaim,
3855 recoupment, defense or other right that the Contractor may assert pursuant to the Agreement, if any,
3856 but the obligation of Guarantor under this Guaranty shall not be subject to any set-off, counterclaim,
3857 recoupment, defense or other right that the Contractor may assert independently of and outside the
3858 Agreement.

3859 **(16) Warranties and representations.** The Guarantor warrants and represents that as of date of
3860 execution of this Guaranty:

3861 (a) The Guarantor has the power, authority and legal right to enter into this Guaranty and to perform
3862 its obligations and undertakings under this Guaranty, and the execution, delivery and performance
3863 of this Guaranty by the Guarantor (i) have been duly authorized by all necessary corporate and
3864 shareholder action on the part of the Guarantor, (ii) have the requisite approval of all federal,
3865 State and local governing bodies having jurisdiction or authority with respect thereto, (iii) do not
3866 violate any judgment, order, law or regulation applicable to the Guarantor, (iv) do not conflict with
3867 or constitute a default under any agreement or instrument to which the Guarantor is a party or by
3868 which the Guarantor or its assets may be bound or affected, and (v) do not violate any provision of
3869 the Guarantor's articles or certificate of incorporation or by-laws;

3870 (b) This Guaranty has been duly executed and delivered by the Guarantor and constitutes the legal,
3871 valid and binding obligation of the Guarantor, enforceable against the Guarantor in accordance
3872 with its terms; and

3873 (c) There are no pending or, to the knowledge of the Guarantor, threatened Actions or proceedings
3874 before any court or administrative agency which would have a material adverse effect on the
3875 financial condition of the Guarantor, or the ability of the Guarantor to perform its obligations or
3876 undertakings under this Guaranty.

3877 **(17) No merger; no conveyance of assets.** Guarantor agrees that during the term of this Guaranty in
3878 accordance with Section (14) Guarantor shall not consolidate with or merge into any other corporation
3879 where the shareholders of the Guarantor yield control of the Guarantor, or a majority interest in the
3880 Guarantor, to the newly formed corporation, or convey, transfer or lease all or substantially all of its
3881 properties and assets to any Person, firm, joint venture, corporation and other entity, unless the
3882 Authority consents thereto in accordance with Section (3) above.

3883 **(18) Counterparts.** This Guaranty may be executed in any number of counterparts, some of which may
3884 not bear the signatures of all Parties to this Guaranty. Each counterpart, when so executed and
3885 delivered, is deemed to be an original and all counterparts, taken together, shall constitute one and the
3886 same instrument; *provided, however*, that in pleading or proving this Guaranty, it shall not be necessary
3887 to produce more than one (1) copy (or sets of copies) bearing the signature of the Guarantor.

3888 **(19) Notices.** All notices, instructions and other communications required or permitted to be given to
3889 or made upon any Party to this Guaranty is in writing, and is given in the manner and to the addresses
3890 provided in the Agreement.

3891 **(20) Separate suits.** Each and every payment default by Contractor under the Agreement shall give rise
3892 to a separate cause of action under this Guaranty, and separate suits may be brought under this
3893 Guaranty by the Authority or its Assignees as each cause of action arises.

3894 **(21) Headings.** The Section headings appearing in this Agreement are for convenience only and shall not
3895 govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of this
3896 Guaranty.

3897 **(22) Entire Agreement.** This Guaranty constitutes the entire agreement between the Parties to this
3898 Guaranty with respect to the transactions contemplated by this Guaranty. Nothing in this Guaranty is
3899 intended to confer on any Person other than the Guarantor, the Authority and their permitted
3900 successors and Assigns under this Guaranty any rights or remedies under or by reason of this Guaranty.

3901 **(23) Personal Liability.** It is understood and agreed to by the Authority that nothing contained in this
3902 Agreement shall create any obligation or right to look to any director, officer, employee or stockholder
3903 of the Guarantor (or any Affiliate thereof) for the satisfaction of any obligations under this Guaranty,
3904 and no judgment, order or execution with respect to or in connection with this guaranty is taken against
3905 any director, officer, employee or stockholder.

3906 **(24) Events of Default.** Each of the following shall constitute an event of default under this Guaranty:

3907 **(a) Failure to fulfill payment of guaranty.** Guarantor fails to fulfill full and timely payment of any
3908 guaranty under this Guaranty, including Section (1), and the failure continues for five (5) Calendar
3909 Days after Notice (which is deemed given upon receipt of registered or certified mailing by U.S. Postal
3910 Service or of invoiced Commercial Service) (Hereunder defined as Notice) has been given to the
3911 Guarantor by the Authority; fails to perform any of its obligations under this Guaranty or engages in
3912 any acts prohibited under this Guaranty other than failures itemized below, and fails to cure that
3913 failure or conduct within thirty (30) Calendar Days;

3914 **(b) Breach of Guaranty.** The Guarantor fails to observe and perform any covenant, condition or
3915 agreement of this Guaranty, other than any failures listed explicitly in this Section, and that failure
3916 continues for more than thirty (30) Calendar Days after Notice has been given the Guarantor by the
3917 Authority;

3918 **(c) Failure to give Notice of proposed Assignment.** The Guarantor fails to give Authority notice in
3919 accordance with Section (19) within ten (10) Calendar Days of the first to occur of:

3920 (i) Contractor or any Affiliate issuing a press release as to any proposed Assignment, (within the
3921 meaning of Section (3), or consolidation, merger, conveyance, transfer or lease described in
3922 paragraph (e) of this Section (24) or;

3923 (ii) the filing with the Securities and Exchange Commission of a Form 8-K or other filing with
3924 respect to a memorandum of intent or an agreement and plan thereof.

3925 (paragraphs (i) and (ii) together defined as Change Notice);

3926 **(d) Consolidation, merger; conveyance of assets.** The Guarantor consolidates, merges or conveys,
3927 transfers or leases assets in Violation of Section (17) despite the Authority Board of Directors action
3928 following Change Notice in preceding paragraph (c) withholding or denying Authority consent, and on
3929 or before fifteen (15) Calendar Days thereafter, does not provide Authority with a substitute
3930 Guarantor satisfactory to Authority in Authority's sole discretion;

3931 **(e) Bankruptcy, insolvency, liquidation.** Guarantor files a voluntary claim for debt relief under any
3932 applicable bankruptcy, insolvency, debtor relief, or other similar law now or hereafter in effect, or
3933 shall consent to the appointment of or taking of possession by a receiver, liquidator, Assignee, trustee,
3934 custodian, administrator (or similar official) of Guarantor for any substantial part of Guarantor's
3935 operating assets or any substantial part of Guarantor's property, or shall make any general Assignment
3936 for the benefit of Guarantor's creditors, or shall fail generally to pay Guarantor's debts as they become
3937 due or shall take any action in furtherance of any of the foregoing.

3938 A court having jurisdiction enters a decree or order for relief in respect of the Agreement, in any
3939 involuntary case brought under any bankruptcy, insolvency, debtor relief, or similar law now or
3940 hereafter in effect, or Guarantor consents to or fails to oppose any proceeding, or any court enters a
3941 decree or order appointing a receiver, liquidator, Assignee, custodian, trustee, sequestrator (or similar
3942 official) of the Guarantor or for any substantial part of the Guarantor's operating equipment or assets,
3943 or orders the winding up or liquidation of the affairs of the Guarantor;

3944 **(f) Breach of representations or warranties.** Any representation or warranty of Guarantor is untrue
3945 as of the date thereof; Guarantor knowingly makes, causes to be made or condones the making of any
3946 false entry in its books, accounts, Records, and reports under this Guaranty.

3947 Upon any Event of Default the Authority may proceed first and directly against the Guarantor under
3948 Guaranty without proceeding against or exhausting any other remedies which it may have. The
3949 Guarantor acknowledges that any Contractor Default comprises a Default under the Agreement.

3950

3951 **IN WITNESS WHEREOF** Guarantor has executed this instrument the day and year first below written.

3952 Dated: 1/17/14

3953
3954
3955
3956
3957
3958
3959

Mawka A. Lacy
Signature

Assistant Treasurer
Title

3960 Proper notarial acknowledgment of execution by Guarantor must be attached.

3961 Chairman, president or vice-president, and (2) secretary, assistant secretary, CFO or assistant treasurer,
3962 must sign for corporations. Otherwise, the corporation must attach a resolution certified by the
3963 secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the
3964 corporation.

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this 17th day of
January, 2014, by Marsha A. Laay.



NOTARY PUBLIC

Print Name: Jessica Beatty

My Commission Expires:

5/25/2014

