



GAIL FARBER, Director

# COUNTY OF LOS ANGELES

## DEPARTMENT OF PUBLIC WORKS

*"To Enrich Lives Through Effective and Caring Service"*

900 SOUTH FREMONT AVENUE  
ALHAMBRA, CALIFORNIA 91803-1331  
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ADDRESS ALL CORRESPONDENCE TO:  
P.O. BOX 1460  
ALHAMBRA, CALIFORNIA 91802-1460

November 10, 2009

IN REPLY PLEASE  
REFER TO FILE: **AS-0**

**INVITATION FOR BIDS – ADDENDUM 1  
FIRESTONE GARBAGE DISPOSAL DISTRICT (2009-GDD041)  
ATHENS/WOODCREST/OLIVITA GARBAGE DISPOSAL DISTRICT (2009-GDD043)  
WALNUT PARK GARBAGE DISPOSAL DISTRICT (2009-GDD044)**

Thank you for attending our mandatory Proposers' Conference for Athens/Woodcrest/Olivita Garbage Disposal District (2009-GDD043), Firestone Garbage Disposal District (2009-GDD041), and Walnut Park Garbage Disposal District (2009-GDD044) held on Tuesday, November 10, 2009. Please take note of the following revisions that have been addressed regarding the Invitation for Bids (IFB). (Please note that **bold** text has been added, and any text that has a ~~strike through~~ has been deleted from the RFP.).

The deadline to submit bids is **Monday, December 7, 2009, at 5:30 p.m.**

### **CLARIFICATION**

Please note that Exhibit O in the IFB on the Public Works contracting website was inadvertently included. Exhibit O (Enclosure 1) referenced in this Addendum replaces the previous Exhibit O.

### **CHANGES TO PART I OF THE IFB:**

1. The following provision has been added to the end of Part I, Section 1:

**R. Defaulted Property Tax and Reduction Program**

1. The resultant Contract from this RFP will be subject to the requirements of the County's Defaulted Property Tax Reduction Program ("Defaulted Tax Program") (Los Angeles County Code, Chapter 2.206). The successful Contractors should carefully read the Defaulted Tax Program Ordinance, Exhibit I. Proposers should carefully read the pertinent Defaulted Tax Program provisions in Part II, Exhibit B, Section 11, Compliance with County's Defaulted Property Tax Reduction Program. The Defaulted Tax Program applies to both Contractors and their Subcontractors.

2. **Proposers shall be required to certify that they are in full compliance with the provisions of the Defaulted Tax Program and shall maintain compliance during the term of any contract that may be awarded pursuant to this solicitation or shall certify that they are exempt from the Defaulted Tax Program by completing Certification of Compliance with The County's Defaulted Property Tax Reduction Program (Form PW-21.). Failure to maintain compliance, or to timely cure defects, may be cause for termination of a contract or initiation of debarment proceedings against the noncompliant contractor (Los Angeles County Code, Chapter 2.202). Proposals that fail to comply with the certification requirements of the Defaulted Tax Program will be considered nonresponsive and excluded from further consideration.**

2. In Part I, Section 2.A.8., Financial Resources, the first and second paragraphs have been revised to read:

A Bidder may complete Form PW-19 (Delivery of Audited/Reviewed Financials to County) and Form PW-20 (Submission of a Written Statement to Secure a Performance Bond, Letter of Credit, and Additional Business History and/or Other Information with Bid), if applicable, in lieu of the required submission outlined in this section. **Public Works will accept audited financial statements from the parent of a Proposer as long as the guaranty is in the form provided by the Director of Public Works and submitted with the parent's financial statements. Use the provided Exhibit P, (Enclosure 2), Franchise Guaranty, if you are submitting a Parents Financial Statement.**

Submit copies of the proposing entity's reviewed or audited financial statements prepared and certified by an independent Certified Public Accountant (CPA) for the most current three full fiscal years. ~~All the~~ **These** financial statements submitted shall be prepared in accordance with General Accepted Accounting Principles ("GAAP"). At a minimum, statements must include a statement of financial position (balance sheet), a statement of operations (income statement), and a statement of cash flow. All pertinent schedules and footnotes, if applicable, should be provided for evaluation. Income tax returns, personal financial records, or any other self-reported information are unacceptable. Financial records will not be held confidential unless they are properly designated as trade secrets in accordance with Part I, Section 3.H, Notice to Bidders Regarding the Public Records Act.

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2. In Part I, Section 2.A.13., the following has been added to the list of required forms:

**PW-21      Certification of Compliance with the County's Defaulted Property Tax Reduction Program.**

**ADDITIONAL FORM:**

**Form PW-21, CERTIFICATION OF COMPLIANCE WITH THE COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM, is added to the table of forms and enclosed here as Enclosure 3.**

**CHANGES TO PART II OF THE IFB:**

1. Exhibit B, has been revised to include Section 11, Compliance with Defaulted Property Tax Reduction Program, see Enclosure 4:
2. Enclosure 1, will be added to the RFP as Exhibit O, Defaulted Property Tax Reduction Program.

If you have questions concerning the above information, please contact Ms. Jeanette Arismendez at (626) 458-4050 or Mr. Benjamin Sandoval at (626) 458-7334, Monday through Thursday, 7 a.m. to 5:45 p.m.

Very truly yours,

GAIL FARBER  
Director of Public Works

A handwritten signature in black ink, appearing to read 'Ghayane Zakarian', with a stylized 'FER' or similar mark to the right.

GHAYANE ZAKARIAN, Chief  
Administrative Services Division

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Enc.

**Chapter 2.206 DEFAULTED PROPERTY TAX REDUCTION PROGRAM**

- 2.206.010 Findings and declarations.
- 2.206.020 Definitions.
- 2.206.030 Applicability.
- 2.206.040 Required solicitation and contract language.
- 2.206.050 Administration and compliance certification.
- 2.206.060 Exclusions/Exemptions.
- 2.206.070 Enforcement and remedies.
- 2.206.080 Severability.

**2.206.010 Findings and declarations.**

The Board of Supervisors finds that significant revenues are lost each year as a result of taxpayers who fail to pay their tax obligations on time. The delinquencies impose an economic burden upon the County and its taxpayers. Therefore, the Board of Supervisors establishes the goal of ensuring that individuals and businesses that benefit financially from contracts with the County fulfill their property tax obligation. (Ord. No. 2009-0026 § 1 (part), 2009.)

**2.206.020 Definitions.**

The following definitions shall be applicable to this chapter:

- A. "Contractor" shall mean any person, firm, corporation, partnership, or combination thereof, which submits a bid or proposal or enters into a contract or agreement with the County.
- B. "County" shall mean the county of Los Angeles or any public entities for which the Board of Supervisors is the governing body.
- C. "County Property Taxes" shall mean any property tax obligation on the County's secured or unsecured roll; except for tax obligations on the secured roll with respect to property held by a Contractor in a trust or fiduciary capacity or otherwise not beneficially owned by the Contractor.
- D. "Department" shall mean the County department, entity, or organization responsible for the solicitation and/or administration of the contract.
- E. "Default" shall mean any property tax obligation on the secured roll that has been deemed defaulted by operation of law pursuant to California Revenue and Taxation Code section 3436; or any property tax obligation on the unsecured roll that remains unpaid on the applicable delinquency date pursuant to California Revenue and Taxation Code section 2922; except for any property

tax obligation dispute pending before the Assessment Appeals Board.

- F. "Solicitation" shall mean the County's process to obtain bids or proposals for goods and services.
- G. "Treasurer-Tax Collector" shall mean the Treasurer and Tax Collector of the County of Los Angeles. (Ord. No. 2009-0026 § 1 (part), 2009.)

**2.206.030 Applicability.**

This chapter shall apply to all solicitations issued 60 days after the effective date of the ordinance codified in this chapter. This chapter shall also apply to all new, renewed, extended, and/or amended contracts entered into 60 days after the effective date of the ordinance codified in this chapter. (Ord. No. 2009-0026 § 1 (part), 2009.)

**2.206.040 Required solicitation and contract language.**

All solicitations and all new, renewed, extended, and/or amended contracts shall contain language which:

- A. Requires any Contractor to keep County Property Taxes out of Default status at all times during the term of an awarded contract;
- B. Provides that the failure of the Contractor to comply with the provisions in this chapter may prevent the Contractor from being awarded a new contract and
- C. Provides that the failure of the Contractor to comply with the provisions in this chapter may constitute a material breach of an existing contract, and failure to cure the breach within 10 days of notice by the County by paying the outstanding County Property Tax or making payments in a manner agreed to and approved by the Treasurer-Tax Collector, may subject the contract to suspension and/or termination. (Ord. No. 2009-0026 § 1 (part), 2009.)

**2.206.050 Administration and compliance certification.**

- A. The Treasurer-Tax Collector shall be responsible for the administration of this chapter. The Treasurer-Tax Collector shall, with the assistance of the Chief Executive Officer, Director of Internal Services, and County Counsel, issue written instructions on the implementation and ongoing administration of this chapter. Such instructions may provide for the delegation of functions to other departments.

- B. Contractor shall be required to certify, at the time of submitting any bid or proposal to the County, or entering into any new contract, or renewal, extension or amendment of an existing contract with the County, that it is in compliance with this chapter is not in Default on any County Property Taxes or is current in payments due under any approved payment arrangement (Ord. No. 2009-0026 § 1 (part), 2009.)

**2.206.060 Exclusions/Exemptions.**

- A. This chapter shall not apply to the following contracts:

1. Chief Executive Office delegated authority agreements under \$50,000;
2. A contract where federal or state law or a condition of a federal or state program mandates the use of a particular contractor;
3. A purchase made through a state or federal contract;
4. A contract where state or federal monies are used to fund service related programs, including but not limited to voucher programs, foster care, or other social programs that provide immediate direct assistance;
5. Purchase orders under a master agreement, where the Contractor was certified at the time the master agreement was entered into and at any subsequent renewal, extension and/or amendment to the master agreement
6. Purchase orders issued by Internal Services Department under \$100,000 that is not the result of a competitive bidding process.
7. Program agreements that utilize Board of Supervisors' discretionary funds;
8. National contracts established for the purchase of equipment and supplies for and by the National Association of Counties, U.S. Communities Government Purchasing Alliance, or any similar related group purchasing organization;
9. A monopoly purchase that is exclusive and proprietary to a specific manufacturer, distributor, reseller, and must match and inter-member with existing supplies, equipment or systems maintained by the county pursuant to the Los Angeles Purchasing Policy and Procedures Manual, section P-3700 or a successor provision;

10. A revolving fund (petty cash) purchase pursuant to the Los Angeles County Fiscal Manual, section 4.6.0 or a successor provision;
  11. A purchase card purchase pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, section P-2810 or a successor provision;
  12. A non-agreement purchase worth a value of less than \$5,000 pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, section A-0300 or a successor provision; or
  13. A bona fide emergency purchase pursuant to the Los Angeles County Purchasing Policy and Procedures Manual section P-0900 or a successor provision;
  14. Other contracts for mission critical goods and/or services where the Board of Supervisors determines that an exemption is justified.
- B. Other laws. This chapter shall not be interpreted or applied to any Contractor in a manner inconsistent with the laws of the United States or California. (Ord. No. 2009-0026 § 1 (part), 2009.)

**2.206.070 Enforcement and remedies.**

- A. The information furnished by each Contractor certifying that it is in compliance with this chapter shall be under penalty of perjury.
- B. No Contractor shall willfully and knowingly make a false statement certifying compliance with this chapter for the purpose of obtaining or retaining a County contract.
- C. For Contractor's violation of any provision of this chapter, the County department head responsible for administering the contract may do one or more of the following:
  1. Recommend to the Board of Supervisors the termination of the contract; and/or,
  2. Pursuant to chapter 2.202, seek the debarment of the contractor; and/or,
  3. Recommend to the Board of Supervisors that an exemption is justified pursuant to Section 2.206.060.A.14 of this chapter or payment deferral as provided pursuant to the California Revenue and Taxation Code. (Ord. No. 2009-0026 § 1 (part), 2009.)

**2.206.080 Severability.**

If any provision of this chapter is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. (Ord. No. 2009-0026 § 1 (part), 2009.)

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## FRANCHISE GUARANTY

[INSERT NAME OF SIGNATORY GUARANTOR AND DESCRIPTION OF ITS ORGANIZATION, SUCH AS "*corporation duly organized and existing in good standing under the laws of the State of XX*"] (**Guarantor**), executes this Guaranty to and for the benefit of County of Los Angeles (**County**), a political subdivision of the State of California, on the date written below.

## RECITALS

Guarantor and County refer to the following facts:

WHEREAS, [INSERT NAME OF CONTRACTOR] (**Contractor**), a [INSERT RELATION TO GUARANTOR, SUCH AS "*a corporation wholly owned by Guarantor*"] intends to submit a proposal (**Proposal**) in response to a Request for Proposals issued by County on [INSERT DATE OF SUBMISSION OF RFP] for an **EXCLUSIVE FRANCHISE AGREEMENT FOR THE AREA OF [INSERT AREA]** (the **Franchise Agreement**), which will be incorporated in this Guaranty by reference and made part of this Guaranty upon execution by County and Contractor together with the Proposal;

WHEREAS, it is in the interest of Guarantor that Contractor submits its proposal and enter into the Franchise Agreement with County;

WHEREAS, County is willing to accept the Contractor's proposal and/or enter into the Franchise Agreement only upon the condition that Guarantor executes this Guaranty;

WHEREAS, if Contractor fails to timely and fully perform its obligations under the Franchise Agreement, including the payment of monetary amounts or claims for those amounts (such as any Franchise Fees, payment of Transfer Deposits and Transfer Costs defined Section 19.C of the Franchise Agreement, and damages under Section 18.D of the Franchise Agreement), Guarantor is willing to guarantee the Contractor's timely and full performance of those obligations; and

NOW, THEREFORE, as an inducement to County to accept the Proposal and enter into the Franchise Agreement, Guarantor agrees as follows:

Capitalized terms used in this Guaranty and not otherwise defined in this Guaranty have the meaning defined in the Franchise Agreement.

### (1) **GUARANTY OF THE CONTRACTOR'S OBLIGATIONS UNDER THE FRANCHISE AGREEMENT**

1. **Public Health and Safety.** Guarantor acknowledges public health and safety may be threatened if Contractor does not Collect Solid Waste under the Franchise Agreement.

**ENCLOSURE 2**  
**EXHIBIT P**

2. **Obligations.** Guarantor directly, unconditionally, irrevocably, and absolutely guarantees the timely and full performance of each of the Contractor's obligations under the Franchise Agreement, subject only to the defenses that Guarantor may assert under Section 7. Within 5 days of County's demand, Guarantor will perform or cause to be performed each of Contractor's obligations under the Franchise Agreement that Contractor has failed to perform.
3. **Obligors – No Personal Liability.** This Guaranty is binding upon and enforceable against the Guarantor, its successors, assigns, and lawful representatives. This Guaranty does *not* create any obligation on the part of any director, officer, employee or stockholder of Guarantor (or any affiliate thereof) to satisfy any obligation under this Guaranty. This Guaranty does *not* give County the right to look to those individuals to satisfy any obligation under this Guaranty. County may *not* make a judgment, order, or execution with respect to or in connection with this Guaranty against any of those individuals.
4. **Benefit.** This Guaranty is for the benefit of County, its successors and assigns.

**(2) CHANGES IN CONTRACTOR'S OBLIGATIONS**

1. **Changes in Franchise Agreement or Contractor's Obligations Without Guarantor Consent.** The following events do not in any way modify any of Guarantor's obligations under this Guaranty or affect Guarantor's liability to County for those obligations. They do not require Guarantor's consent, and County may exercise its rights with respect to those actions in County's sole discretion:
  - Amendments, extensions or renewals of the Franchise Agreement or modification of Contractor's obligations under the Franchise Agreement.
  - Waiver of any right of County or obligation, Breach or Default of Contractor under the Franchise Agreement.
  - Renewal, modification or compromise of any liability of the Contractor for Contractor's obligations to County under the Franchise Agreement.
  - Release, compromise or settlement of any dispute arising with Contractor under the Franchise Agreement.
  - Acceptance, release or surrender of any Performance Assurance defined in Section 15.

2. **No Release or Discharge of Guaranty.** In any of the events listed in the preceding subsection 1, County is not obligated to reserve its rights against Guarantor under this Guaranty.
3. **No Guarantor Endorsement.** In any of the events listed in the preceding subsection 1, Guarantor does not need to additionally endorse this Guaranty.

**(3) TERM OF GUARANTY; CONTINUING.**

1. **Term.** This Guaranty will remain in full force and effect until the later of the following events:
  - All obligations of the Contractor under the Franchise Agreement including Contractor's payment obligations to County (such as damages, Franchise Fees, and reimbursements) are fully performed and satisfied in accordance with the Franchise Agreement, or
  - Contractor's obligations under the terms of the Franchise Agreement are discharged, released or otherwise excused.
2. **Continuing.** This Guaranty is a continuing guaranty and will continue to be effective or be reinstated, as applicable, if at any time any payment by Contractor under the Franchise Agreement or by Guarantor under this Guaranty is rescinded or County is otherwise required to return that payment, including upon reorganization, insolvency or bankruptcy of the Contractor or Guarantor.

**(4) TRANSFER OF GUARANTY**

1. **Transfer.** In this Guaranty Transfer, "Transfer Deposit" and "Transfer Cost" have the respective meanings provided in the Franchise Agreement, *except* that the word "Guarantor" replaces the word "Contractor."
2. **Notice to County of Proposed Transfer.** Guarantor will give County notice of proposed Transfer of this Guaranty within 10 days of the first to occur of the following:
  - A press release is issued regarding any proposed Transfer, or
  - A Form 8-K or other filing with respect to a memorandum of intent or an Franchise Agreement and plan for Transfer is filed with the Securities and Exchange Commission for that Transfer.
3. **Director Consent.** Guarantor may not Transfer this Guaranty or any rights or duties under it, in whole or in part, and whether voluntarily or

involuntarily, without the Director's prior written consent, the exercise of which is in the Director's sole discretion. Any Transfer or attempted Transfer of this Guaranty, made without the Director's consent, at County's option, will be null and void.

4. **Guarantor Demonstration.** Without obligating the Director to give consent, Guarantor must demonstrate to the Director's satisfaction that the proposed transferee has the operational and financial ability to satisfy Guarantor's obligations under this Guaranty.
5. **Payment of County's Transfer Costs.**
  - a. **Transfer Deposit.** Contractor must make any request for the Director's consent to a Transfer in the manner prescribed by the Director. Before the Director considers Guarantor's request, Guarantor must pay County a Transfer Deposit to reimburse County for Transfer Costs that County incurs. County will return to Guarantor any amounts paid in excess of the Transfer Costs incurred.
  - b. **Additional Transfer Costs.** In the course of County's processing Guarantor's request for Transfer, Guarantor must further pay County its additional Transfer Costs in excess of the Transfer Deposit within 30 days of the Director's request therefor, whether or not the Director approves the Transfer. At Guarantor's request, County will provide Guarantor access to all records evidencing the Transfer Costs incurred.
6. **County's Reimbursement Costs of Enforcement.** In addition, Guarantor must pay County's Reimbursement Costs for fees and investigation costs as County may deem necessary to enjoin the Transfer or to otherwise enforce this provision within 30 days of County's request therefor.

**(5) DEMANDS UNDER GUARANTY**

1. **Proceeding First Against Guarantor – No Preconditions.** Regardless of any cause of action, statement of facts or any other event, County may enforce its rights under this Guaranty and proceed first and directly against Guarantor without proceeding against or exhausting any other remedies that County may have, including the following:
  - Enforcing any of County's rights or remedies, or seeking to compel the Contractor to perform Contractor's obligations, under the

Franchise Agreement or proceeding or taking any action against Contractor;

- Filing claims with a court in the event of bankruptcy, insolvency, reorganization of Contractor;
- Promptly or diligently making any claim under, or pursuing or exhausting any remedy under, or otherwise enforcing the provisions of any Performance Assurance;
- Seeking or obtaining recourse or any other action against anyone that may be liable for Contractor's obligations under the Franchise Agreement, in whole or in part.

2. **Partial Performance.** County may enforce its rights under this Guaranty and proceed first and directly against Guarantor even if Contractor or Guarantor has partially, but not fully performed those obligations.
3. **Draw upon Performance Assurances.** County may enforce its rights under this Guaranty and proceed first and directly against Guarantor even if County has drawn upon a Performance Assurance.
4. **Separate Demands.** Each of Contractor's failure to perform its obligations under the Franchise Agreement gives rise to a separate obligation by Guarantor under this Guaranty. County may make separate demands under this Guaranty when each failure occurs.

**(6) GUARANTOR'S DEFENSES AND WAIVERS**

1. **Allowable defenses.** Guarantor's obligations under this Guaranty are not affected, limited, modified or impaired by any cause of action, statement of facts or any other event, *except* for the following:
  - discharge, release or excuse of any obligation of Contractor to County under the Franchise Agreement, to the extent of the discharge, release or excuse and with respect to each obligation; and
  - any legal or equitable right, defense, counterclaim or affirmative defense that Contractor could assert under the Franchise Agreement or law.
2. **Waiver of Other defenses.** Guarantor expressly waives each of the following listed items as a defense to Guarantor's liability under this Guaranty:
  - The invalidity, irregularity, illegality or unenforceability, of or any defect in or objections to the Franchise Agreement.

**ENCLOSURE 2**  
**EXHIBIT P**

- Any
  - modification or
  - amendment or
  - compromise of
  - or waiver of compliance with or
  - consent to variation fromany of the provisions of the Franchise Agreement by the Contractor.
- Any release or discharge of any Performance Assurance, defined under Section 15 of the Franchise Agreement, or other collateral or security for Contractor's obligations under the Franchise Agreement.
- Any defense based upon the election of any remedies against Guarantor or the Contractor, or both of them, including any consequential loss by Guarantor of Guarantor's right to recover any deficiency, by way of subrogation or otherwise, from the Contractor or any other Person.
- The recovery of any judgment against the Contractor, including enforcement or draw upon any Performance Assurance.
- Taking or omitting to take any of the actions that County must take under the Franchise Agreement.
- Any failure, omission or delay on the part of County to enforce, assert or exercise any right, power or remedy conferred on County by the Franchise Agreement or under a Performance Assurance, *except* to the extent that the failure, omission or delay gives rise to an applicable statute of limitations defense by the Contractor with respect to a specific obligation.
- The bankruptcy, insolvency, reorganization or similar proceeding involving or pertaining to the Contractor or County.
- Any order or decree of a court, trustee or receiver in bankruptcy, insolvency, reorganization, or similar proceedings.
- Any circumstance that might constitute a legal or equitable discharge of a guarantor of Contractor's obligations under the Franchise Agreement or limit the recourse of County to Guarantor.

**ENCLOSURE 2  
EXHIBIT P**

- The existence or absence of any action to enforce the Franchise Agreement.
- Subject to the provisions of the Franchise Agreement relating to Uncontrollable Circumstances, any present or future Applicable Law purporting to reduce, amend or otherwise affect the Franchise Agreement or to vary any terms of payment or performance under the Franchise Agreement.
- County's obligation to give Guarantor any of the following notices:
  - County's acceptance of this Guaranty;
  - the creation, renewal, extension and accrual of Guarantor's obligations under this Guaranty;
  - any Person's reliance on this Guaranty;
  - breach of this Guaranty by Guarantor under this Guaranty following demand for payment and Guarantor's failure to make payment;
  - Breach or Default by Contractor under the Franchise Agreement;
  - required under this Guaranty; and
  - required under law, to the extent permitted by law.
- Any defense of any kind which Guarantor may now or hereafter have with respect to this Guaranty or the obligations of the Contractor under the Franchise Agreement, *except* the following:
  - any Notice to the Contractor required pursuant to the Franchise Agreement or law that preconditions the Contractor's obligation, or
  - the allowable defenses listed in subsection 3 above.

**(7) SET-OFFS ONLY WITH RESPECT TO GUARANTY OR FRANCHISE AGREEMENT**

1. **By Guarantor under Guaranty.** This Guaranty does not prohibit Guarantor from bringing any action or asserting any claim against County that does not arise from the Franchise Agreement as permitted by law or equity. However, Guarantor may *not* subject any of its obligations under this Guaranty to set-off, deduction, counterclaim, recoupment, defense or other right that Guarantor may have against County on account of that action or claim.
2. **By the Contractor under Franchise Agreement.** This Guaranty does not prohibit Guarantor from subjecting any of Guarantor's obligations under this Guaranty to set-off, deduction, counterclaim, recoupment, defense or other right that the Contractor may assert against County under to the Franchise Agreement. However, Guarantor may *not* subject

any of its obligations under this Guaranty to set-off, deduction, counterclaim, recoup, defense or other right that the Contractor may assert against County that does arise under the Franchise Agreement.

**(8) NO ASSERTION OF DELAYING ACTIONS**

To the extent that it may lawfully do so, Guarantor waives, relinquishes the benefit and advantage of, and will not assert any of the following actions that might delay, prevent or otherwise impede the enforcement of the provisions of this Guaranty or the Franchise Agreement:

- appraisalment,
- valuation,
- stay,
- extension,
- redemption or
- similar laws in force now or at any time after the execution of this Guaranty.

**(9) GUARANTOR'S EVENTS OF DEFAULT AND COUNTY'S REMEDIES**

1. Each of the following constitutes an event of default under this Guaranty:

- (i) **Breach of Payment Obligation.** Guarantor fails to timely pay County any amount that Guarantor is obligated to pay under this Guaranty, including payments within 5 days of County's demand under Section (1).
- (ii) **Threat to Public Health and Safety.** Guarantor does not Collect or cause to be Collected Solid Waste that Contractor has failed to Collect, including Collection within 5 days of County's demand under Section (1).
- (iii) **Breach of Other Obligations.** Guarantor breaches any non-payment obligation of this Guaranty other than the other events of default listed in the preceding subsection (ii) and following subsections (iv) through (vi), whether by act or omission, and does not cure that breach to the satisfaction of County within 30 days after County gives Notice.
- (iv) **Failure to Give Notice of Proposed Transfer.** Guarantor fails to timely give County required notice of proposed Transfer, or fails to secure required County consent under Section 4.



- (v) **Bankruptcy, Insolvency, Liquidation.** Guarantor files a voluntary claim for debt relief under any applicable bankruptcy, insolvency, debtor relief, or other similar law now or hereafter in effect, or will consent to the appointment of or taking of possession by a receiver, liquidator, assignee, trustee, custodian, administrator (or similar official) of Guarantor for any substantial part of Guarantor's operating assets or any substantial part of Guarantor's property, or will make any general assignment for the benefit of Guarantor's creditors, or will fail generally to pay Guarantor's debts as they become due or will take any action in furtherance of any of the foregoing.

A court having jurisdiction enters a decree or order for relief in respect of this Guaranty in any involuntary case brought under any bankruptcy, insolvency, debtor relief, or similar law now or hereafter in effect, or Guarantor consents to or fails to oppose any said proceeding, or any said court enters a decree or order appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of Guarantor or for any substantial part of Guarantor's operating equipment or assets, or any said court orders the winding up or liquidation of the affairs of Guarantor.

- (vi) **Breach of Representations or Warranties.** Any representation or warranty of Guarantor is untrue as of the date thereof, or Guarantor knowingly makes, causes to be made or condones the making of any false entry in its books, accounts, records and reports under this Guaranty.

Guarantor acknowledges that any event of default under this Guaranty comprises a Default under the Franchise Agreement.

2. **Enforcement of One or More Breaches.** County may enforce one or more breaches or events of default under this Guaranty either separately or cumulatively, at law or in equity.
3. **Remedies Cumulative.** No remedy of County under this Guaranty is exclusive of any other available remedy or remedies. Each and every remedy is cumulative and is in addition to every other remedy or remedies allowed under this Guaranty, the Franchise Agreement or law and in equity (including specific performance).
4. **Payment of Costs of Enforcing Guaranty.** Guarantor must pay all costs, expenses and fees (including, without limitation, all reasonable attorneys' fees) that County incurs in enforcing this Guaranty by suit or otherwise.

**(10) SUITS, ACTIONS, OR OTHER PROCEEDINGS.**

1. Guarantor agrees to the following with respect to any suit, action or other proceeding respecting this Guaranty, including enforcement of Guarantor's obligations under this Guaranty.
  - **Service of Process in CA.** Service of process for Guarantor is in the State of California by prepaid registered mail, return receipt requested to the authorized representative of the Franchisee named under Franchisee Documentation under the Franchise Agreement
  - **Jurisdiction in CA.** The courts of the State of California, and to the extent permitted by law, the United States District Court for the Central District of California or other federal district chosen by County, have exclusive jurisdiction.
2. **Venue in CA.** Guarantor waives any objections that Guarantor might otherwise have to the venue of any of the courts described in the preceding subsection, for any trial.

**(11) AMENDMENT.** No amendment, change, modification or termination of this Guaranty may be made except upon the written consent of Guarantor and County.

**(12) SEVERABILITY.** If a court of competent jurisdiction rules any provision (**Guaranty Provision**) of this Guaranty unconstitutional, invalid, illegal, nonbinding or unenforceable, County and Guarantor will do the following:

- Promptly meet and negotiate a substitute for the Guaranty Provision and any related amendments, deletions, or additions to other provisions of this Guaranty, which together effect County's and Guarantor's original intent to the greatest extent allowable under law; and
- If necessary or desirable to accomplish preceding item, apply to the court that declared the invalidity for a judicial construction of the substituted Guaranty Provision and any amendments, deletions, or additions to this Guaranty. Within ten days of County's request, Guarantor must pay County an amount equal to the Direct Costs of the application.

The illegality, invalidity, nonbinding nature or unenforceability of any Guaranty Provision will not affect any of the remaining provisions of this Guaranty, and this Guaranty will be construed and enforced as if the Guaranty Provision did not exist.

**(13) CONSTRUCTION AND INTERPRETATION OF GUARANTY**

1. **Gender and Plurality.** Words of the masculine gender include correlative words of the feminine and neuter genders and vice versa. Words importing the singular number include the plural number and vice versa unless the context demands otherwise.
2. **Headings; Font.** Any captions or headings in this Guaranty are for convenience of reference only and do not control or affect the scope, intent, meaning, construction, interpretation, or effect of this Guaranty. Any underlined, italicized, bold-faced, upper captioned, or other font style is for ease of reading and contract administration only and does not imply relative importance or unimportance of any provision of this Guaranty.
3. **References to Parts.** References to Sections refer to Sections of this Guaranty, unless specified otherwise. Reference to "subsections" refers to the subsection contained in the same Section in which the reference occurs, unless otherwise referenced.
4. **Specifics of No Limitation on Generalities.** The mention of any specific duty or liability imposed on Guarantor may not be construed as a limitation or restriction of any general liability or duty imposed on Guarantor by this Guaranty or law.
5. **Interpretation.** This Guaranty must be interpreted and construed neither for nor against either Party, regardless of the degree to which either Party participated in its drafting. No provision in this Guaranty may be construed against the drafting Party. Guarantor acknowledges that it determined to allow Contractor to provide Franchise Services in the Service Area and to execute the Franchise Agreement on Contractor's and Guarantor's own choice and initiative. By signing this Guaranty, Guarantor represents and warrants that it and its counsel have reviewed the Franchise Agreement and this Guaranty. By signing the Franchise Agreement, County represents and warrants that its counsel has reviewed the Franchise Agreement and this Guaranty.
6. **Meanings of Certain Words.** When used in this Guaranty, the following words have the ascribed meanings:
  - **"including" or "include"** or variations thereof, means "including without limitation", "including, but not limited to," and "including, at a minimum."

- **"under"** (e.g. this Guaranty, the Franchise Agreement, law) means "in accordance with the terms / provisions of" and "as required by the terms/provisions of."

**(14) ENTIRE GUARANTY.**

This Guaranty constitutes the entire agreement between the parties to this Guaranty with respect to the rights and responsibilities of Guarantor contemplated by this Guaranty. This Guaranty completely and fully supersedes all prior oral and written understandings and agreements between the parties with respect to those rights and responsibilities.

**(15) WARRANTIES AND REPRESENTATIONS.** Guarantor warrants and represents the following as of date it signs this Guaranty:

- Guarantor has the power, authority and legal right to enter into this Guaranty and to perform its obligations and undertakings under this Guaranty.
- The execution, delivery and performance of this Guaranty by Guarantor:
  - have been duly authorized by all necessary corporate and shareholder action on the part of Guarantor;
  - have the requisite approval of all federal, state and local governing bodies having jurisdiction or authority with respect thereto;
  - do not violate any judgment, order, law or regulation applicable to Guarantor;
  - do not conflict with or constitute a default under any Franchise Agreement or instrument to which Guarantor is a party or by which Guarantor or its assets may be bound or affected; and
  - do not violate any provision of Guarantor's articles or certificate of incorporation or by-laws.
- This Guaranty has been duly executed and delivered by Guarantor and constitutes the legal, valid and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms.
- There are no pending or, to the knowledge of Guarantor, threatened actions or proceedings before any court or administrative agency that would have a material adverse effect on the financial condition of Guarantor, or the ability of Guarantor to perform its obligations or undertakings under this Guaranty.

- (16) **NOTICES.** All notices required to be given under this Guaranty must be made in writing and personally delivered, sent by telecopier (with receipt), or registered or certified mail, return receipt requested. All notices must be addressed to the following representatives of the parties:

COUNTY:

Administrative Services Division  
County of Los Angeles Department of Public Works  
900 South Fremont Avenue  
Alhambra, CA 91803-1331

GUARANTOR:

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Either party may change the address for notices by giving the other party at least 10 days written notice of the new address

Notice is deemed effective at the following times:

- On the date personally delivered or sent by telecopier, with evidence of receipt; or
- Three days after the date of mailing.

- (18) **COUNTERPARTS.** Guarantor may sign this Guaranty in any number of counterparts, some of which may not bear the signatures Guarantor. When signed and delivered, each counterpart, is deemed to be an original and all of the counterparts, taken together, are deemed to constitute one and the same instrument; *provided, however*, that in pleading or proving this Guaranty, County need not produce more than one copy bearing the signature of Guarantor.

**ENCLOSURE 2  
EXHIBIT P**

IN WITNESS WHEREOF, the Guarantor has executed this instrument the day and year below written.

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name Title

Attest: \_\_\_\_\_ Date: \_\_\_\_\_  
Name Title

[Notarize]

**CERTIFICATION OF COMPLIANCE WITH THE COUNTY'S  
DEFAULTED PROPERTY TAX REDUCTION PROGRAM**

The Proposer certifies that:

- ☐ It is familiar with the terms of the County of Los Angeles Defaulted Property Tax Reduction Program, Los Angeles County Code Chapter 2.206; **AND**

To the best of its knowledge, after a reasonable inquiry, the Proposer/Bidder/Contractor is not in default, as that term is defined in Los Angeles County Code Section 2.206.020.E, on any Los Angeles County property tax obligation; **AND**

The Proposer/Bidder/Contractor agrees to comply with the County's Defaulted Property Tax Reduction Program during the term of any awarded contract.

**-OR-**

- ☐ I am exempt from the County of Los Angeles Defaulted Property Tax Reduction Program, pursuant to Los Angeles County Code Section 2.206.060, for the following reason:

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*I declare under penalty of perjury under the laws of the State of California that the information stated above is true and correct.*

Print Name:	Title:
Signature:	Date:

SECTION 11

COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX  
REDUCTION PROGRAM

A. Defaulted Property Tax Reduction Program

This Contract is subject to the provisions of County's ordinance entitled Defaulted Property Tax Reduction Program ("Defaulted Tax Program") as codified in Sections 2.206 of the Los Angeles County Code (Exhibit P).

B. Contractor's Warranty of Compliance with County's Defaulted Property Tax Reduction Program

Contractor acknowledges that County has established a goal of ensuring that all individuals and businesses that benefit financially from the County through any contract are current in paying their property tax obligations (secured and unsecured roll) in order to mitigate the economic burden otherwise imposed upon the County and its taxpayers.

Unless Contractor qualifies for an exemption or exclusion, Contractor warrants and certifies that to the best of its knowledge it is now in compliance, and during the term of this contract will maintain compliance, with Los Angeles County Code Chapter 2.206.

C. Termination for Breach of Warranty of Compliance with County's Defaulted Property Tax Reduction Program

Failure of Contractor to maintain compliance with the requirements set forth in Paragraph B, above, shall constitute default under this Contract. Without limiting the rights and remedies available to County under any other provision of this contract, failure of Contractor to cure such default within 10 days of notice shall be grounds upon which County may terminate this contract and/or pursue debarment of Contractor, pursuant to County Code Chapter 2.206.