



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  
Telephone: (626) 458-5100  
<http://dpw.lacounty.gov>

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P.O. BOX 1460  
ALHAMBRA, CALIFORNIA 91802-1460

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

May 22, 2013

### **NOTICE OF REQUEST FOR PROPOSALS FOR THE EXCLUSIVE RESIDENTIAL FRANCHISE AGREEMENT FOR THE AREA OF LA CRESCENTA/MONTROSE (2013-FA008)**

PLEASE TAKE NOTICE that Public Works requests proposals for the Exclusive Residential Franchise Agreement for the area of La Crescenta/Montrose (2013-FA008)

The Request for Proposals (RFP) with contract specifications, forms, and instructions for preparing and submitting proposals may be accessed at <http://dpw.lacounty.gov/asd/contracts> or may be requested from Mr. Jesus Castillo at (626) 458-4055 or [jcastill@dpw.lacounty.gov](mailto:jcastill@dpw.lacounty.gov), or from Mr. Andres Campaz at (626) 458-4072 or [acampaz@dpw.lacounty.gov](mailto:acampaz@dpw.lacounty.gov), Monday through Thursday, 7 a.m. to 5 p.m.

**PLEASE CHECK THE WEBSITE FREQUENTLY FOR ANY CHANGES TO THIS SOLICITATION. ALL ADDENDA, INFORMATIONAL UPDATES, FREQUENTLY ASKED QUESTIONS, AND ANY ADDITIONAL INFORMATION WILL BE POSTED AT <http://dpw.lacounty.gov/asd/contracts>.**

**Minimum Requirement(s):** Proposers must meet all minimum requirements set forth in the RFP document including, but not limited to, at the time of proposal submission:

1. Proposer must have three years of experience collecting and managing refuse, recyclable materials, and green waste from single-family and multifamily residences. (Please use Form PW-25, Proposer's Compliance with the Minimum Mandatory Requirements.)
2. Proposer must possess the required valid Waste Collector Permit naming the Proposer as the permittee or a copy of the application for a Waste Collector Permit naming the Proposer as the permittee issued by the County Department of Public Health at the time of proposal submission.

(Please use Form PW-25, Proposer's Compliance with the Minimum Mandatory Requirements.)

3. The Proposer must also submit a Bid Guaranty as outlined in Part I, Section 3.A.16., Bid Guaranty. (Please use Form PW-25, Proposer's Compliance with the Minimum Mandatory Requirements.)

**PLEASE NOTE THAT PROPOSERS ARE RESPONSIBLE FOR INDEPENDENTLY INVESTIGATING SERVICE CONDITIONS IN THE SERVICE AREAS PRIOR TO PROPOSAL SUBMISSION.**

A Proposers' Conference will be held on **Thursday, June 6, 2013, at 2 p.m.** at Public Works Headquarters, 900 South Fremont Avenue, Alhambra, California 91803, in Conference Room B. **ATTENDANCE BY THE PROPOSER OR AN AUTHORIZED REPRESENTATIVE AT THE CONFERENCE IS MANDATORY.** Public Works will reject proposals from those whose attendance at the conference cannot be verified. Attendees should be prepared to ask questions at that time about the specifications, proposal requirements, and contract terms. After the conference, Proposers must submit questions in writing and request information for this solicitation within seven calendar days from the date of the conference. After the seventh day, it may be impossible to respond to further requests for information.

**The deadline to submit proposals is Thursday, June 20, 2013, at 5:30 p.m.**

Please direct your questions to the Contract Analysts, Mr. Castillo or Mr. Campaz, at the numbers listed on the previous page. **Proposers are instructed not to contact any County personnel other than the Contract Analysts listed above regarding this solicitation.**

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Individuals requiring reasonable accessibility accommodations may request written materials in alternate formats, physical accessibility accommodations, sign language interpreters, or other reasonable accommodations by contacting our departmental Americans with Disabilities Act Coordinator at (626) 458-4081, from 7:30 a.m. to 5 p.m., Monday through Thursday (excluding holidays). Persons who are deaf or hard of hearing may make contact by first dialing the California Relay Service at 7-1-1. Requests should be made at least one week in advance to ensure availability. When making a reasonable accommodation request, please reference AS-0.

Very truly yours,

GAIL FARBER  
Director of Public Works

A handwritten signature in black ink, appearing to read "Shari Afsari". The signature is written over the printed name and title of the Deputy Director.

SHARI AFSHARI  
Deputy Director

JC

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Enc.

**PART I**

**COUNTY OF LOS ANGELES  
DEPARTMENT OF PUBLIC WORKS  
REQUESTS FOR PROPOSALS**

**FOR**

**EXCLUSIVE RESIDENTIAL FRANCHISE AGREEMENT  
FOR THE AREA OF LA CRESCENTA/MONTROSE  
(2013-FA008)**



Approved May 22nd., 2013  
Gail Farber  
Director of Public Works

By: [Signature]  
Deputy Director

**REQUESTS FOR PROPOSALS  
FOR  
THE EXCLUSIVE RESIDENTIAL FRANCHISE AGREEMENT FOR THE AREA OF  
LA CRESCENTA/MONTROSE (2013-FA008)**

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(2013-FA008)**

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PART II:

SAMPLE EXCLUSIVE FRANCHISE AGREEMENT FOR THE AREA OF  
LA CRESCENTA/MONTROSE

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PART I  
REQUEST FOR PROPOSALS

SECTION 1

**SUMMARY SCOPE OF SERVICES FOR THE EXCLUSIVE RESIDENTIAL  
FRANCHISE AGREEMENT FOR THE AREA OF LA CRESCENTA/MONTROSE  
(2013-FA008)**

**INTRODUCTION TO SUMMARY**

The County requests proposals for The Exclusive Residential Franchise Agreement for the Area of La Crescenta/Montrose, which includes *two separate and distinct* services:

1. Task 1: Weekly, automated curbside collection in carts, processing and disposal of residential, [commercial and multi-family] refuse, green waste, and recyclables ~~in carts, paid by customers and subject to a franchise fee, and~~
2. Task 2: On-call collection, transportation of refuse, covered electronic devices (CEDs) and Ewaste discarded in public right-of-way paid by County from its Road Fund, not subject to a franchise fee.

Services may commence as early as January 1, 2014, or thereafter as directed by the Director of Los Angeles County Department of Public Works (Director).

Subject to the right of the Los Angeles County Board of Supervisors (Board) to make the ultimate decisions concerning the award of contracts, the County intends to award the Agreement to the highest-rated Proposer based on the evaluation criteria applicable to Task 1, as set forth in this Part I, Section 5.E, Evaluation Criteria, whose proposal provides the most beneficial program and price relative to Task 1, with all other factors considered.

There is no separate evaluation criteria applicable to Task 2 and as specified in the RFP, the integrated Contract covering both Task 1 and Task 2 services will be awarded based on a determination of the highest-rated Proposer solely with respect to the Task 1 proposal and services. There will be no separate evaluation of proposals with respect to Task 2 services. The compensation to be paid to the successful Proposer for Task 2 services has been established and stipulated by the County in Part II, Franchise Agreement, Exhibit 3A2(D). Accordingly, by submitting a proposal for this Agreement, which requires performance of Task 1 and Task 2 services, the Proposer understands and agrees that if the Proposer is found to be the highest ranked responsive and responsible Franchisee, Proposer will perform Task 2 services for the compensation amounts set forth for such Task 2 services in this RFP and the Franchise Agreement. The recommended Proposer shall be awarded the entire Contract, including Task 1 and Task 2, and shall perform both tasks pursuant to the terms set

forth in Part II, Franchise Agreement. Please note, the County, not Franchise Customers, will pay Franchisee for its services with respect to Task 2.

Section numbers in this summary refer to Part II, Franchise Agreement. This summary does not completely describe Franchisee's performance obligations. It is the responsibility of the Proposer to read Part II, Franchise Agreement, in its entirety, including, but not limited to Scope of Services and Specifications (Part II, Section 3), Service Standards (Part II, Section 4), Franchise Services and Service Specifications (Part II, Exhibit 3A), Abandoned Waste and Litter On-Call Collection Services (Part II, Exhibit 3A2), and all performance obligations prescribed in the Franchise Agreement. Proposers must take into account full and timely satisfaction of those performance obligations.

A. Task 1 – Franchise Services

1. Basic Services (Part II, Exhibit 3A, Items C, D, and E)

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The County is requesting proposals to provide basic franchise services comprised of weekly, fully automated collection, processing, and disposal of the contents of:

- a. One 96-gallon *refuse* cart,
- b. One 96-gallon commingled *recyclables* cart, plus a second 96-gallon cart upon customer request,
- c. One 96-gallon *green waste* cart, plus a second 96-gallon cart upon customer request,

at residential, commercial, and multi-family premises in the franchise area. (Multi-family customers include dwellings that are triplex or larger, condominiums and townhouses.) The number of parcels with single-family homes and duplexes shown on the records of the County for the following Franchise area is as follows:

- La Crescenta/Montrose approximately 5,651 parcels to be covered by the Franchise Agreement (also referred to as "Contract").

The proposer is responsible for estimating the number of commercial businesses and multi-family dwellings that might subscribe to cart services.

2. Net Rate (Form PW-2, Proposed Net Rate and Form PW-18, Rate Schedule)

Proposers must propose a monthly net rate (without franchise fee) for this basic service on Form PW-2, Item 1, Proposed Monthly Net Rate,

with cost justification on Form PW-3.1, Net Rate Proposal and Form PW-3.2, Cost Substantiation of Net Rate. This compensation is referred to in this RFP as "net rate."

- a. The charges for each additional cart shall be \$5 per month.
- b. Surcharges for difficult-to-service premises (such as hills or cul-de-sacs where collection vehicles cannot safely drive) may not exceed 25 percent of basic service charges.

65 percent of net rate will be adjusted annually by 75 percent of the change in the CPI for All Urban Consumers (Los Angeles, Riverside, and Orange County), not to exceed a five percent increase.

Five percent of the net rate will be adjusted annually by 100 percent of the change in the Department of Energy's index for diesel (on-highway price), CNG, or the Energy Information Administration (EIA)'s index for LNG, as applicable to the respective percentages of fleet that use diesel, compressed natural gas or liquid natural gas. The adjustment due to changes in the CPI and in DOE Diesel, DOE CNG, and EIA LNG will be made annually beginning on July 1st of the second calendar year of the Term.

The remaining 30 percent of net rates will be adjusted annually for documented changes in Franchisee's tipping fee costs. These adjustments will be made annually beginning on July 1st of the second full calendar year of the Term (Exhibit 10, Rates).

3. Special Services (Part II, Exhibit 3A, Items C, E, F, G, and H) Franchisee must also provide:

- a. For all customers: holiday tree collection without surcharge (F1).
- b. For residential customers: annual curbside clean up of bulky items, excess waste, e-waste, and covered electronic devices (CEDs) (F2a), and semi-annual e-waste and clothing drop-off events without surcharge (F2e).
- c. For residential customers: two on-call pickups of unlimited amounts of bulky items, e-waste, and CEDs per year without surcharge (F2b); additional on-call pickups with surcharge (F2d).
- d. For multifamily premises: four on-call pickups of bulky items, e-waste, and CEDs per year with a limit of two items per pickup without surcharge (F2c); additional on-call pickups with surcharge (F2d).

- e. For all customers: eight on-call pickups of Green Waste in bags per year without surcharge (E1).
- f. For all customers: four special cleanup events per year without surcharge (F3).
- g. For residential customers: roll-out service for qualifying disabled and elderly (head of household, physician certified as disabled or 62 years and over, and living with no other able-bodied resident) without surcharge. Roll-out service for nonqualifying residential and multifamily customers (G).
- h. For residential customers: senior discount of 25 percent of basic service rates for qualifying elderly (head of household, 62 years and over, who qualifies for "life-line" services) (H).
- ~~i. For residential customers: senior discount of 25 percent for qualifying elderly (head of household, 62 years and over, who generates small amount of waste and uses a 32-gallon container for refuse) (H).~~
- j. For all customers: four pickups per year of Excess Trash in bags set out on the regular collection day without surcharge (C1).
- k. For residential customers: approved containers for storing and mailing sharps upon customer request without surcharge (F5).

4. Proposer-Developed Programs and Plans

Proposers must include with their proposal detailed descriptions of the following programs and plans in Task 1 and Task 2, as provided in the Franchise Agreement:

- a. Unpermitted Waste Screening Protocol, including Safe Disposal Education Program (Part II, Section 6).
- b. Customer Recyclables Diversion Education Program (Part II, Exhibit 3A, Item B.2.a).
- c. Alternatives to fully automated cart service for difficult-to-service premises and alternatives to 96-gallon carts for premises with space restrictions for carts (Part II, Exhibit 3A, Item B.3.h and i).
- d. Charges for the collection of unlimited amounts of residential bulky items, e-waste, and CEDs in excess of twice annually (Part II, Exhibit 3A, Item F.2.d).

- e. Transition roll-out plan for start up of fully automated franchise services (Part II, Exhibit 3A, Item I).

These programs will become Franchisee's performance obligations included in the Franchise Agreement.

5. Customer Service and Communications

Franchisee must provide customer service in English, Spanish and any additional languages for specific service areas as described in Part II, Exhibit 3A, Item A.4. It must print its phone number in English and Spanish editions of white and yellow pages (Part II, Section 7B).

6. Franchise Fee

Franchisee must pay a franchise fee on its gross receipts paid by its residential, commercial and multi-family customers (excluding recyclable material revenues) under Task 1. Franchisee does not have to pay a franchise fee on its gross receipts paid by the County under Task 2. The amount of the franchise fee is ten percent (Franchise Ordinance 20.70.021A). Franchise fee is a contractual obligation of the franchisee as consideration for this franchise and one of its costs of doing business. It is not an obligation of the customers. For the purposes of scoring the proposals, Proposers shall not include the franchise fee in their proposed net rates.

B. Task 2 – County Services (Abandoned Waste On-Call Collection Services, Part II, Exhibit 3A2)

Franchisee must collect abandoned waste discarded on public rights-of-way in the service area within 24 hours of County request. Abandoned Waste includes any type of Solid Waste (especially Bulky Wastes such as appliances, furniture and car parts), CEDs and E-waste. Public right-of-way includes:

- All land and improvements on that land between the outer edge of a sidewalk (nearest to a private lot) on one side of the street and the outer edge of the sidewalk (nearest to a private lot) on the opposite side of the street, including sidewalks, land between a sidewalk and street, and median strips in the center of streets,
- Public streets and alleys, and.
- Any other land described by County to Franchisee that is not privately owned.

Franchisee may collect abandoned waste in the service area in the same truck as other refuse. County will compensate Franchisee for services at \$60 per Ton of abandoned waste, either based on estimated volume and prescribed weight/volume conversion factors, or in its discretion, weigh receipts (for example, if Franchisee does not commingle abandoned waste collected for County with other refuse). County will develop a format for making requests, such as sending Franchisee a photograph of the waste together with an estimate of the volume of waste. Franchisee must take a photograph of the abandoned waste.

Franchisee must implement its Unpermitted Waste Screening Protocol and Waste Diversion Program developed for Task 1.

Franchisee must recycle CEDs and E-waste. Franchisee must not mix major appliances and other metals with other refuse, and must reuse or recycle them if economically feasible (PUC 42170(b)). Franchisee may not compact waste that contains chlorofluorocarbons, such as refrigerators and freezers.

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Franchisee must assign a route supervisor who is County's primary contact. After completing any requested pick-up, the driver must check in with the supervisor (or County) to determine if he or she must make any other additional pick-ups in the service area. Drivers must report any additional abandoned waste they observe in the service area.

County will pay Franchisee's compensation for Task 2 from its Road Fund. Task 2 will not be funded by the subscription fees collected from Franchise residents. County does not grant Franchisee a franchise to provide abandoned waste collection/Task 2.

By submitting a proposal for this contract, which requires performance of Task 1 and Task 2 services, the proposer understands and agrees that if the proposer is found to be the highest ranked responsive and responsible contractor, proposer will perform Task 2 services for the compensation amounts set forth for such Task 2 services in this RFP and the Franchise Agreement. The recommended proposer shall be awarded the entire contract, including Task 1 and Task 2, and shall perform both tasks pursuant to the terms set forth in Part II, Franchise Agreement.

The Franchise Agreement applies to both Task 1 and Task 2, unless specifically indicated otherwise at the beginning of a Section or subsection in the Agreement. However, Exhibit 3A applies only to Task 1, and Exhibit 3A2 applies only to Task 2.

C. Term

The Term of the Franchise Agreement is seven years with three 1-year extensions at the County's option, not to exceed a total service period of ten years.

D. Indemnities and Performance Assurance

Franchisee must provide a general indemnity (Part II, Section 14A). Franchisee must provide a performance assurance in the form of a performance bond in substantially the form attached as Part I, Attachment 6, Sample Bond for Faithful Performance, an irrevocable letter of credit, certificate of deposit, certified check, or cash (Part II, Section 15) in the initial amount provided in Part II, Exhibit 3A, Item A. After the first year of service, Franchisee must take into account the likelihood of a possible escalation in the performance assurance amount that follows the formula stated in Section 15 of the Agreement. Franchisee must procure insurance (Part II, Section 14) including pollution endorsement to automobile liability coverage and pollution liability coverage for pollution conditions resulting from transported cargo (Part II, Section 14B).

E. Equipment

Proposer must specify the number and types/models of carts and vehicles it proposes to use (Part I, Section 3.A.7.h for both Task 1 and Task 2). Franchisee must maintain a minimum cart inventory or ten percent of the total number of carts of each type and capacity provided to all Customers (Part II, Exhibit 3A, Item B.3.f).

F. Recycling and Diversion

Franchisee must conduct contamination audits (Part II, Exhibit 3A, Item D.6). It must equip its vehicles with billboards, which promote waste reduction and recycling (Exhibit 3A, Item F.4). Franchisee shall implement waste reduction practices and procurement policies, including using recycled content paper to the maximum extent possible in all Customer Correspondence (Part II, Section 4G). Franchisee must implement its waste diversion program (Part II, Exhibit 3A, Item B.2). Franchisee must use reasonable business efforts to divert refuse, recyclables, green waste (including holiday trees), bulky items, e-waste, and CEDs (Part II, Section 9 and Exhibit 3A, Item B.2).

G. Record Keeping and Reporting (Part II, Sections 11, 12, and 13)

Franchisee must maintain an office for County review and audit of records at a location approved by County (Part II, Section 7A). Records must be made available on demand/request without any delay.

H. Service Area Information

Attached as Part I, Attachment 4 (Service Area Information) is information with respect to the service area. Projections and estimates in that information represent the County's best judgment based on information existing as of the date this RFP is distributed, but they do not constitute warranties. Proposers must draw on their own professional experience to best correlate or corroborate the data.

**PROPOSERS ARE RESPONSIBLE FOR INDEPENDENTLY INVESTIGATING SERVICE CONDITIONS IN THE SERVICE AREA PRIOR TO PROPOSAL SUBMISSION.**



## SECTION 2

### INTRODUCTION

#### A. Proposers' Conference

Each Proposer or an authorized representative must attend a Proposers' Conference to be held at the place, date, and time announced in the Notice of Request for Proposals. **ALL INTERESTED PROPOSERS OR THEIR AUTHORIZED REPRESENTATIVE MUST ATTEND THIS CONFERENCE.** **Proposals received from Proposers not signed in as attending this Conference will be rejected as nonresponsive.** Proposers are encouraged to be prepared to ask questions concerning the Request for Proposals (RFP), contract requirements, specifications, terms, and conditions. For example, questions may address concerns, if any, that the application of minimum mandatory requirements, evaluation criteria, and/or business requirements would unfairly disadvantage Proposers or, due to unclear instructions, may result in the County not receiving the best possible responses from Proposers. Upon conclusion of the Proposers' Conference, Public Works will only provide further clarifications and/or answers concerning this solicitation through an addendum(s) to all who attended the conference.

#### B. Minimum Mandatory Requirements

Interested and qualified Proposers, who can demonstrate their ability to successfully provide the required services outlined in Part II, Franchise Agreement, of this RFP are invited to submit a proposal, provided they meet the following requirement(s) at the time of proposal submission:

1. Proposer must have three years experience collecting and managing refuse, recyclable materials, and green waste from single-family and multifamily residences. (Please use Form PW-25, Proposer's Compliance with the Minimum Mandatory Requirements.)
2. Proposer must possess the required valid Waste Collector Permit naming the Proposer as the permittee or a copy of the application for a Waste Collector Permit naming the Proposer as the permittee issued by the County Department of Public Health at the time of proposal submission. (Please use Form PW-25, Proposer's Compliance with the Minimum Mandatory Requirements.)
3. The Proposer must also submit a Bid Guaranty as outlined in Part I, Section 3.A.16. Bid Guaranty. (Please use Form PW-25, Proposer's Compliance with the Minimum Mandatory Requirements.)

C. Contract Analysts

Proposers are instructed not to contact any County personnel other than the Contract Analysts listed below regarding this solicitation. All contact regarding this RFP or any matter relating thereto must be in writing and may be mailed, e-mailed, or sent via facsimile to:

County of Los Angeles Department of Public Works  
Administrative Services Division – 9th Floor  
P.O. Box 1460  
Alhambra, California 91802-1460  
Facsimile: (626) 458-4194

Attention Mr. Jesus Castillo  
E-mail: [jcastill@dpw.lacounty.gov](mailto:jcastill@dpw.lacounty.gov)  
Telephone: (626) 458-4055

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Or

Attention Mr. Andres Campaz  
E-mail: [acampaz@dpw.lacounty.gov](mailto:acampaz@dpw.lacounty.gov)  
Telephone: (626) 458-4072

If it is discovered that a Proposer contacted and received material information from any County personnel, other than the Contract Analysts named in the Notice of Request for Proposals and above, regarding this solicitation, the County, in its sole determination, may disqualify their proposal from further consideration.

D. Child Support Compliance Program

Proposers shall: 1) fully comply with all applicable State and Federal reporting requirements relating to employment reporting for its employees; and 2) comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment, and continue to maintain compliance during the Term of any contract that may be awarded pursuant to this solicitation. Failure to comply may be cause for termination of a contract and/or initiation of debarment proceedings against the noncompliant Contractor (County Code Chapter 2.202).

E. County Rights and Responsibilities

The County has the right to amend this RFP by written addendum prior to the proposal submission deadline. The County is responsible only for that which is expressly stated in this solicitation document and any authorized written addenda. Addenda shall be made available to each person or organization that attended the Proposers' Conference. Should an addendum(s) require additional information not previously requested, failure to address the requirements of such addendum may result in the proposal not being considered, as determined in the sole discretion of

the County. The County is not responsible for and shall not be bound by any representations otherwise made by any individual acting or purporting to act on its behalf.

F. 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, Part I, Attachment 12. Proposers should carefully read the pertinent Defaulted Tax Program provisions in Part II, Section 22, Subsection C, 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-22). Failure to maintain compliance, or to timely cure defects, may be cause for termination of a contract or initiation of debarment proceedings against the non-compliant 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 non-responsive and excluded from further consideration.

G. GAIN and GROW Programs

As a threshold requirement for consideration for contract award, Proposers shall demonstrate a proven record of hiring participants in the County's Department of Public Social Services' Greater Avenue for Independence (GAIN) and General Relief Opportunity for Work (GROW) Programs or shall attest to a willingness to consider GAIN and GROW participants for any future employment opening if they meet the minimum qualifications for that opening. Additionally, Proposers shall attest to a willingness to provide employed GAIN and GROW participants access to Proposer's employee mentoring program, if available, to assist these individuals in obtaining permanent employment and/or promotional opportunities. Proposers who are unable to meet this requirement shall not be considered for contract award. Proposers shall certify compliance on Form PW-10, GAIN and GROW Employment Commitment.

H. Injury and Illness Prevention Program

The successful Proposer will be required to comply with the State of California's Cal/OSHA's regulations. Section 3203 of Title 8 in the California Code of

Regulations requires all California employers to have a written, effective Injury and Illness Prevention Program that addresses hazards pertaining to the particular workplace covered by the program.

I. Interpretation of Request for Proposals

The definitions and other rules of interpretation set forth in Part II, Franchise Agreement also apply to interpretation of this RFP.

J. Jury Service Program

1. The resultant contract from this RFP will be subject to the requirements of the County's Contractor Employee Jury Service Ordinance (Jury Service Program, Los Angeles County Code Chapter 2.203). Proposers should carefully read the pertinent jury service provisions in Part II, Franchise Agreement, Exhibit 3A2(L), Compliance with County's Jury Service Program. The Jury Service Program applies to both Contractors and their subcontractors. Proposals that fail to comply with the requirements of the Jury Service Program will be considered nonresponsive and excluded from further consideration.
2. The Jury Service Program requires Contractors and their subcontractors to have and adhere to a written policy that provides that its employees shall receive from the Contractor, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that employees deposit any fees received for such jury service with the Contractor or that the Contractor deduct from the employee's regular pay the fees received for jury service. For purposes of the Jury Service Program, "employee" means any California resident who is a full-time employee of a Contractor, and "full-time" means 40 hours or more worked per week or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the County; or 2) the Proposer has a long-standing practice that defines the lesser number of hours as full-time. Therefore, the Jury Service Program applies to all of a Contractor's full-time California employees, even those not working specifically on the County project. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program.
3. There are two ways in which a Contractor might not be subject to the Jury Service Program. The first is if the Contractor does not fall within the Jury Service Program's definition of "Contractor." The Jury Service Program defines "Contractor" to mean a person, partnership, corporation, or other entity which has a contract with the County or a Subcontract with a County Contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts. The second is if the Contractor meets one of the two

exceptions to the Jury Service Program. The first exception concerns small businesses and applies to Contractors that have: 1) ten or fewer employees; and 2) annual gross revenues in the preceding 12 months which, if added to the annual amount of this proposed contract is less than \$500,000; and 3) is not an "affiliate or subsidiary of a business dominant in its field of operation." The second exception applies to Contractors that possess a collective bargaining agreement that expressly supersedes the provisions of the Jury Service Program. The Contractor is subject to any provision of the Jury Service Program not expressly superseded by the collective bargaining agreement.

4. If a Contractor does not fall within the Jury Service Program's definition of "Contractor" or if it meets any of the exceptions to the Jury Service Program, then the Contractor must so indicate in the Contractor Employee Jury Service Program Application for Exception and Certification Form (Form PW-24) and include with its submission all necessary documentation to support the claim, such as tax returns or a collective bargaining agreement, if applicable. Upon reviewing the Contractor's application, the County will determine, in its sole discretion, whether the Contractor falls within the definition of "Contractor" or meets any of the exceptions to the Jury Service Program. The County's decision will be final.

K. Local Small Business Enterprise Preference Program

1. To the extent permitted by State and federal law and when the price category is scored, the County will give Local SBE preference during the solicitation process to businesses that meet the definition of a Local Small Business Enterprise (Local SBE), consistent with Chapter 2.204.030C.1 of the Los Angeles County Code. A Local SBE is defined as: 1) A business certified by the State of California as a small business and 2) has had its principal office located in Los Angeles County for at least one year. The business must be certified by the Office of Small Business as meeting the requirements set forth in 1 and 2 above prior to requesting the Local SBE Preference in a solicitation.
2. To apply for certification as a Local SBE, businesses may register at the Los Angeles County Office of Small Business' website at:

<http://www.laosb.org>

3. Certified Local SBEs must request the SBE Preference in their solicitation responses and may not request the preference unless the certification process has been completed and certification affirmed. Businesses must attach their Local SBE Certification Letter to a completed Form PW-9, Request for Local SBE Preference Program Consideration and CBE Firm/Organization Information Form with their proposal. Sanctions and financial penalties may apply to a business that knowingly, and with intent

to defraud, seeks to obtain or maintain certification as a certified Local SBE.

4. Information about the State's small business enterprise certification regulations is in the California Code of Regulations, Title 2, Subchapter 8, Section 1896 et seq., and is also available on the California Department of General Services Office of Small Business Certification and Resources website at <http://www.dgs.ca.gov/pd/program/osds.aspx>.

L. Notification to County of Pending Acquisitions/Mergers by Proposing/Bidding Company

The Proposer shall notify the County of any pending acquisitions/mergers of the Proposer or any guarantor. This information shall be provided by the Proposer on Form PW-1, Verification of Proposal. The proposed contract will only be awarded to the entity that submitted the proposal. Any acquisitions and merger will be handled pursuant to Part II, Section 19, Transfer of Franchise and evaluated in accordance with the Board's policy regarding Contractors engaged in mergers and acquisitions. Failure of the Proposer to provide this information may eliminate its proposal/bid from any further consideration.

M. Prompt Payment Program

It is the intent of the County that Certified Local SBEs receive prompt payment for services they provide to County departments. Prompt payment is defined as 15 calendar days after the receipt of an undisputed and approved invoice.

N. Proposal Requirements and Contract Specifications

1. Persons who wish to contract with the County may respond to this RFP by submitting a proposal in the form described in the following Sections and Attachments. Proposers are instructed to carefully read these Terms, Requirements, Specifications, Conditions, Attachments, and Exhibits.
2. Requirements for proposals are explained in Part I of this RFP.
3. The Agreement specifications are fully described in Part II, Franchise Agreement. Proposers are also requested to review Part I, Attachment 1, County of Los Angeles Policy on Doing Business with Small Businesses; Attachment 2, Debarred Vendors Report; and Attachment 3, County of Los Angeles Lobbyist Ordinance.
4. Dates and times of the Proposers' Conference and for the submission of proposals are set forth in the Notice of Request for Proposals.

O. Proposer's Charitable Contributions Compliance

California's "Supervision of Trustees and Fundraisers for Charitable Purposes Act" regulates receiving and raising charitable contributions. Among other requirements, those subject to the Charitable Purposes Act must register. The 2004 Nonprofit Integrity Act (SB 1262, Chapter 919) increases Charitable Purposes Act requirements. New rules cover California public benefit corporations, unincorporated associations, trustee entities, and may include similar foreign corporations doing business or holding property in California. Key Nonprofit Integrity Act requirements affect executive compensation, fund-raising practices, and documentation. Charities with over \$2 million of revenues (excluding funds that must be accounted for to a governmental entity) have new audit requirements.

All prospective Franchisees must determine if they receive or raise charitable contributions, which subject them to the Charitable Purposes Act and complete the certification form attached as Form PW-12. A completed Form PW-12 is a required part of any agreement with the County.

In Form PW-12, prospective Franchisees certify either that:

1. They have determined that they do not now receive or raise charitable contributions regulated under the California Charitable Purposes Act (including the Nonprofit Integrity Act) but will comply if they become subject to coverage of those laws during the Term of a County contract; or
2. They are currently complying with their obligations under the Charitable Purposes Act, attaching a copy of their most recent filing with the Registry of Charitable Trusts.

Prospective Franchisees that do not complete Form PW-12 as part of the solicitation process may, in the County's sole discretion be disqualified for contract award. A County Contractor that fails to comply with its obligations under the Charitable Purposes Act is subject to either contract termination or debarment proceedings or both (County Code Chapter 2.202).

P. Security and Background Investigations

The Contractor shall be responsible for ongoing implementation and monitoring of the following for each Contractor employee or agent providing service under this Contract including, but not limited to, vehicle operators, supervisors and subcontractor employees (collectively referred to as "Contractor Employees"):

1. Each Contractor Employee shall undergo and pass a criminal background investigation prior to starting work under this Contract. The Contractor shall conduct additional criminal background investigations of all Contractor Employees every two years and upon request of the County at

its sole discretion. The background investigation shall include criminal conviction information from an agency acceptable to County such as local law enforcement or Live Scan from the California Department of Justice. The cost of background checks is the responsibility of the Contractor.

2. No Contractor Employee shall have a criminal conviction record, including a guilty plea or a finding of not guilty by reason of insanity and Contractor shall be under a continuing obligation to immediately remove any Contractor Employee having a criminal conviction record, including a guilty plea or a finding of not guilty by reason of insanity. Contractor may only make an exception to this requirement if Contractor determines that there were mitigating circumstances or that the conviction is not related to the Contractor Employee position and that the Contractor Employee poses no threat or risk to the County or public.
3. Disqualification of any Contractor Employee pursuant to this section shall ~~not relieve Contractor of its obligation to provide services in accordance with the Terms and conditions of this Contract.~~
4. The Contractor shall annually submit to the Contract Manager a certificate of compliance attesting that each Contractor Employee is eligible for employment under this Contract according to the requirements outlined in Sections 1 and 2.

Q. SPARTA Program

A County program, known as 'SPARTA' (Service Providers, Artisan and Tradesman Activities) may be able to assist potential Contractors in obtaining affordable liability insurance. The SPARTA Program is administered by the County's insurance broker, Municipality Insurance Services, Inc. For additional information, Proposers may call Municipality Insurance Services at (800) 420-0555, or can access their website directly at [www.2sparta.com](http://www.2sparta.com)

R. Transitional Job Opportunities Preference Program

To the extent permitted by State and federal law in evaluating proposals and when the price category is scored for Task 2, the County will give preference to businesses that are certified by the County as Transitional Job Opportunity vendors, consistent with Chapter 2.205 of the Los Angeles County Code. A Certified Transitional Job Opportunity vendor is, and has been such for three years, an entity: that is a nonprofit organization recognized as tax exempt pursuant to section 501 (c)(3) of the Internal Revenue Services Code; set forth, under penalty of perjury, such information as requested by the County on either electronic or hard copy forms, along with their application form and three most recent annual tax returns to Public Works with their proposal response to contracting solicitation for which they are competing; has been in services to program participants; and provided a profile of their program a description of their



program components designed to assist program participants, number of past program participants, and any other information requested by Public Works. Transitional Job Opportunities vendors must request the preference in their solicitation responses (Form PW-23) and may not receive the preference until their certification has been affirmed by Public Works. County must verify the Transitional Job Opportunity vendor certification prior to applying the preference. Sanctions and financial penalties may apply to a vendor that knowingly and with intent to defraud seeks to obtain or maintain certification as a Transitional Job Opportunities vendor.

S. Vendor Registration

Proposers must register on-line with the County's web-based vendor registration system to facilitate the contract award process. Registration can be accomplished online via the Internet by accessing the County's home page at [http://lacounty.info/doing\\_business/main\\_db.htm](http://lacounty.info/doing_business/main_db.htm) and click on "Vendor Registration Information – Self Registration." Being registered will assist the Proposer in receiving notifications of the release of County solicitations that may be of interest to the Proposer.

## SECTION 3

### PROPOSAL PREPARATION AND SUBMISSION

#### A. Proposal Format and Content Requirements

Proposals shall be bound and presented in the sequence, with the content, and tabbed and paginated in the format stated below. Failure to provide the required information or to strictly comply with these guidelines may be a basis for rejection of the proposal as nonresponsive at the County's sole discretion:

1. Title page

The title page shall show the Proposer's name, title of the service requested, local address, telephone number, and date of submittal.

2. Comprehensive Table of Contents

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A comprehensive table of contents shall list all material included in the proposal.

3. Letter of Transmittal

A person legally authorized to enter into contracts for the Proposer shall sign the Letter of Transmittal. The letter must include a brief statement of the Proposer's understanding of the work to be accomplished and a list of names of individuals authorized to make representations for the Proposer, their titles, addresses, and telephone numbers.

4. Support Documents for Corporations and Limited Liability Companies

a. Corporations

Proposer must provide a copy of the corporation's "Certificate of Good Standing" with the State of California or state of incorporation and the most recent "Statement by Domestic (or Foreign) Stock Corporation" as filed with the California Secretary of State or state of incorporation. If Proposer's most recent Statement has only the "No change in information" box checked, the Proposer must also submit the most recent Statement, which includes a list of corporate officers. The "Statement of Information" must list the corporate officers.

b. Limited Liability Companies

Proposer must provide a copy of the most recent "Statement by Domestic (or Foreign) Stock Corporation" as filed with the California Secretary of State or state of incorporation. If Proposer's most recent Statement has only the "No change in information" box checked, the Proposer must also submit the most recent Statement,

which includes a list of corporate officers. The "Statement of Information" must list the corporate officers.

5. Proposer's Profile

Proposer shall submit a description of its business, any guarantor and its business (if solid waste management) and any proposed Subcontractor and its solid waste management business, including the following:

- a. Form of organization (incorporation in specified state, partnership, limited liability corporation/partnership, publicly/privately held corporation, sole proprietorship, etc.).
- b. Description of solid waste management operations, with emphasis on residential municipals solid waste collection, transport, recycling, and disposal.
- c. ~~Approximate number of municipal contracts for residential municipal solid waste collection, transport, recycling, and disposal.~~
- d. Approximate number of residential customers.

Additional related information that provides a complete picture of your business (environmental protection programs; awards and recognition; volume of refuse, recyclables, and green waste handled yearly, etc.).

6. Experience

**FAILURE TO PREPARE AND INCLUDE AN EXPERIENCE SECTION MAY RESULT IN DISQUALIFICATION OF THE PROPOSAL.**

Proposer's capabilities and experience shall be described comprehensively in order to provide for a meaningful evaluation, comparison, and assessment. The narrative should discuss each of the following subject areas, with emphasis on the qualifications of the Proposer's key personnel:

- a. Background;
- b. Organization (provide a chart or outline of the firm's organizational structure); and
- c. Identify the roles and submit resumes of:
  - i. Firm;
  - ii. Principals
  - iii. Managing employees;

- iv. Route supervisors;
  - v. Key personnel identified in the Work Plan; and
  - vi. Subcontractors identified in the in the Work Plan.
- d. Specific information regarding length and quality of experience providing services of the type described in these Specifications.
  - e. Demonstrate how the Proposer complies with requirements outlined in Part I, Section 2.B, Minimum Mandatory Requirements.
  - f. Similar services: Any specific examples of services that Proposer provides that are similar to those being procured under this RFP, including:
    - i. Fully automated collection of refuse, recyclables, and green waste;
    - ii. Commingled recyclables collection and achieved diversion;
    - iii. Transition from manual to fully automated services;
    - iv. Collection services for similar demographic populations; and

7. Work Plan

**FAILURE TO PREPARE AND INCLUDE A WORK PLAN MAY RESULT IN DISQUALIFICATION OF THE PROPOSAL.**

**Describe comprehensively and in detail how the service will be performed to meet or exceed performance obligations set forth in the Franchise Agreement and Exhibit 3A for Task 1.**

Prepare and include a staffing plan that specifically describes the number of staff who will be committed to the project and their qualifications. If possible, list them by name. Describe and include the schedules, procedures, techniques, and methods that will be employed in meeting the objectives outlined in the Franchise Agreement. These may include personnel management, training, subcontracting, emergency and contingency planning, recruitment and replacement, supervision, supplies, equipment, uniforms, identification badges, safety, communications, and quality control. All or portions of Proposer's proposed Work Plan described in this Section may be incorporated into the Franchise Agreement as performance obligations.

**The Work Plan must describe in detail each component, each with its own separate heading set forth below, including, but not limited to:**

a. Staffing

Describe the number of employees in operations and maintenance, customer service, administration; health and safety training; drug and alcohol testing; any incentive programs. The Work Plan may include personnel management, training, recruitment and replacement, supervision, supplies, uniforms, identification badges, safety, communications, and quality control.

b. Subcontractors

A description of any Subcontractors' assignments, qualifications, experience, staffing, and schedules. (Subcontractors, if any, shall be subject to all requirements set forth in the RFP that are applicable to Franchisees in general).

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c. Customer Service and Communications Protocols

Customer service and communications protocols, including taking and resolving complaints, together with related software (telephone answering, customer complaints log), and services provided in additional languages.

d. Billing Procedures

Billing procedures, including frequency, periods, delinquency, and collection.

e. Emergency Service

Emergency service availability to public and County during office hours and emergencies.

f. Locations

Locations of administrative offices and operation and maintenance yard.

g. Solid Waste Facilities

Identification of facilities that Proposer will use to process recyclables (and dispose of processing residue) and yard waste, and to dispose of refuse.

h. Equipment

Equipment specifications of carts and vehicles that Proposer proposes to use, including:

- i. Number;
  - ii. Age (new or used);
  - iii. Manufacturer's make and model number;
  - iv. With respect to carts, any recycled content;
  - v. Manufacturers' warranties together with the acquisition and maintenance program. As clarifications to proposals, County may request evidence that Proposer has commitments from manufacturers to acquire carts and vehicles in accordance with Proposer's Transition Roll-out Plan; and
- 
- vi. Amortization schedule of vehicles and carts.
  - vii. Use of alternative fuel vehicles, unless permitted in Part II, Franchise Agreement, Exhibit 3A, Item B.3.h;

In addition to the specification information requested in this Section 3.A.7.h, Proposer must complete and submit the Equipment Specification/Productivity Assumptions (Form PW-20).

i. Environmental Programs

Proposer shall describe environmental programs that Proposer will commit to implement under the Franchise Agreement, such as:

- i. Water and power conservation measures;
- ii. Waste reduction and reuse;
- iii. Procuring buy-recycled products and minimum recycled-content, both in instances required by regulation or contract and those that are not (i.e. that reflect corporate policy); and
- iv. Other.

j. Unpermitted Waste Screening Protocol

Unpermitted Waste Screening Protocol, including Safe Disposal Education Program (Part II, Franchise Agreement, Section 6).

k. Customer Recyclables Diversion Education Program

As described in Part II, Franchise Agreement, Exhibit 3A, Item B.2.a.

l. Alternatives to Fully Automated 96-Gallon Carts

Alternatives to fully automated cart service for difficult-to-service premises and alternatives to 96-gallon carts for premises with space restrictions for carts (Part II, Franchise Agreement, Exhibit 3A, Item B.3.h. and B.3.i).

m. Special Services

Discuss in detail all of the items listed in Part II, Franchise Agreement, Exhibit 3A, Item F, Special Services, including, but not limited to:

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- i. Additional Charges for the collection of unlimited amounts of bulky items, e-waste, and CEDs in excess of twice annually as described in Part II, Exhibit 3A, Item F.2.d.
- ii. Sharps Collection as described in Part II, Exhibit 3A, Item F.6.
  - (1) Distribution of County approved Sharps containers (to include Outreach efforts).
  - (2) Collection of Sharps containers.
  - (3) Proper handling and disposal of containers in accordance with applicable law.

n. Transition Roll-Out Plan

Transition Roll-Out Plan for start up of fully automated franchise services as described in Part II, Exhibit 3A, Item I.

o. Compliance with Street Sweeping Schedule

Describe how Proposer will comply with street sweeping schedule as described in Part II, Exhibit 3A, Item B6.

p. Task 2

Please note that a Work Plan for Task 2 is not required to be submitted. As stated in this RFP, **there is no separate evaluation criteria applicable to Task 2 and the integrated contract covering both Task 1 and Task 2 services will be awarded based on a determination of the highest-rated proposer solely with respect to the Task 1 proposal and services. There will be no separate evaluation of proposals with respect to Task 2 services.**

8. References

Proposers shall provide references (all current customers' phone contacts) (Form PW-6):

- ~~a. Each program example cited in Proposer's proposal under Item 6, Experience, above; and~~
- b. All of Proposer's municipal collection contracts for the past five years in Southern California (south of Santa Barbara), including all contracts and agreements with the County.

9. Disputed, Actions, Contests, and Debarments; and Environmental History

- a. Disputes, Actions, Contests, and Debarments. Proposer shall disclose the following information for the five years preceding the due date of the proposals. (As used in this Section 3.A.9, "Affiliate" means a person or entity that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, Proposer. Rule 144 of the Securities Act of 1993 governs the meaning of control.)
  - i. Civil disputes in excess of \$250,000, including all mediation, arbitration, or litigation proceedings that were settled or reduced to judgment, with respect to Proposer or any guarantor of Proposer's obligations under the Franchise Agreement, if any, including without limitation:
    - (1) Public procurement challenges;
    - (2) Public solid waste contract disputes;
    - (3) Claims of violation of securities or antitrust laws (such as laws relating to price-fixing, bid-rigging, and sales and market allocation);



- (4) Claims of violation of unfair and anti-competitive trade practice law, including with respect to inflation of waste collection, hauling, or disposal fees;
- ii. Criminal actions and indictments, whether regulatory or judicial, and whether resolved through no contest, not guilty pleas, or convictions, with respect to Proposer, its guarantor, or Subcontractors identified in the Proposal, if any, including without limitation actions and indictments related to the following:
  - (1) Fraud or criminal felony offenses in connection with obtaining, attempting to obtain, procuring or performing a public or private agreement related to recyclables, green waste, construction and demolition debris or municipal solid waste management services of any kind (including collection, hauling, transfer, processing, composting, or disposal), including this RFP;
  - (2) Bribery or attempting to bribe a public officer or employee of a Regulatory Agency;
  - (3) Embezzlement, extortion, racketeering, false claims, false statements, forgery, falsification or destruction of records, obstruction of justice, receiving stolen property, theft, or misprision (failure to disclose) of a felony;
  - (4) Securities or antitrust laws (such as laws relating to price-fixing, bid-rigging, and sales and market allocation), and
  - (5) Unfair and anti-competitive trade practice laws, including with respect to inflation of waste collection, hauling, or disposal fees.
- iii. Enforcement actions against the Proposer, including, but not limited to, revocations, suspensions, and terminations of any business or solid waste license, permit, or franchise granted to Proposer or to which the Proposer is a party and any fines, penalties, or liquidated damages with respect to those licenses, permits, or franchises.

- iv. Procurement contests wherein Proposer or any of its Affiliates contested a local government contract procurement.
  - v. Class actions brought against Proposer or any of its Affiliates, regardless of resolution.
  - vi. Labor disputes with respect to Proposer or any of its Affiliates, including strikes, walkouts, slowdowns, or other labor disturbances and actions relating to equal employment opportunity, nondiscrimination, working conditions, employee safety (including Cal/OSHA notices): anywhere with respect to Proposer, and in California with respect to Affiliates.
  - vii. Debarments of Proposer by any public entities.
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- b. ~~Environmental history. With respect to Proposer and its Affiliates,~~ Proposer shall submit a list of notices of violation, areas of concern, enforcement proceedings and other actions, whether resolved, pending or threatened, which occurred or are alleged to have occurred within the five years preceding the due date for proposals, and which pertain to noncompliance with environmental law, ordinance, regulation, permit, or compliance order of the U.S., State, or regional/local entity. The list shall identify the agency, the date of the action and the date and nature of the alleged action. The list shall include, without limitation:
- i. Actions related to collection operations;
  - ii. Unlawful disposal of hazardous, designated, or other waste;
  - iii. Truck retro-fitting requirements to reduce emissions;
  - iv. Leaking trucks;
  - v. Unlawful discharge of liquids from vehicle operation and maintenance facilities; or
  - vi. Hazardous waste identification and handling education requirements for drivers and other personnel (i.e., HAZWOPR training).
- c. Proposer shall provide the representation and warranty of its Chief Administrative Officer, Chief Executive Officer, or other person knowledgeable about the disputes, actions, contests, and debarments and environmental history of Proposer, any guarantor

of Proposer's obligations under the Franchise Agreement, and any Affiliate, in the form attached as Form PW-13.

- d. Proposer shall disclose all information on any outcomes, including but not limited to, the amount of monetary fines which are publicly disclosed, remedies, resolutions, or other actions taken for any of the above violations, disputes, actions, contests, and debarments listed in the proposal.

10. Subcontractors

If Subcontractors are to be used, submit a description of their proposed assignments, qualifications, experience, staffing, and schedules.

11. Financial Resources

Proposer may complete Form PW-15 (Delivery of Audited/Reviewed Financials to County) and Form PW-16 (Submission of a Written Statement to Secure a Performance Bond, Letter of Credit, and Additional Business History and/or Other Information with Proposal), 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 Part I, Attachment 7, Parent/Franchise Guaranty, if you are submitting a Parents Financial Statements.

Submit copies of the proposing entity's audited financial statements prepared and certified by an independent Certified Public Accountant (CPA) for the most current three full fiscal years. 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 4.H, Notice to Proposers Regarding the Public Records Act.

If audited statements are available, these shall be submitted. If audited, financial statements are not available, the Proposer shall submit copies of reviewed financial statements prepared and certified by an independent Certified Public Accountant (CPA) for the most current three full fiscal years. In addition to the reviewed financial statements, the Proposer shall submit two of the following items to demonstrate financial resources and viability:

- a. A written statement signed by an authorized agent of a California-

admitted surety with an A.M. Best Rating of not less than A:VII establishing that the surety is presently willing to issue a performance bond of 30 percent of the Proposer's proposed annual rate utilizing the Monthly Rate Per Customer (Item 2) from Form PW-2, Proposed Net Rate, multiplied by the number of residential parcels as listed in Part I, Attachment 4, on behalf of the Proposer. To establish present willingness, the signed written statement from the authorized agent must be dated on or after the date on the Notice of Request for Proposal;

- b. A written statement that the Proposer is presently able to secure a letter of credit of 30 percent of the Proposer's proposed annual rate utilizing the Monthly Rate Per Customer (Item 2) from Form PW-2, Proposed Net Rate, multiplied by the number of residential parcels as listed in Part I, Attachment 4. To establish present ability, the statement must be dated on or after the date on the Notice of Request for Proposal. The statement must be issued by a financial institution with the following minimum ratings:

Moody's	A2 or better LT Issuer Credit and B or better for Bank Financial Strength
Standard and Poor's	A or better for LT Issuer Credit
Bauer Financial	4 Stars or better
TheStreet.com Ratings	B or better

**Note:** A letter of credit is not to be confused with a line of credit. A letter of credit (LOC) is a commitment, usually by a bank on behalf of a client (Contractor), to pay a beneficiary a stated amount of money under specified conditions, if the client fails to fulfill its contractual obligations. It is a cash guarantee to the beneficiary, who can call on the LOC on demand. The LOC converts to a payment to the beneficiary and an interest-bearing loan for the client.

- c. Additional business history, and/or other information to demonstrate financial resources and stability, verified by an independent, reliable third party such as a CPA, a credit agency, or a financial institution, or by means of reliable audit reports from other governmental agencies, etc. However, such additional history and/or information will not be scored in proposal evaluation, and will be reviewed solely to establish that the Proposer possesses sufficient financial qualifications to be considered for award of a contract.

Proposer shall provide either the representation and warranty of its Chief Financial Officer, or other person knowledgeable about the finances of

Proposer, any guarantor of Proposer's obligations under the Franchise Agreement, or Proposer's affiliate, in the form attached as PW-14.

12. Permits

Submit copy of the Proposer's required valid Waste Collector Permit naming the Proposer as the permittee or a copy of the application for a Waste Collector Permit naming the Proposer as the permittee issued by the County Department of Public Health.

13. Insurance

Submit completed and signed Form PW-17, Proposer's Insurance Compliance Affirmation, acknowledging that the Proposer will comply with all provisions set forth in the Franchise Agreement, Sections 14 and 15, of this RFP if awarded the contract. In Form PW-17, Proposer affirms that the Proposer will procure, maintain, and provide the County with proof of insurance/bond and coverage as specified by this RFP throughout the entire Term of the proposed contract, without interruption or break in coverage.

14. Forms List

Complete and submit the following forms, which are included in the RFP package.

- |        |  |
|--------|--|
| PW-1   | Verification of Proposal   |
| PW-2   | <p>Proposed Net Rate; Propose a monthly net rate without including the proposed franchise fee. Your monthly net rate should take into account, but not include, the additional service charges and surcharge listed on Form PW-18, Rate Schedule (Customer Service Charges), such as additional carts, optional cart roll-out service, alternatives to fully automated carts for difficult-to-service premises, and additional on-call pickup of bulky items and CEDs.</p> <p>The proposed monthly net rate should accurately reflect the Proposer's cost of providing the required services and any profit expected during the Term of the Agreement;</p> |
| PW-3.1 | <p>Net Rate Proposal</p> <p>(<a href="http://dpw.lacounty.gov/asd/contracts/">http://dpw.lacounty.gov/asd/contracts/</a>)</p>  |
| PW-3.2 | <p>Cost Substantiation of Net Rate</p> <p>(<a href="http://dpw.lacounty.gov/asd/contracts/">http://dpw.lacounty.gov/asd/contracts/</a>)</p>  |
| PW-4   | Contractors's Industrial Safety Record   |
| PW-5   | Conflict of Interest Certification   |

PW-6	Proposer's Reference List
PW-7	Proposer's Equal Employment Opportunity Certification
PW-8	List of Subcontractors
PW-9	Request for Local Small Business Enterprise (SBE) Preference Program Consideration and CBE Firm/ Organization Information Form
PW-10	GAIN and GROW Employment Commitment
PW-11	Transmittal Form to Request an RFP Solicitation Requirements Review. If requesting a review, please submit form as early as possible – <b>but no later than 10 business days of issuance of this RFP</b> to the listed Contract Analysts.
PW-12	Charitable Contributions Certifications
PW-13	Representation and Warranty of Chief Administration Officer/Chief Executive Officer <i>or other knowledgeable person</i> for References; Disputes, Actions, Contests, and Debarments; and Environmental History
PW-14	Representation and Warranty of Chief Financial Officer or other knowledgeable person for Submission of Audited/Reviewed Financials with Proposal
PW-15	Delivery of Audited/Reviewed Financials to County
PW-16	Submission of a Written Statement to Secure a Performance Bond, Letter of Credit, and Additional Business History and/or Other Information with Proposal
PW-17	Proposer's Insurance Compliance Affirmation
PW-17.1	Proposer's Compliance with Updated Street Sweeping Schedules Affirmation
PW-18	Rate Schedule (Customer Service Charges)
PW-19	Bulky Item Collection Rates
PW-20	Equipment Specification/Productivity Assumptions
PW-21	Proposer's List of Terminated Contracts
PW-22	Certification of Compliance with the County's Defaulted Property Tax Reduction Program
PW-23	Transitional Job Opportunities Preference Program

PW-24 County of Los Angeles Contractor Employee Jury Service Program Application for Exception and Certification Form

PW-25 Proposer's Compliance with the Minimum Mandatory Requirements

Include in Form PW-3.1 and PW-3.2 a detailed breakdown of costs associated with providing franchise service to substantiate the proposed rate, such as procurement of equipments, labor, insurance, inventory asset, and fuel costs.

15. Subcontractors' Forms List

The County seeks diverse, broad-based participation in its contracting. Subcontractors, if any, shall be subject to all requirements set forth in the RFP that are applicable to franchisees in general. If Subcontractors are to be employed, Proposer must submit a statement of their proposed assignments, qualifications, experience, staffing, and schedules. In addition to this statement, the following forms must be completed and submitted for each Subcontractor contemplated:

PW-4 Contractor's Industrial Safety Record

PW-5 Conflict of Interest Certification

PW-7 Proposer's Equal Employment Opportunity Certification

PW-9 Request for Local Small Business Enterprise (SBE) Preference Program Consideration and CBE Firm/Organization Information Form

PW-10 GAIN and GROW Employment Commitment Form

PW-12 Charitable Contributions Certifications

16. Bid Guaranty

- a. A bid guaranty is required of each Proposer and shall be made payable to the County of Los Angeles in an amount equal to 10 percent of the Proposer's proposed annual rate utilizing the Monthly Net Rate (Item 1), Form PW-2, Proposed Net Rate, multiplied by the number of residential parcels as listed in Part I, Attachment 4. The bid guaranty can either be in the form of cash, a certified check, a cashier's check, or an original bid bond, executed by the Proposer and issued by a California-Admitted Surety (including power of attorney). The County will accept bid bonds with the statement "in an amount equal to 10 percent of the Proposer's proposed annual rate" utilizing the Monthly Net Rate (Item 1) from Form PW-2, Proposed Net Rate, multiplied by the number of

residential parcels as listed in Part I, Attachment 4. No other form of bid guaranty will be accepted. The bid guaranty may be prepared on the Surety's standard form. Proposers shall pay all bid guaranty premiums, costs, and incidentals.

- b. The successful Proposer's bid guaranty will be retained until the successful Proposer has executed the Agreement and provided all required proof of insurance, performance assurance, and franchisee documentation. If the successful Proposer fails to execute and deliver the Agreement and to furnish the required and County-approved proof of insurance and required and County-approved contract security, breaches any warranty in Form PW-13 or Form PW-14, or makes any misrepresentation or commits any fraud in connection with the procurement of the Franchise Agreement, the County may annul the award approval and the bid guaranty of the Proposer shall be forfeited and liquidated. ~~All other Proposers' bid guaranties will be returned upon the successful~~ Proposers' execution of the Agreement, providing all required proof of insurance and contract security.
- c. If a bid bond is submitted, it must be payable to County and executed by a corporate surety licensed to transact business ("admitted") as a surety in the State of California. The corporate surety must have an A.M. Best Rating of not less than A:VII, unless otherwise approved by the County. The County may verify the accuracy and authenticity of the bid guaranty submitted.

**Proposers failing to provide the requested bid guaranty at the time of proposal submission will result in the immediate rejection of the proposal as nonresponsive.**

17. Additional Information

Additional information that is not presented elsewhere and is essential to a fair evaluation must appear in the last Section of the proposal and be labeled "Additional Information." If there is no additional information the Proposer wishes to present, this Section will consist of the statement: "There is no additional information we wish to present."

B. Proposal Submission

1. Proposals shall be submitted with **six (6)** complete sets of the Proposal and any related information.
  - One (1) original
  - Three (3) copies
  - Two (2) electronic copies on a CD in PDF format as follows:



- One original electronic copy
- One redacted electronic copy

On the redacted copy, which should be submitted as one of the electronic copies, please redact any trade secret, confidential, proprietary, or other personal information from the Proposal such as Social Security numbers. Proposals received after the closing date and time specified in the Notice of Request for Proposals will be rejected by Public Works as nonresponsive.

2. Submit proposals to the County of Los Angeles Department of Public Works Cashier, located on the Mezzanine Floor, 900 South Fremont Avenue, Alhambra, California, 91803, in a package that clearly identifies the Proposer and this RFP. Proposals are received only when accepted and time stamped by the Cashier. All other indications of apparent timely delivery may be disregarded.
3. It is the responsibility of the Proposer to instruct delivery services, such as United Parcel Service and Federal Express, to deliver proposals directly to the Cashier. Proposals submitted via facsimile or e-mail will not be accepted.
4. Proposals delivered by other means, including United States Postal Service, may be delayed in Public Works' mail system, resulting in untimely delivery to the Cashier and possible failure to meet the proposal submission deadline. Delays and missed deadlines for submission of proposals not delivered in strict compliance with this RFP shall be the sole responsibility of the Proposer, not of the County, Public Works, or any Special District.

## SECTION 4

### GENERAL CONDITIONS OF REQUEST FOR PROPOSALS

A. Acceptance or Rejection of Proposals

The right is reserved to reject any or all proposals that, in the judgment of the Board or Director, are not in the best interests of the County/Public Works/Special Districts. In the event of any such rejection, the County will not be liable for any costs incurred in connection with the preparation and submittal of a proposal.

Proposals signed by an agent other than the president and secretary of a corporation or a member of a general copartnership must be submitted with a power of attorney or corporate resolution, certified by the secretary or assistant secretary, authorizing such signature; otherwise, the proposal may be rejected as unauthorized and nonresponsive.

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No proposal will be considered unless the Proposer submits a proposal for all requested items. If the solicitation document requests multiple quotations, no proposal will be considered unless the Proposer submits a price on all items within each category; however, the solicitation document may not require the Proposer to submit a price on all of the categories.

B. Altering Solicitation Document

The wording of the solicitation document shall not be changed. Any additions, conditions, limitations, or provisions inserted by the Proposer will render their proposal irregular and may cause its rejection as nonresponsive.

C. County Responsibility

The County will not be responsible for representation made by any of its officers or employees prior to the execution of the proposed contract unless such understanding or representation is included in the proposed contract.

D. Determination of Proposer Responsibility

1. A responsible Proposer is a Proposer who has demonstrated the attribute of trustworthiness as well as quality, fitness, capacity, and experience to satisfactorily perform the proposed contract. It is the County's policy to conduct business only with responsible Contractors.
2. Proposers are hereby notified that, in accordance with Chapter 2.202 of the Los Angeles County Code, the County may determine whether the Proposer is responsible based on a review of the Proposer's performance on any contracts, including, but not limited to, County contracts. Particular attention will be given to violations of labor laws related to employee compensation and benefits and evidence of false claims made by the

Proposer against public entities. Labor law violations which are the fault of Subcontractors and of which the Proposer had no knowledge shall not be the basis of a determination that the Proposer is not responsible.

3. The County may declare a Proposer to be nonresponsible for purposes of the proposed contract if the Board, in its discretion, finds that the Proposer has done any of the following: (1) violated a Term of a contract with the County or a nonprofit corporation created by the County; (2) committed an act or omission which negatively reflects on the Proposer's quality, fitness, or capacity to perform a contract with the County, any other public entity, or a nonprofit corporation created by the County, or engaged in a pattern or practice which negatively reflects on same; (3) committed an act or omission which indicates a lack of business integrity or business honesty; or (4) made or submitted a false claim against the County or any other public entity.
4. If there is evidence that the highest-rated Proposer may not be responsible, Public Works will notify the Proposer in writing of the evidence relating to the Proposer's responsibility and its intention to recommend to the Board that the Proposer be found not responsible. Public Works will provide the Proposer and/or the Proposer's representative with an opportunity to present evidence as to why the Proposer should be found to be responsible and to rebut evidence, which is the basis for Public Works' recommendation.
5. If the Proposer presents evidence in rebuttal to Public Works, Public Works will evaluate the merits of such evidence, and based on that evaluation, make a recommendation to the Board. The final decision concerning the responsibility of the Proposer will reside with the Board.
6. These Terms shall also apply to proposed Subcontractors of Proposer on County contracts.

E. Disqualification of Proposers

More than one proposal from an individual, firm, partnership, corporation, or association under the same or different names will not be considered. Reasonable grounds for believing that any Proposer has an interest in more than one proposal for the work contemplated may cause the rejection of all proposals in which such Proposer has interest on the basis of nonresponsibility and/or nonresponsiveness. If there is reason for believing that collusion exists among the Proposers, such collusion by the participants may be cause for the rejection of their proposals or future proposals on the basis of nonresponsibility and/or nonresponsiveness and may subject such Proposers to debarment.

F. Gratuities

1. It is improper for any County officer, employee, or agent to solicit consideration, in any form, from a Proposer with the implication, suggestion, or statement that the Proposer's provision of the consideration may secure more favorable treatment for the Proposer in the award of the proposed contract or that the Proposer's failure to provide such consideration may negatively affect the County's consideration of the Proposer's submission. A Proposer shall not offer or give, either directly or through an intermediary, consideration, in any form, to a County officer, employee, or agent for the purpose of securing favorable treatment with respect to the award of the proposed contract.
2. A Proposer shall immediately report any attempt by a County officer, employee, or agent to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (800) 544-6861. Failure to report such a solicitation may result in the Proposer's submission being rejected on the basis of nonresponsibility and/or nonresponsiveness.
3. Among other items, such improper consideration may take the form of cash; discounts; services; and the provision of travel, entertainment, or tangible gifts.

G. Knowledge of Work to be Done

By submitting a proposal, Proposer shall be held to have carefully read this RFP, all attachments, and exhibits; satisfied themselves before the delivery of their proposal as to their ability to meet all of the requirements and difficulties attending the execution of the proposed work; and agreed that if awarded a contract, no claim will be made against the County based on this RFP, including, without limitation, claims based on any ambiguity or misunderstanding. Furthermore, the Proposer has carefully examined the location(s) of the proposed work, and is familiar with all of the physical and climatic conditions, and makes this proposal solely upon the Proposer's own knowledge. The Proposer has carefully examined these specifications and requirements, both in general and in detail, any drawings attached, and any additional communications sent and makes their proposal in accordance therewith. If Proposer's proposal is accepted, the Proposer will enter into a written contract with the County for the performance of the proposed work and will accept payment based on the prices shown in Form PW-2, Proposed Net Rate, for Task 1 and Task 2, Form PW-18, Rate Schedule (Customer Service Charges), and Form PW-19, Bulky Rate Collection Schedule, as full compensation for work performed. It is understood and agreed that the quantities set forth in Form PW-2, Proposed Net Rate, and this RFP are only estimates, and the unit prices will apply to the actual quantities, whatever they may be.

H. Notice to Proposers Regarding the Public Records Act

1. All responses to this solicitation shall become the exclusive property of the County. Absent extraordinary circumstances, proposals submitted in response to this solicitation and corresponding Public Works evaluation documents become a matter of public record, with the exception of those parts of each proposal which are justifiably defined as business or trade secrets and clearly marked by the proposer as "Trade Secret," "Confidential," or "Proprietary," at the following times: (a) with respect to the recommended Proposer, after Public Works completes contract negotiations and obtains a letter from an authorized officer of the recommended Proposer that the negotiated contract is a firm offer of the recommended Proposer, which shall not be revoked by the recommended Proposer pending the Department's completion of the process under Board Policy No. 5.055 and approval by the Board of Supervisors (Board) and (b) with respect to each Proposer requesting a County Review Panel, when the County Review Panel has been scheduled to convene as a result of such Proposers' request; and (c) with respect to all other Proposers, after Public Works recommends the recommended Proposer(s) to the Board and such recommendation appears on the Board agenda."
2. The County shall not, in any way, be liable or responsible for the disclosure of any such record or any parts thereof, if disclosure is required or permitted under the California Public Records Act or otherwise by law. A blanket statement of confidentiality or the marking of each page of the proposal as confidential shall not be deemed sufficient notice of exception. The Proposers must specifically label only those provisions of their respective proposal which are "Trade Secret," "Confidential," or "Proprietary" in nature.
3. In the event County is required to defend an action on a Public Records Act request for any of the aforementioned documents, information, books, records, and/or contents of a proposal marked "Trade Secret," "Confidential," or "Proprietary," Proposer agrees to defend and indemnify County from all costs and expenses, including reasonable attorney's fees, in connection with any requested action or liability arising under the Public Records Act.

I. Notice to Proposers Regarding the County Lobbyist Ordinance

The Board has enacted an ordinance regulating the activities of persons who lobby County officials. This ordinance, referred to as the "Lobbyist Ordinance," defines a County Lobbyist and imposes certain registration requirements upon individuals meeting the definition. The complete text of the ordinance can be found in Los Angeles County Code Chapter 2.160. In effect, each person, corporation, or other entity that seeks a County permit, license, franchise, or contract must certify compliance with the ordinance. As part of this solicitation process, it will be the

responsibility of each Proposer to review the ordinance independently as the text of the ordinance is not contained in this RFP. Each person, corporation, or other entity submitting a response to this solicitation, must certify that each County Lobbyist, as defined by Los Angeles County Code Section 2.160.010, retained by the Proposer is in full compliance with Chapter 2.160 of the Los Angeles County Code and each County Lobbyist is **not** on the Executive Office's List of Terminated Registered Lobbyist. The Proposer's signature on the Proposal submission is its certification that it is in full compliance with Los Angeles County Code Chapter 2.160. See Part I, Attachment 3 regarding County Lobbyist.

J. Opening of Proposals

Proposals will not be publicly opened.

K. Proposer Debarment

1. The Proposer is hereby notified that, in accordance with Chapter 2.202 of the Los Angeles County Code, the County may debar the Proposer from bidding or proposing on, or being awarded, and/or performing work on other County contracts for a specified period of time, which generally will not exceed five years but may exceed five years or be permanent if warranted by the circumstance, and the County may terminate any or all of the Proposer's existing contracts with County, if the Board finds, in its discretion, that the Proposer has done any of the following: (1) violated a Term of a contract with the County or a nonprofit corporation created by the County; (2) committed an act or omission which negatively reflects on the Proposer's quality, fitness, or capacity to perform a contract with the County or any other public entity, or a nonprofit corporation created by the County or engaged in a pattern or practice which negatively reflects on same; (3) committed an act or offense which indicates a lack of business integrity or business honesty; or (4) made or submitted a false claim against the County or any other public entity.
2. If there is evidence that the highest-rated Proposer may be subject to debarment, Public Works will notify the Proposer in writing of the evidence, which is the basis for the proposed debarment, and will advise the Proposer of the scheduled date for a debarment hearing before the Contractor Hearing Board.
3. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Proposer and/or the Proposer's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board will prepare a tentative proposed decision, which will contain a recommendation regarding whether the Proposer should be debarred, and, if so, the appropriate length of time of the debarment. The Proposer and Public Works shall be

provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board.

4. After consideration of any objections, or if no objections are received, a record of the hearing, the proposed decision, and any other recommendation of the Contractor Hearing Board shall be presented to the Board. The Board shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.
5. If a Proposer has been debarred for a period longer than five years, that Proposer may, after the debarment has been in effect for at least five years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. The County may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that the Proposer has adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of the County.
6. The Contractor Hearing Board will consider requests for review of a debarment determination only where (1) the Proposer has been debarred for a period longer than five years; (2) the debarment has been in effect for at least five years; and (3) the request is in writing, states one or more of the grounds for reduction of the debarment period or termination of the debarment and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedure as for a debarment hearing.
7. The Contractor Hearing Board's proposed decision will contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to the Board. The Board will have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.
8. These Terms shall also apply to proposed Subcontractors of Proposer on County contracts.
9. Part I, Attachment 2, link to access the list of contractors currently debarred.

L. Proposal Prices and Agreement of Figures

If the total amount arrived at by multiplying the unit price times the quantity does not agree with the total amount entered for the item or if the total amount is not entered, the unit price and the corrected total amount will be considered as representing the Proposer's intentions. If the total amount is entered for the item, but not the unit price, the unit price will be that which is derived by dividing the total amount proposed for the item by the number of units in the item as representing the Proposer's intentions. If the items are incorrectly calculated, the corrected total will be considered as representing the Proposer's intentions.

M. Proposer's Safety Record

A review of the Proposer's safety record will be made before the award. Proposers are required to submit this information, with their proposal, on Form PW-4, Proposer's Industrial Safety Record form provided. Nonsubmission or an adverse finding as to the Proposer's safety record may be cause for rejection of the proposal on the basis of nonresponsibility and/or nonresponsiveness.

N. Qualification of Proposer

No award will be made to any Proposer who cannot give satisfactory assurance as to its ability to carry out the intended contract, based both on financial strength and experience as a Contractor on work of the nature contemplated in the proposed contract. Proposers are encouraged to submit records of work of similar nature, size, or extent to that proposed under these specifications and requirements. A reasonable inquiry to determine the responsibility of a Proposer will be conducted. The unreasonable failure of a Proposer to promptly supply information in connection with such inquiry, including, but not limited to, information regarding past performance, financial stability, and ability to perform on schedule, may be grounds for a determination of nonresponsibility and/or nonresponsiveness with respect to such Proposer. Unfamiliarity with the type of work required by Public Works may be cause for rejection of the proposal on the basis of nonresponsibility and/or nonresponsiveness.

O. Qualifications of Subcontractors

Proposers shall list all Subcontractors to be used on the List of Subcontractors (Form PW-8). The use of Subcontractors shall be subject to Public Works' approval. Subcontractors shall be properly licensed under the laws of the State of California for the type of work, which they are to perform. Alternate Subcontractors shall not be listed for the same work.

P. Safely Surrendered Baby Law

The Proposer shall notify and provide to its employees, and shall require each Subcontractor to notify and provide to its employees, a fact sheet regarding the



Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is set forth in Part I, Attachment 11, of this solicitation document and is also available on the Internet at [www.babysafela.org](http://www.babysafela.org) for printing purposes.

Q. Term of Proposals

All proposals shall be firm offers and may not be withdrawn for a period of 270 days following the deadline for submission of proposals.

R. Truth and Accuracy of Representations

False, misleading, incomplete, or deceptively unresponsive statements in connection with a proposal will be sufficient cause for the rejection of the proposal. The evaluation and determination in this area will be at the Director's sole judgment and the Director's judgment will be final.

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S. Wages, Materials, and Other Costs

It is the responsibility of the Proposer to calculate the proposal price to take into consideration a possible escalation of wages, materials, and other costs during the contract period. The Board, County, Public Works, District(s), or Director make no representations regarding future costs or the rate of wages that may become necessary to pay employees of the Contractor for the work performed during the contract period.

T. Withdrawal of Proposals

Proposers may withdraw their proposal anytime before the date and hour set for submission set forth in the Notice for Request for Proposals upon presentation of a written request to the Director signed by an authorized representative of the Proposer or by the person filing the proposal.

## SECTION 5

### EVALUATION OF PROPOSALS; AWARD AND EXECUTION OF AGREEMENT

A. Award of Agreement

Subject to the right of the Board to make the ultimate decisions concerning the award of contracts, the County intends to award the Agreement to the highest-rated Proposer based on the evaluation criteria in Part I, Section 5.E, Evaluation Criteria, whose proposal provides the most beneficial program and price, with all other factors considered. The County retains the right to select a proposal other than the proposal receiving the highest number of points, if County determines, in its sole discretion, another proposal is the most overall qualified, cost-effective, responsive, responsible, and in the best interest of the County. The awardee shall sign and return the Agreement within 14 calendar days of its mailing to the awardee for signature by Public Works. The awardee shall submit copies of its proof of insurance coverage and original performance bond or performance assurance allowed under the Franchise Agreement at least 30 days prior to the proposed execution date of the Agreement. Work under the proposed Agreement cannot begin before proof of valid insurance coverage and performance guaranty are submitted to Public Works.

B. Final Agreement Award by Board

**Notwithstanding a recommendation by Public Works and/or the Chief Executive Office, the Board retains the right to exercise its judgment concerning the selection of a proposal, the terms of any resultant Agreement, and to determine which proposal best serves the interests of the County. The Board is the ultimate decision-making body and makes the final determinations necessary to arrive at a decision to award, or not award, an Agreement, or to award an Agreement to a Proposer other than the highest-rated Proposer.**

C. Evaluation of Proposals

1. All responses to this RFP become the property of the County. Upon receipt of the proposal as specified and evaluation of proposals in accordance with the evaluation criteria set forth below. The proposed Agreement may be submitted to the Board for consideration and possible approval.
2. The County may require whatever evidence it deems necessary to determine the Proposer's overall and specific abilities to meet the requirements of proposed Agreement over the entire contract Term. This determination will be based on, but not limited to, on an evaluation of the Proposer's experience, personnel, financial stability and resources, work plan, cost to perform requested services, and staffing plan.

3. The County reserves the sole right to judge the Proposer's written and oral representations and to review, evaluate, and select the successful proposal(s).
4. The County may make on-site inspections of Proposer's current jobs and/or facilities.
5. The County, in its sole discretion, may elect to waive any error or informalities in the form of a proposal or any other disparity, if, as a whole, the proposal substantially complies with the RFP's requirements.
6. The County may utilize the services of appropriate experts to assist in the evaluation process.
7. The County will evaluate and award each Franchise area separately.

D. Pass/Fail Review

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Proposals will be reviewed on a Pass/Fail basis concerning the items listed below. Proposals not meeting all of these requirements may be rejected as nonresponsive:

1. Proposer will comply with the insurance requirements, outlined in Franchise Agreement, Section 14, as evidenced by submitting a completed and signed Form PW-17.
2. Proposer and any Subcontractors have met the GAIN and GROW Programs requirements (Form PW-10).
3. Proposer and any Subcontractors have completed and submitted the Charitable Contributions Certification (Form PW-12).
4. Proposer complies with all minimum requirements as outlined in Part I, Section 2.B, Minimum Mandatory Requirements and has submitted Form PW-25, Proposer's Compliance with the Minimum Mandatory Requirements.
5. Proposer and Subcontractors, if any, have completed and signed all appropriate forms and Proposer has completed and signed Form PW-2, (Proposed Net Rate), Form PW-3.1 (Net Rate Proposal), Form PW-3.2 (Cost Substantiation of Net Rate), Form PW-18 (Rate Schedule), and Form PW-19 (Bulky Item Collection Rates).

**Proposer failing to provide completed and signed Form PW-2, (Proposed Net Rate), Form PW-3.1 (Net Rate Proposal), PW-3.2 (Cost Substantiation of Net Rate), Form PW-18 (Rate Schedule), and Form PW-19 (Bulky Item Collection Rates), at the time of proposal submission will result in the immediate rejection of the proposal as nonresponsive.**

6. Proposer and Subcontractors, if any, have completed and signed Form PW-20, Equipment Specification/Productivity Assumptions.
7. Submit copy of the Proposer's required valid Waste Collector Permit naming the Proposer as the permittee or a copy of the application for a Waste Collector Permit naming the Proposer as the permittee issued by the County Department of Public Health.

**Proposers failing to provide the requested valid Waste Collector Permit or a copy of the application for a Waste Collector Permit issued by the County Department of Public Health naming the Proposer as the permittee at the time of proposal submission will result in the immediate rejection of the proposal as nonresponsive.**

8. Submit a copy of Proposer's audited financial statements which are prepared in accordance with Part I, Section 3.A.11. If audited financial statements are not available, the Proposer shall submit copies of reviewed financial statements prepared and certified by an independent CPA or an accounting firm for the most current three full fiscal years.
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In addition, the Proposer must be able to demonstrate its financial capabilities to provide all of the services contemplated in the Exclusive Franchise Agreement as well as equipment required in the performance of the work. The Proposer's annual gross business income in the latest financial statement prepared and certified by an independent CPA or an accounting firm shall be no less than three times the proposed annual rate utilizing the Monthly Rate Per Customer (Item 2) Form PW-2, Proposed Net Rate, multiplied by the number of residential parcels as listed in Part I, Attachment 4.

In lieu of submitting the above requested audited or reviewed financial statements at the time of proposal submission, Proposer may complete and submit Form PW-15, Delivery of Audited/Reviewed Financials to County.

9. Submit the required Bid Guaranty as specified in Part 1, Section 3.A.16.

**Proposers failing to provide the requested bid guaranty at the time of proposal submission will result in the immediate rejection of the proposal as nonresponsive.**

10. Proposer is signed in as attending the Proposers' Conference.
11. Proposal was time stamped by the Cashier prior to the deadline for submission of the proposal. Any proposal without a Public Works time stamp verifying that the deadline for submission has been met will be rejected.

## E. Evaluation Criteria

The evaluation of the proposals will be based on the criteria and in the manner described in this subsection E. It may base its evaluation on any relevant information available to it, including, but not limited to, information Proposer submitted in its proposal. Significant weakness in any of the criteria listed in this Subsection E.2-E.5 may result in a low score or a score of zero. Proposals awarded a score of zero in any of those criteria may be rejected as nonresponsive. All proposals will receive a composite score (rating) and be ranked in numerical sequence from high to low based on the following criteria:

### 1. Proposed Net Rate (65 points) (Form PW-2)

Public Works will compare the Proposer's proposed Monthly Net Rate (Item 1) quoted in Form PW-2 with other Proposer's proposed Monthly Net Rate (Item 1). The Proposer with the lowest proposed Monthly Net Rate (Item 1) quoted in Form PW-2 will receive the full weight of this evaluated item (65 points). Other proposals will receive a prorated score calculated as follows:

- a. Divide the lowest Monthly Net Rate (Item 1) by each other Proposer's proposed Monthly Net Rate (Item 1), and
- b. Multiply the result by the maximum possible points (65 points).

For example, three proposals of \$15.00, \$14.50, \$13.75, and \$13.50 might be submitted.

- i. \$13.50 is awarded 65 points
- ii.  $\$13.50 / \$13.75 \times 65 \text{ points} = 63.81 \text{ points}$
- iii.  $\$13.50 / \$14.50 \times 65 \text{ points} = 60.51 \text{ points}$
- iv.  $\$13.50 / \$15.00 \times 65 \text{ points} = 58.50 \text{ points}$

The Proposal with the lowest proposed monthly net rate may not necessarily be awarded the Franchise Agreement.

### 2. Work Plan (18 points) (Part 1, Section 3.A.7)

The Evaluation Committee will evaluate the Proposers Work Plan based on the extent to which the Work Plan demonstrates that the Proposer is likely to meet or exceed its performance obligations under the Franchise Agreement and implement the scope of services in accordance with the performance standards prescribed in the Franchise Agreement. **Higher scores will be given to those Proposers who provide comprehensive and detailed description of how they will implement and exceed the**

**requirements of the scope of services described in the Franchise Agreement.** The Evaluation Committee may make these determinations from all relevant information presented in the proposal, which may include the work plan, staffing plan, quality assurance plan, schedules, and other documents. If an interview or presentation is scheduled, it may also be considered.

The evaluators may give reduced scores to work plans that omit any of the following, but not limited to:

- (1) Staffing
- (2) Subcontractors
- (3) Customer Service and Communications Protocols
- (4) Billing Procedures
- (5) Emergency Service
- (6) Locations
- (7) Recyclable Facilities
- (8) Equipment
- (9) Environmental Programs
- (10) Unpermitted Waste Screening Protocol
- (11) Customer Recyclables Diversion Education Program
- (12) Alternatives to Fully Automated 96-Gallon Carts
- (13) Special Services
- (14) Transition Roll-out Plan
- (15) Compliance with Street Sweeping Schedule

3. Performance History/References (8 points) (Part I, Section 3.A.8)

Public Works will check at least **four** of the Proposer's references for overall satisfaction with Proposer's services with priority given to services provided to County departments. Proposer may receive up to a maximum of 2 points for each responding reference up to a total of four responding references.

Proposer's references for all municipal collection contracts for the past five years in with the County and in Southern California (south of Santa Barbara) must be listed on Form PW-6, Proposer's Reference List. Public Works reserves the right to utilize any reference of Proposer, County or other, listed or not listed. In addition to the references provided, the review will include the County's Contract Database, if applicable, reflecting past performance history on County contracts, and an evaluation of any terminated contract(s) reported on Form PW-21, Statement of Terminated Contracts. If references fail to substantiate Proposer's description of services provided; references fail to support that Proposer has a continuing pattern of providing capable, productive, and skilled personnel and services; or a significant unacceptable weakness in references may result in a low or zero score. Additionally, a Proposer's unacceptable performance on another County contract(s), as documented by either the County's Quality Assurance Plan's

annual Contractor evaluation or by an unfavorable reference, may result in a low or zero score for this evaluation category. A score of zero in this evaluation category may result in rejection of the proposal as nonresponsive.

References may be contacted by telephone, facsimile, mail, express delivery, or e-mail. It is the Proposer's responsibility to ensure that accurate and timely contact information is included in the proposal. Public Works has no obligation to make repeated attempts to contact references and has no obligation to contact the Proposer to correct bad phone numbers, etc. It is the Proposer's responsibility to ensure that its references respond promptly to Public Works' requests for information.

4. Disputes, Actions, Contests, and Debarments; Environmental History (5 points) (Part 1, Section 3.A.9)

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The number of significant violations in consideration of the size of the company and operation will be factored into the evaluation of these sections.

a. Disputes, Actions, Contests, and Debarments (Part I, Section 3.A.9.a)

The Evaluation Committee will evaluate the number, subject matter, and significance of activities such as contract disputes, actions, contests, and debarments listed in response to Part I, Section 3.A.9.a, with respect to Proposer and related entities over the last five years. Such evaluation will take into consideration the probable effect of the activity on the Proposer's financial resources and viability, the risk to the County posed by the activity, and the likelihood of similar activity occurring should the Proposer be awarded this contract. Pertinent supplemental information submitted by the Proposer or included in the Proposer Profile (Part I, Section 3.A.5 of the RFP) such as the size of Proposer's business, scope of operations, reasons for the activity, outcome of the activity, and other relevant data, will be taken into consideration. Should the evaluators determine that the activity or the likelihood of similar future activity may impair contract performance, or place the County, its residents, or the environment at risk, they may assign a low or zero score for this evaluation category.

If the proposal does not contain the signed representation and warranty of the Chief Administrative Officer, Chief Executive Officer, or other knowledgeable person required under Part I, Section 3.A.9 (Form PW-13), Contract Services staff may (but is not obligated to) contact Proposer and request submittal. The Evaluation Committee may award low or zero points if the Proposer does not make that representation and warranty.

b. Environmental History (Part I, Section 3.A.9.b)

The Evaluation Committee will evaluate the number, subject matter, and significance of activities with respect to Proposer and affiliates in California within the past five years listed in response to Part I, Section 3.A.9.b (Environmental History). Such evaluation will take into consideration the probable effect of the activity on the Proposer's financial resources and viability, the risk to the County posed by the activity, and the likelihood of similar activity occurring should the Proposer be awarded this contract. Pertinent supplemental information submitted by the Proposer or included in the Proposer Profile (Part I, Section 3.A.5 of the RFP) such as the size of Proposer's business, scope of operations, reasons for the activity, outcome of the activity, and other relevant data, will be taken into consideration. Should the evaluators determine that the activity or the likelihood of similar future activity may impair contract performance, or place the County, its residents, or the environment at risk, they may assign a low or zero score for this evaluation category.

If the proposal does not contain the signed representation and warranty of the Chief Administrative Officer, Chief Executive Officer or other knowledgeable person required under Part I, Section 3.A.9 (Form PW-13), Contract Services staff may (but is not obligated to) contact Proposer and request submittal. The Evaluation Committee may award zero point if the Proposer does not make that representation and warranty.

5. Experience (4 points) (Part 1, Section 3.A.6)

The Evaluation Committee will evaluate Proposer's capabilities with respect to each subject area listed in Part 1, Section 3.A.6, and for any proposed Subcontractors (Part 1, Section 3.A.6). The Evaluation Committee may award a higher score for similar services (Part 1, Section 3.A.6.f).

6. Optional Interview/Clarification

The County may, at its option, invite one or more Proposers to make a written or verbal clarification, presentation, and/or participate in an interview before a final selection is made. Evaluation criteria for any additional information provided is the same as that for written proposals. A separate score will not be given for a presentation or interview, but the Proposer's performance may be considered as part of the overall evaluation. The evaluators may, in their sole discretion, limit the offer to give a presentation or interview, if any, to the two or more Proposers who receive the highest scores in a preliminary scoring of proposals in accordance with the evaluation criteria set forth in this Part I, Section 5.E, Evaluation Criteria.



7. Additional Criteria

These criteria are not exclusive. The County reserves the right to apply additional evaluation criteria.

8. Task 2

As stated in this RFP, there is no separate evaluation criteria applicable to Task 2 and the integrated contract covering both Task 1 and Task 2 services will be awarded based on a determination of the highest-rated proposer solely with respect to the Task 1 proposal and services. There will be no separate evaluation of proposals with respect to Task 2 services.

F. Negotiation

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The County reserves the right to negotiate the terms, conditions, and price of the proposal, in the sole discretion of the County, to achieve the most beneficial program and price for the County. The County, in its sole discretion, may limit the negotiation, if any, to one or more responsive and responsible Proposers who receive the highest scores in a preliminary scoring of proposals in accordance with the evaluation criteria set forth in this Part I, Section 5.E, Evaluation Criteria. The negotiation with the Proposer(s) will not result in a change in the rating of the Proposers. If a satisfactory contract cannot be negotiated, the County may, at its sole discretion, begin contract negotiations with the next highest-rated Proposer who submitted a proposal, as determined by the County.

## SECTION 6

### PROTEST POLICY

#### A. Protest Policy Review Process

1. Under Board Policy No. 5.055 (Services Contract Solicitation Protest), any prospective Proposer may request a review of the requirements under a solicitation for a Board-approved services Contract, as described in Paragraph C, Solicitation Requirements Review, below. Any Proposer may request a review of a disqualification or of a proposed Contract award under such a solicitation, as described respectively in Sections below. Additionally, any Proposer may obtain copies of proposals and Public Works evaluation documents as provided in Part I, Section 3, Paragraph H. Under any such review, it is the responsibility of the Proposer challenging the decision of Public Works to demonstrate that Public Works committed a sufficiently material error in the solicitation process to justify invalidation of a solicitation or a proposed Contract award as the case may be.
2. Throughout the review process, the County has no obligation to delay or otherwise postpone an award of Contract based on a Proposer protest. In all cases, the County reserves the right to make an award when it is determined to be in the best interest of the County of Los Angeles to do so.

#### B. Grounds for Review

Unless State or Federal statutes or regulations otherwise provide, the grounds for review of a solicitation for Board-approved services Contract provided for under Board Policy No. 5.055 (Services Contract Solicitation Protest) are limited to the following:

- Review of the Solicitation Requirements
- Review of a Disqualified Bid/Proposal
- Review of the Proposed Contractor Selection

#### C. Solicitation Requirements Review

Any person or entity may seek a Solicitation Requirements Review by submitting a written request for review to Public Works conducting the solicitation as described in this Paragraph. A Request for a Solicitation Requirements Review may be denied, in Public Works' sole discretion, if the request does not satisfy all of the following criteria:

1. The request for a Solicitation Requirements Review is made within ten (10) business days of the issuance of the solicitation document.

2. The request for a Solicitation Requirements Review includes documentation, which demonstrates the underlying ability of the person or entity to submit a proposal.
  3. The request for a Solicitation Requirements Review itemizes in appropriate detail, each matter contested and factual reasons for the requested review.
  4. The request for a Solicitation Requirements Review asserts either that:
    - a. Application of the minimum requirements, evaluation criteria and/or business requirements unfairly disadvantages the person or entity; or,
    - b. Due to unclear instructions, the process may result in the County not receiving the best possible responses from prospective Proposers.
  5. The Solicitation Requirements Review will be completed and Public Works' determination will be provided to the requesting person or entity, in writing, within a reasonable time prior to the bid/proposal due date.
- 

D. Place to Submit Requests for Review

All Requests for Review shall be submitted to the Contract Analyst.

E. Disqualification Review

1. A bid/proposal may be disqualified from consideration because Public Works determined it was nonresponsive at any time during the review/evaluation process. If Public Works determines that a bid/proposal is disqualified due to nonresponsiveness, Public Works shall notify the Proposer in writing.
2. Upon receipt of the written determination of nonresponsiveness, the Proposer may submit a written request for a Disqualification Review within the timeframe specified in the written determination.
3. A request for a Disqualification Review may, in Public Works' sole discretion, be denied if the request does not satisfy all of the following criteria:
  - a. The person or entity requesting a Disqualification Review is a Proposer;
  - b. The request for a Disqualification Review is submitted timely (i.e., by the date and time specified in the written determination); and
  - c. The request for a Disqualification Review asserts that the determination of disqualification due to bid/proposal nonresponsiveness was erroneous (e.g., factual errors, etc.) and provides factual support on each ground asserted as well as copies of all documents and other material that support the assertions.

4. The Disqualification Review shall be completed and the determination shall be provided to the requesting Proposer, in writing, prior to the conclusion of the evaluation process.

F. Debriefing Process

For solicitations where proposals are evaluated and scored in accordance to Section 4, Evaluation of Proposals, the following provisions shall apply:

1. Upon completion of the evaluation, Public Works will notify the remaining Proposers in writing that Public Works is entering negotiations with another Proposer. Upon receipt of the letter, any nonselected Proposer may submit a written request for a Debriefing within the timeframe specified in the letter. A request for a Debriefing may, in Public Works' sole discretion, be denied if the request is not received within the specified timeframe.
2. The purpose of the Debriefing is to compare the requesting Proposer's response to the solicitation document with the evaluation document. The requesting Proposer shall be debriefed only on its response. Because Contract negotiations are not yet complete, responses from other Proposers shall not be discussed, although Public Works may inform the requesting Proposer of its relative ranking.
3. During or following the Debriefing, Public Works will instruct the requesting Proposer of the manner and timeframe in which the requesting Proposer must notify Public Works of its intent to request a Proposed Contractor Selection Review, below, if the requesting Proposer is not satisfied with the results of the Debriefing.

G. Proposed Contractor Selection Review

Any Proposer that has timely submitted a notice of its intent to request a Proposed Contractor Selection Review as described in Paragraph F, above, may submit a written request for a Proposed Contractor Selection Review in the manner and timeframe as specified by Public Works. For low-bid solicitations, where applicable, upon selection of the lowest-cost, responsive, and responsible bidder, Public Works will notify the remaining bidders in writing that Public Works is entering negotiations with another bidder. Public Works will instruct the remaining bidders of the manner and timeframe in which each remaining bidder must notify Public Works of its intent to request a Proposed Contractor Selection Review, should such remaining bidder desire to have such a review performed.

A request for a Proposed Contractor Selection Review may, in Public Works' sole discretion, be denied if the request does not satisfy all of the following criteria:

1. The person or entity requesting a Proposed Contractor Selection Review is a Proposer.

2. The request for a Proposed Contractor Selection Review is submitted timely (i.e., by the date and time specified by Public Works).
3. The person or entity requesting a Proposed Contractor Selection Review asserts in appropriate detail with factual reasons one or more of the following grounds for review:
  - a. Public Works materially failed to follow procedures specified in its solicitation document. This includes:
    - i. Failure to correctly apply the standards for reviewing the proposal format requirements.
    - ii. Failure to correctly apply the standards, and/or follow the prescribed methods, for evaluating the proposals as specified in the solicitation document.
  - iii. Use of evaluation criteria that were different from the evaluation criteria disclosed in the solicitation document.
  - b. Public Works made identifiable mathematical or other errors in evaluating bids/proposals, resulting in the Proposer receiving an incorrect score and not being selected as the recommended Contractor.
  - c. For applicable solicitations where responses are evaluated and scored, a member of the Evaluation Committee demonstrated bias in the conduct of the evaluation.
  - d. Another basis for review as provided by State or Federal law.
4. The request for a Proposed Contractor Selection Review sets forth sufficient detail to demonstrate that, but for Public Works' alleged failure, the Proposer would have been the lowest-cost, responsive, and responsible bid or the highest-scored proposal, as the case may be.

Upon completing the Proposed Contractor Selection Review, Public Works representative shall issue a written decision to the Proposer within a reasonable time following receipt of the request for a Proposed Contractor Selection Review, and always before the date the Contract award recommendation is to be heard by the Board. The written decision shall additionally instruct the Proposer of the manner and timeframe for requesting a review by a County Independent Review, Paragraph H, below.

H. County Independent Review Process

1. Any Proposer that is not satisfied with the results of the Proposed Contractor Selection Review may submit a written request for a County

Independent Review in the manner and timeframe specified by Public Works in Public Works' written decision regarding the Proposed Contractor Selection Review.

2. A request for a County Independent Review may, in the County's sole discretion, be denied if the request does not satisfy all of the following criteria:
  - a. The person or entity requesting review by a County Independent Review is a Proposer.
  - b. The request for a review by a County Independent Review is submitted timely (i.e., by the date and time specified by Public Works).
  - c. The person or entity requesting review by a County Independent Review has limited the request to items raised in the Proposed Contractor Selection Review and new items that (a) arise from Public Works' written decision and (b) are one of the appropriate grounds for requesting a Proposed Contractor Selection Review as listed in Paragraph G above.
3. Upon completion of the County Independent Review's, Internal Services Department will forward its report to Public Works, which will provide a copy to the Proposer.

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PW-3.1	NET RATE PROPOSAL
PW-3.2	COST SUBSTANTIATION OF NET RATE
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PW-11	TRANSMITTAL FORM TO REQUEST AN RFP SOLICITATION REQUIREMENTS REVIEW (Submit only if requesting a review.)
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PW-17	PROPOSER'S INSURANCE COMPLIANCE AFFIRMATION
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## **ATTACHMENTS**

1. COUNTY OF LOS ANGELES POLICY ON DOING BUSINESS WITH SMALL BUSINESS
  2. DEBARRED VENDORS REPORT
  3. COUNTY OF LOS ANGELES LOBBYIST ORDINANCE
  4. SERVICE AREA INFORMATION FOR FRANCHISE AREAS
  5. ESTIMATED BREAKDOWN OF RESIDENTIAL PARCELS FOR FRANCHISE AREAS
  6. SAMPLE BOND FOR FAITHFUL PERFORMANCE
  7. PARENT/FRANCHISE GUARANTY
- 
8. FRANCHISE AREA MAPS
  9. FRANCHISE AREA STREET SWEEPING SCHEDULE MAPS
  10. INTERNAL REVENUE SERVICE NOTICE 1015
  11. SAFELY SURRENDERED BABY LAW POSTERS
  12. DEFAULTED PROPERTY TAX REDUCTION PROGRAM



## VERIFICATION OF PROPOSAL

<b>DATE:</b> , 201	<b>THE UNDERSIGNED HEREBY DECLARES AS FOLLOWS:</b>		
1. This Declaration is given in support of a Proposal for a Contract with The County Of Los Angeles. The Proposer further acknowledges that if any false, misleading, incomplete, or deceptively unresponsive statements in connection with this proposal are made, the Proposal may be rejected at the Director's sole judgment and his/her judgment shall be final.			
2. Name of Service:			
<b>DECLARANT INFORMATION</b>			
3. Name Of declarant:			
4. I Am duly vested with the authority to make and sign instruments for and on behalf of the Proposer(s).			
5. My Title, Capacity, Or Relationship to the Proposer(s) is:			
<b>PROPOSER INFORMATION</b>			
6. Proposer's full legal name:		Telephone No.:	
Physical Address (NO P.O. BOX):		Mobile No.:	
e-mail:		Fax No.:	
County WebVen No.:	IRS No.:	Business License No.:	
7. Proposer's fictitious business name(s) or dba(s) (if any):			
County(s) of Registration:		State:	Year(s) became DBA:
8. The Proposer's form of business entity is (CHECK ONLY ONE):			
<input type="checkbox"/> Sole proprietor	Name of Proprietor:		
<input type="checkbox"/> A corporation:	Corporation's principal place of business:		
	State of incorporation:		Year incorporated:
<input type="checkbox"/> Non-profit corporation certified under IRS 501(c) 3 and registered with the CA Attorney General's Registry of Charitable Trusts	President/CEO:		
	Secretary:		
<input type="checkbox"/> A general partnership:	Names of partners:		
<input type="checkbox"/> A limited partnership:	Name of general partner:		
<input type="checkbox"/> A joint venture of:	Names of joint venturers:		
<input type="checkbox"/> A limited liability company:	Name of managing member:		
9. The only persons or firms interested in this proposal as principals are the following:			
Name(s)	Title	Phone	Fax
Street	City	State	Zip
Name(s)	Title	Phone	Fax
Street	City	State	Zip
10. Is your firm wholly or majority owned by, or a subsidiary of another firm? <input type="checkbox"/> No <input type="checkbox"/> Yes If yes, name of parent firm: _____ State of incorporation/registration of parent firm: _____			
11. Has your firm done business under any other name(s) within the last five years? <input type="checkbox"/> No <input type="checkbox"/> Yes    If yes, please list the other name(s): Name(s): _____ Year of name change: _____ Name(s): _____ Year of name change: _____			
12. Is your firm involved in any pending acquisition or merger? <input type="checkbox"/> No <input type="checkbox"/> Yes If yes, indicate the associated company's name: _____			
13. Proposer acknowledges that if any false, misleading, incomplete, or deceptively unresponsive statements in connection with this proposal are made, the proposal may be rejected. The evaluation and determination in this area shall be at the Director's sole judgment and the Director's judgment shall be final.			
14. I am making these representations and all representation contained in this proposal based on information that they are true and correct to the best of my information and belief.			
I declare under penalty of perjury under the laws of California that the above information is true and correct.			
Signature of Proposer or Authorized Agent:			Date:
Type name and title:			

**PROPOSED NET RATE  
FOR  
EXCLUSIVE FRANCHISE AGREEMENT FOR THE AREA OF  
LA CRESCENTA/MONTROSE (2013-FA008)**

## **TASK 1: Franchise Services**

Proposer proposes the following monthly net rate (as defined and in accordance with Section A.2.c of Exhibit 10 of the Franchise Agreement) per residential premise for satisfying performance obligations required by the Franchise Agreement, including, without limitation, *basic weekly collection services* comprised of:

- (1) One 96-gallon **refuse** cart,
- (2) One 96-gallon commingled **recyclables** cart, plus a second 96-gallon cart upon customer request,
- (3) One 96-gallon **green waste** cart, plus a second 96-gallon cart upon customer request, and

required in Sections C, D, and E of Exhibit 3A of the Franchise Agreement and *Special Services* required in Section F of Exhibit 3A of the Franchise Agreement, without surcharge.

**ITEM 1:** (This amount to be used in Form PW-3.1)

**Proposed Monthly Net Rate for Basic Service Per Customer \$** \_\_\_\_\_

**ITEM 2:**

**Monthly Rate Per Customer (includes 10 percent Franchise Fee) no more than \$** \_\_\_\_\_

*Example: \$21.50 (Proposed monthly net rate for basic service per customer)*

*Monthly Rate per Customer:  $\$21.50 \div 0.90 = \$23.89$*

**NOTE: PROPOSERS ARE RESPONSIBLE FOR INDEPENDENTLY INVESTIGATING SERVICE CONDITIONS IN THE SERVICE AREA PRIOR TO PROPOSAL SUBMISSION.**

## **TASK 2: County Services (Abandoned Waste On-Call Collection Services)**

**THIS RATE WILL NOT BE ADJUSTED IN ACCORDANCE WITH PART II, EXHIBIT 10 OF THE FRANCHISE AGREEMENT.**

WEIGHT	AMOUNT
Per Ton	\$60.00

**PROPOSED NET RATE  
FOR  
EXCLUSIVE FRANCHISE AGREEMENT FOR THE AREA OF  
LA CRESCENTA/MONTROSE (2013-FA008)**

LEGAL NAME OF PROPOSER		
SIGNATURE OF PERSON AUTHORIZED TO SUBMIT PROPOSAL		
TITLE OF AUTHORIZED PERSON		
DATE	STATE CONTRACTOR'S LICENSE NUMBER	LICENSE TYPE
PROPOSER'S ADDRESS:		
PHONE	FACSIMILE	E-MAIL

## **NET RATE PROPOSAL AND COST SUBSTANTIATION OF NET RATE**

**Please complete Form PW-3.1, Net Rate Proposal, and Form PW-3.2, Cost Substantiation of Net Rate for the area you are submitting a proposal for. Proposers are to complete and include both forms in their proposals. The forms can be accessed at the following link:**

**<http://dpw.lacounty.gov/asd/contracts>**

**PROPOSERS ARE RESPONSIBLE FOR INDEPENDENTLY INVESTIGATING SERVICE CONDITIONS IN THE SERVICE AREA PRIOR TO PROPOSAL SUBMISSION.**

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## CONTRACTOR'S INDUSTRIAL SAFETY RECORD

PROPOSED CONTRACT FOR: \_\_\_\_\_

SERVICE BY PROPOSER \_\_\_\_\_

PROPOSAL DATE: \_\_\_\_\_

This information must include all work undertaken in the State of California by the proposer and any partnership, joint venture, or corporation that any principal of the proposer participated in as a principal or owner for the last five calendar years and the current calendar year prior to the date of proposal submittal. Separate information shall be submitted for each particular partnership, joint venture, corporate, or individual proposer. The proposer may attach any additional information or explanation of date which the proposer would like taken into consideration in evaluating the safety record. An explanation must be attached to the circumstances surrounding any and all fatalities.

## 5 CALENDAR YEARS PRIOR TO CURRENT YEAR

	2007	2008	2009	2010	2011	Total	Current Year to Date
1. Number of contracts.							
2. Total dollar amount of Contracts (in thousands of dollars).							
3. Number of fatalities.							
4. Number of lost workday cases.							
5. Number of lost workday cases involving permanent transfer to another job or termination of employment.							
6. Number of lost workdays.							

The above information was compiled from the records that are available to me at this time, and I declare under penalty of perjury that the information is true and accurate within the limitations of those records.

Name of Proposer or Authorized Agent (print) \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

## CONFLICT OF INTEREST CERTIFICATION

I, \_\_\_\_\_

- ☐ sole owner  
☐ general partner  
☐ managing member  
☐ President, Secretary, or other proper title) \_\_\_\_\_

of \_\_\_\_\_

Name of proposer

make this certification in support of a proposal for a contract with the County of Los Angeles for services within the scope of Los Angeles County Code Section 2.180.010, which provides as follows:

**Contracts Prohibited.** A. Notwithstanding any other section of this code, the county shall not ~~contract with, and shall reject any bid or proposal submitted by, the persons or entities specified below,~~ unless the board of supervisors finds that special circumstances exist which justify the approval of such contract.

1. Employees of the county or of public agencies for which the board of supervisors is the governing body;
2. Profit-making firms or businesses in which employees described in subdivision 1 of subsection A serve as officers, principals, partners, or major shareholders;
3. Persons who, within the immediately preceding 12 months, came within the provisions of subdivision 1 of subsection A, and who:
  - (a) Were employed in positions of substantial responsibility in the area of service to be performed by the contract; or
  - (b) Participated in any way in developing the contract of its service specifications; and
4. Profit-making firms or businesses in which the former employees described in subdivision 3 of subsection A, serve as officers, principals, partners, or major shareholders.

I hereby certify I am informed and believe that personnel who developed and/or participated in the preparation of this contract do not fall within scope of the Los Angeles County Code Section 2.180.010 as cited above. Furthermore, that no County employee whose position in the County enables him/her to influence the award of this contract, or any competing contract, and no spouse or economic dependent of such employee is or shall be employed in any capacity by the Contractor herein, or has or shall have any direct or indirect financial interest in this contract. I understand and agree that any falsification in this Certificate will be grounds for rejection of this Proposal and cancellation of any contract awarded pursuant to this Proposal.

I certify under penalty of perjury under the laws of California that the foregoing is true and correct.

Signed \_\_\_\_\_

Date \_\_\_\_\_

## PROPOSER'S REFERENCE LIST

PROPOSER NAME: \_\_\_\_\_

PROPOSED CONTRACT FOR: \_\_\_\_\_

**Provide a comprehensive reference list of all of Proposer's municipal collection contracts for the past five years in Southern California (south of Santa Barbara), including all contracts and Agreements with the County. Please verify all contact names, telephone and fax numbers, and e-mail addresses before listing. Incorrect names, telephone and/or fax numbers, or e-mail addresses will be disregarded. Use additional pages if required.**

**A. COUNTY OF LOS ANGELES AGENCIES**

All contracts with the County during the previous five years must be listed.

SERVICE:	SERVICE DATES:
DEPT/DISTRICT:	
CONTACT:	
TELEPHONE:	
FAX:	
E-MAIL:	

SERVICE:	SERVICE DATES:
DEPT/DISTRICT:	
CONTACT:	
TELEPHONE:	
FAX:	
E-MAIL:	

SERVICE:	SERVICE DATES:
DEPT/DISTRICT:	
CONTACT:	
TELEPHONE:	
FAX:	
E-MAIL:	

SERVICE:	SERVICE DATES:
DEPT/DISTRICT:	
CONTACT:	
TELEPHONE:	
FAX:	
E-MAIL:	

**B. OTHER GOVERNMENTAL AGENCIES AND PRIVATE COMPANIES**

All contracts with other Governmental Agencies in Southern California (south of Santa Barbara) for past five years must be listed.

SERVICE:	SERVICE DATES:
AGENCY/ FIRM:	
ADDRESS:	
CONTACT:	
TELEPHONE:	
FAX:	
E-MAIL:	

SERVICE:	SERVICE DATES:
AGENCY/ FIRM:	
ADDRESS:	
CONTACT:	
TELEPHONE:	
FAX:	
E-MAIL:	

SERVICE:	SERVICE DATES:
AGENCY/ FIRM:	
ADDRESS:	
CONTACT:	
TELEPHONE:	
FAX:	
E-MAIL:	

SERVICE:	SERVICE DATES:
AGENCY/ FIRM:	
ADDRESS:	
CONTACT:	
TELEPHONE:	
FAX:	
E-MAIL:	

## PROPOSER'S EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

Proposer's Name
Address
Internal Revenue Service Employer Identification Number

In accordance with Los Angeles County Code Section 4.32.010, the Proposer certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and will be treated equally by the firm without regard to or because of race, religion, ancestry, national origin, or sex and in compliance with all anti-discrimination laws of the United States of America and the State of California.

1.	The proposer has a written policy statement prohibiting any discrimination in all phases of employment.	<input type="checkbox"/> YES <input type="checkbox"/> NO
2.	The proposer periodically conducts a self- analysis or utilization analysis of its work force.	<input type="checkbox"/> YES <input type="checkbox"/> NO
3.	The proposer has a system for determining if its employment practices are discriminatory against protected groups.	<input type="checkbox"/> YES <input type="checkbox"/> NO
4.	Where problem areas are identified in employment practices, the proposer has a system for taking reasonable corrective action to include establishment of goals and timetables.	<input type="checkbox"/> YES <input type="checkbox"/> NO

Authorized representative	
Signature	Date



## LIST OF SUBCONTRACTORS

Proposer is required to complete the following. Any Subcontractors listed must be properly licensed under the laws of the State of California for the type of service that they are to perform, AND THEIR LICENSE NUMBERS MUST BE LISTED HEREIN. Failure to do so may result in delay of the award of contract. Do not list alternate subcontractors for the same service.

☐ Proposer in providing the requested services will not utilize Subcontractors. Proposer will perform all required services.

[illegible]

**County of Los Angeles**  
**Request for Local Small Business Enterprise (SBE) Preference Program Consideration and**  
**CBE Firm/Organization Information Form**

**All proposers responding to the Request for Proposals must complete and return this form for proper consideration of the proposal.**

FIRM NAME:

My County (WebVen) Vendor Number:

**I. LOCAL SMALL BUSINESS ENTERPRISE PREFERENCE PROGRAM:**

☐ As Local SBE certified by the County of Los Angeles Office of Affirmative Action Compliance as of the date of this proposal/bid's submission, I request this proposal/bid be considered for the Local SBE Preference.

☐ Attached is a copy of Local SBE certification issued by the County.

**II. FIRM/ORGANIZATION INFORMATION:** The information requested below is for statistical purposes only. On final analysis and consideration of award, contractor/vendor will be selected without regard to race/ethnicity, color, religion, sex, national origin, age, sexual orientation or disability.

<b>Business Structure:</b>	<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input type="checkbox"/> Corporation	<input type="checkbox"/> Nonprofit	<input type="checkbox"/> Franchise	
<input type="checkbox"/> Other (Please Specify):						
<b>Total Number of Employees</b> (including owners):						
<b>Race/Ethnic Composition of Firm.</b> Please distribute the above total number of individuals into the following categories:						
Race/Ethnic Composition	Owners/Partners/ Associate Partners		Managers		Staff	
	Male	Female	Male	Female	Male	Female
Black/African American						
Hispanic/Latino						
Asian or Pacific Islander						
American Indian						
Filipino						
White						

**III. PERCENTAGE OF OWNERSHIP IN FIRM:** Please indicate by percentage (%) how ownership of the firm is distributed.

	Black/African American	Hispanic/ Latino	Asian or Pacific Islander	American Indian	Filipino	White
Men	%	%	%	%	%	%
Women	%	%	%	%	%	%

**IV. CERTIFICATION AS MINORITY, WOMEN, DISADVANTAGED, AND DISABLED VETERAN BUSINESS ENTERPRISES:** If your firm is currently certified as a minority, women, disadvantaged or disabled veteran owned business enterprise by a public agency, complete the following and attach a copy of your proof of certification. (Use back of form, if necessary.)

Agency Name	Minority	Women	Disadvantaged	Disabled Veteran	Expiration Date

**V. DECLARATION: I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.**

Authorized Signature:	Title:	Date:

**GAIN and GROW EMPLOYMENT COMMITMENT**

The undersigned:

- ☐ has hired participants from the County's Department of Social Services' Greater Avenue for Independence (GAIN) and General Relief Opportunity for Work (GROW) employment programs.

**OR**

- ☐ declares a willingness to consider GAIN and GROW participants for any future employment opening if participant(s) meet the minimum qualification for that opening, and

declares a willingness to provide employed GAIN and GROW participants access to proposer's employee mentoring program(s), if available, to assist those individuals in obtaining permanent employment and/or promotional opportunities.

Signature	Title
Firm Name	Date

## TRANSMITTAL FORM TO REQUEST AN RFP SOLICITATION REQUIREMENTS REVIEW

***A Solicitation Requirements Review must be received by the County  
within 10 business days of issuance of the solicitation document***

Proposer Name:	Date of Request:
Project Title:	Project No.

A **Solicitation Requirements Review** is being requested because the Proposer asserts that they are being unfairly disadvantaged for the following reason(s): *(check all that apply)*

- ☐ Application of **Minimum Requirements**
- ☐ Application of **Evaluation Criteria**
- ☐ Application of **Business Requirements**
- ☐ Due to **unclear instructions**, the process may result in the County not receiving the best possible responses

I understand that this request must be received by the County within **10 business days** of issuance of the solicitation document.

For each area contested, Proposer must explain in detail the factual reasons for the requested review.  
*(Attach additional pages and supporting documentation as necessary.)*

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Request submitted by:

\_\_\_\_\_  
*(Name)*

\_\_\_\_\_  
*(Title)*

***For County use only***

Date Transmittal Received by County: \_\_\_\_\_ Date Solicitation Released: \_\_\_\_\_

Reviewed by: \_\_\_\_\_

Results of Review - Comments:

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Date Response sent to Proposer: \_\_\_\_\_

# CHARITABLE CONTRIBUTIONS CERTIFICATION

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Internal Revenue Service Employer Identification Number

California Registry of Charitable Trusts "CT" number (if applicable)

~~The Nonprofit Integrity Act (SB 1262, Chapter 919) added requirements to California's Supervision of Trustees and Fundraisers for Charitable Purposes Act which regulates those receiving and raising charitable contributions.~~

## CERTIFICATION

YES

NO

Proposer or Contractor has examined its activities and determined that it does not now receive or raise charitable contributions regulated under California's Supervision of Trustees and Fundraisers for Charitable Purposes Act. If Proposer engages in activities subjecting it to those laws during the term of a County contract, it will timely comply with them and provide County a copy of its initial registration with the California State Attorney General's Registry of Charitable Trusts when filed.

( )

( )

## OR

Proposer or Contractor is registered with the California Registry of Charitable Trusts under the CT number listed above and is in compliance with its registration and reporting requirements under California law. Attached is a copy of its most recent filing with the Registry of Charitable Trusts as required by Title 11 California Code of Regulations, sections 300-301 and Government Code sections 12585-12586.

( )

( )

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and Title (please type or print)

**REPRESENTATION AND WARRANTY OF  
CHIEF ADMINISTRATION OFFICER/CHIEF EXECUTIVE OFFICER  
OR OTHER KNOWLEDGEABLE PERSON**

I represent and warrant as follows:

- (1) I am knowledgeable about the disputes, actions, contests, debarments and environmental history of the Proposer, guarantor of Proposer's obligations under the Franchise Agreement, and/or Proposer's affiliate identified below my printed name below.
  - (2) The information provided in Proposer's proposal as required by Part 1, Section 3.A.9.a. and Section 3.A.9.b. of the RFP, "**References; Disputes, Actions, Contests and Debarments; Environmental History**", or any portion of that information specified below, to the best of my knowledge, is true and complete as of the date of submission of Proposer's proposal.
- 

I acknowledge as follows:

- (1) If, *after County has awarded the Franchise Agreement to Proposer but before County has executed the Franchise Agreement*, the County determines that this **warranty is breached** because the information provided in Proposer's proposal is untrue or incomplete, the County may annul the award approval and forfeit and liquidate Proposer's bid guaranty.
- (2) If, *after execution of the Franchise Agreement*, the County determines that this **representation is untrue** because the information provided in Proposer's proposal is untrue or incomplete, then the County may declare a default under the Franchise Agreement and exercise County's remedies under the Franchise Agreement, including termination of the Franchise Agreement.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Office/Title:

☐ Chief Administrative Office

☐ Chief Executive Office

☐ Other knowledgeable person \_\_\_\_\_

Entity or entities about which officer is knowledgeable:

☐ Proposer

☐ Guarantor of Proposer's obligations under the Franchise Agreement:  
\_\_\_\_\_ ; or

☐ Affiliate of Proposer [describe]: \_\_\_\_\_

*Portion of information with respect to finances to which this representation applies:*

\_\_\_\_\_

☐ **All**

☐ The following specified portion: \_\_\_\_\_

I certify that the person named above is the duly appointed incumbent of the office set forth below his or her signature and that his or her signature appearing above is true and genuine.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title (E.g. Secretary, Counsel): \_\_\_\_\_

**REPRESENTATION AND WARRANTY OF  
CHIEF FINANCIAL OFFICER OR OTHER KNOWLEDGEABLE PERSON  
FOR  
SUBMISSION OF AUDITED/REVIEWED FINANCIALS WITH PROPOSAL**

I represent and warrant as follows:

- (1) I am knowledgeable about the finances of Proposer, guarantor of Proposer's obligations under the Franchise Agreement, and/or Proposer's affiliate identified below my printed name below.
- (2) The information provided in Proposer's proposal as required by Part 1, Section 3.A.11., "**Financial Resources**" or any portion of that information specified below, to the best of my knowledge, is true and complete as of the date of submission of Proposer's proposal.

I acknowledge as follows:

- (1) If, *after County has awarded the Franchise Agreement to Proposer but before County has executed the Franchise Agreement*, the County determines that this **warranty is breached** because the information provided in Proposer's proposal is untrue or incomplete, the County may annul the award approval and forfeit and liquidate Proposer's bid guaranty.
- (2) If, *after execution of the Franchise Agreement*, the County determines that this **representation is untrue** because the information provided in Proposer's proposal is untrue or incomplete, then the County may declare a default under the Franchise Agreement and exercise County's remedies under the Franchise Agreement, including termination of the Franchise Agreement.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Office/Title:

☐ Chief Financial Officer

☐ Other knowledgeable person \_\_\_\_\_



Entity or entities about which officer is knowledgeable:

☐ Proposer

☐ Guarantor of Proposer's obligations under the Franchise Agreement: \_\_\_\_\_; or

☐ Affiliate of Proposer [describe]: \_\_\_\_\_

Portion of information with respect to finances to which this representation applies:

☐ All

☐ The following specified portion: \_\_\_\_\_

I certify that the person named above is the duly appointed incumbent of the office set forth below his or her signature and that his or her signature appearing above is true and genuine.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title (E.g. Secretary, Counsel): \_\_\_\_\_

**DELIVERY OF AUDITED/REVIEWED FINANCIALS TO COUNTY**

**I warrant that Proposer will deliver to County the Proposer's audited/reviewed financial statements for County review at County offices, at a time agreeable to County.**

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Office/Title:

☐ Chief Financial Officer

☐ Other authorized person: \_\_\_\_\_

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I certify that the person named above is the duly appointed incumbent of the office set forth below his or her signature and that his or her signature appearing above is true and genuine.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title (E.g. Secretary, Counsel): \_\_\_\_\_

**SUBMISSION OF A WRITTEN STATEMENT TO SECURE A PERFORMANCE BOND,  
LETTER OF CREDIT, AND ADDITIONAL BUSINESS HISTORY AND/OR OTHER  
INFORMATION WITH PROPOSAL**

I represent and warrant as follows:

- (1) The written statement is signed by an authorized agent of a California-admitted surety with an A.M. Best Rating of not less than A:VII establishing that the surety is presently willing to issue a performance bond of 30% of the Proposer's proposed annual rate utilizing the Monthly Rate Per Customer (Item 2) from Form PW-2, Proposed Net Rate.
- (2) The written statement presently able to secure a letter of credit of 30% of the Proposer's proposed annual rate utilizing the Monthly Rate Per Customer (Item 2) Form PW-2, Proposed Net Rate. The statement must be issued by a financial institution with one of the following minimum ratings:

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Moody's	A2 or better LT Issuer Credit and B or better for Bank Financial Strength
Standard and Poor's	A or better for LT Issuer Credit
Bauer Financial	4 Stars or better
TheStreet.com Ratings	B or better

- (3) Additional business history, and/or other information to demonstrate financial resources and viability, verified by an independent, reliable third party such as a CPA, a credit agency, or a financial institution, or by means of reliable audit reports from other governmental agencies, etc.
- (4) I am knowledgeable about the financial stability of Proposer, guarantor of Proposer's obligations under the Franchise Agreement, and/or Proposer's affiliate identified below my printed name below.
- (5) The information provided in Proposer's proposal as required by Part 1, Section 3.A.11., "**Financial Resources**" or any portion of that information specified below, to the best of my knowledge, is true and complete as of the date of submission of Proposer's proposal.

I acknowledge as follows:

- (1) If, *after County has awarded the Franchise Agreement to Proposer but before County has executed the Franchise Agreement*, the County determines that this **warranty is breached** because the information provided in Proposer's proposal is untrue or incomplete, the County may annul the award approval and forfeit and liquidate Proposer's bid guaranty.

- (2) If, *after execution of the Franchise Agreement*, the County determines that this **representation is untrue** because the information provided in Proposer's proposal is untrue or incomplete, then the County may declare a default under the Franchise Agreement and exercise County's remedies under the Franchise Agreement, including termination of the Franchise Agreement.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Office/Title:

☐ Chief Financial Officer

☐ Other knowledgeable person \_\_\_\_\_

---

Entity or entities about which officer is knowledgeable:

☐ Proposer

☐ Guarantor of Proposer's obligations under the Franchise Agreement: \_\_\_\_\_; or

☐ Affiliate of Proposer [describe]: \_\_\_\_\_

Portion of information with respect to finances to which this representation applies:

\_\_\_\_\_

☐ All

☐ The following specified portion: \_\_\_\_\_

I certify that the person named above is the duly appointed incumbent of the office set forth below his or her signature and that his or her signature appearing above is true and genuine.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title (E.g. Secretary, Counsel): \_\_\_\_\_

EXCLUSIVE RESIDENTIAL FRANCHISE AGREEMENT FOR THE AREA OF  
LA CRESCENTA/MONTROSE (2013-FA008)

PROPOSER'S INSURANCE COMPLIANCE AFFIRMATION

---

Proposer's Name

---

Address

- ☐ If awarded the contract: Proposer will comply with the insurance coverage provisions set forth in the Franchise Agreement, Sections 14 and 15, Indemnification and Insurance, and performance assurance of this Request for Proposals, and Proposer will procure, maintain, and provide the County with proof of insurance coverage in the coverage amounts and types specified in the Franchise Agreement, Sections 14 and 15, throughout the entire term of the proposed contract, without interruption or break in coverage.
- ☐ Proposer will not comply with the insurance coverage provisions set forth in the Franchise Agreement, Sections 14 and 15, Indemnification and Insurance, and performance assurance of this Request for Proposals, and Proposer will not procure, maintain, and provide the County with proof of insurance coverage in the coverage amounts and types specified in the Franchise Agreement, Sections 14 and 15, throughout the entire term of the proposed contract, without interruption or break in coverage. If you check this box, your proposal will be immediately disqualified as non-responsive.

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Proposer's Printed Name

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Proposer's Signature

---

Date

**PROPOSER'S COMPLIANCE WITH UPDATED COLLECTION SCHEDULES  
AFFIRMATION**

**EXCLUSIVE RESIDENTIAL FRANCHISE AGREEMENT FOR THE AREA OF  
LA CRESCENTA/MONTROSE (2013-FA008)**

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Proposer's Name

---

Address

The current Collection Schedule is provided in Attachment 1 (Collection Schedule) of Exhibit 3A. ~~This schedule may potentially be revised/updated by the Director at any time based on various factors including, but not limited to, changes in the Street Sweeping Schedule. As such, please check the appropriate box below:~~

- ☐ If awarded the contract: Proposer will comply with the current Collection Schedule, or any amendments made by the Director.

In the event that the Director amends the Collection Schedule, proposers are responsible for independently investigating service conditions in the service area. Please note that no changes to the proposed rates will be permitted.

- ☐ Proposer will not comply with the Collection Schedule, or any amendments authorized by the Director. If you check this box, your proposal will be immediately disqualified as non-responsive.

---

Proposer's Signature

---

Date

---

Proposer's Printed Name

**THE EXCLUSIVE RESIDENTIAL FRANCHISE AGREEMENT FOR THE AREA OF  
LA CRESCENTA/MONTROSE (2013-FA008)**

**RATE SCHEDULE  
(Customer Service Charges)**

Proposer must provide a rate for each item indicated below. Failure to do so may result in the proposal being rejected as nonresponsive.

	<b>Monthly Rate Per Customer</b>	<b>Senior-Small Generator 25% Discounted Rate (Deduct 25% from Monthly Rate Per Customer)</b>
<b>MONTHLY RATE FOR BASIC SERVICE PER CUSTOMER FOR RESIDENTIAL PREMISES<sup>1</sup> AND MULTIFAMILY PREMISES INCLUDES:</b> <ul style="list-style-type: none"> <li>One 96-gallon Refuse Cart, and</li> <li>Up to two (2) 96-gallon Recyclables Carts, and</li> <li>Up to two (2) 96-gallon Green Waste Carts</li> </ul>		
<b>List Monthly Rate Per Customer (Item 2) from Form PW-2, Proposed Net Rate:</b>	\$ _____	\$ _____
<b>SURCHARGES:</b> <ol style="list-style-type: none"> <li>Additional 96-gallon Carts in excess of Basic Service</li> <li>Alternatives to fully automated Carts for difficult-to-service Premises (B3h of Exhibit 3A): not greater than 25 percent of Customer's monthly Rate (_____% Surcharge)</li> <li>Roll-out Services (other than Elderly or Disabled) (Section G of Exhibit 3A): not greater than 50 percent of Customer's monthly Rate</li> </ol>	\$ 5.00 _____ \$ _____ \$ _____	\$ 3.75 _____ \$ _____ \$ _____

**Footnote 1: For each single family home or for each unit in a duplex.**

**DISCOUNT FOR HOA SPECIFICS (eg. bulk billing, additional services) shall be 8% of total bill.**

**If the amount arrived at by multiplying an established percentage for a particular item is not calculated correctly, the correctly calculated amount will be considered as representing the Proposer's intentions. Failure to provide a rate may result in the proposal being rejected as nonresponsive.**

**PROPOSERS ARE RESPONSIBLE FOR INDEPENDENTLY INVESTIGATING SERVICE CONDITIONS IN THE SERVICE AREA PRIOR TO PROPOSAL SUBMISSION.**

\_\_\_\_\_  
Proposer's Printed Name

\_\_\_\_\_  
Proposer's Signature

\_\_\_\_\_  
Date

**THE EXCLUSIVE RESIDENTIAL FRANCHISE AGREEMENT FOR THE AREA OF  
LA CRESCENTA/MONTROSE (2013-FA008)**

**BULKY ITEM COLLECTION RATES**

**Proposer must provide a rate for each item indicated below. Failure to do so may result in the proposal being rejected as nonresponsive.**

<b>BULKY ITEM COLLECTION RATES</b>	<b>Bulky Item Collection Rate</b>	<b>Senior-Small Generator 25% Discounted Rate (Deduct 25% from Bulky Item Collection Rate)</b>
1. Each additional on-call pickup in excess of twice each Year for Residential Premises and any charges for Proposer-specified items (Part II, Franchise Agreement, Exhibit 3A, Section F2d)	\$ _____	\$ _____
2. Each additional on-call pickup in excess of four times each year for Multifamily Premises and any charges for Proposer-specified items (Part II, Franchise Agreement, Exhibit 3A, Section F2d)	\$ _____	\$ _____

\_\_\_\_\_  
Proposer's Printed Name

\_\_\_\_\_  
Proposer's Signature

\_\_\_\_\_  
Date



**EQUIPMENT SPECIFICATION/PRODUCTIVITY ASSUMPTIONS**  
**FOR THE EXCLUSIVE RESIDENTIAL FRANCHISE AGREEMENT FOR THE AREA OF LA CRESCENTA/MONTROSE**  
 (This form may be reproduced in order to list all equipment)

NUMBER OF TRUCKS	REFUSE	BULKY ITEMS	RECYCLING	GREEN WASTE	FUEL TYPE
<b>TRUCK TYPE</b> (Front, side, or rearend, flatbed, pickup, etc.)					
<b>TRUCK CAPACITY/ COMPARTMENTS</b>					
<b>NUMBER OF ROUTES</b> (Including hours per route – shift)					
<b>TRUCK TYPE</b> (Front, side, or rearend, flatbed, pickup, etc.)					
<b>TRUCK CAPACITY/ COMPARTMENTS</b>					
<b>NUMBER OF ROUTES</b> (Including hours per route – shift)					
<b>TRUCK TYPE</b> (Front, side, or rearend, flatbed, pickup, etc.)					
<b>TRUCK CAPACITY/ COMPARTMENTS</b>					
<b>NUMBER OF ROUTES</b> (Including hours per route – shift)					

## PROPOSER'S LIST OF TERMINATED CONTRACTS

PROPOSER'S NAME: \_\_\_\_\_

☐ Proposer has not had any contracts terminated in the past three years.

Proposer must list all contracts that have been terminated within the past three years. Terminated contracts are those contracts terminated by an agency or firm before the contract's expiration date. If a contract(s) was terminated, please attach an explanation on a separate sheet, whether the termination was at the fault of the Proposer or not. Any and all terminated contracts should be accompanied with an explanation. It should be noted that contracts that naturally expired need not be listed. The County is only seeking information on contracts that were terminated prior to expiration.

SERVICE:	TERMINATING DATE:
NAME OF TERMINATING FIRM	
ADDRESS OF FIRM	
CONTACT PERSON:	
TELEPHONE:	
FAX:	
E-MAIL:	

SERVICE:	TERMINATING DATE:
NAME OF TERMINATING FIRM	
ADDRESS OF FIRM	
CONTACT PERSON:	
TELEPHONE:	
FAX:	
E-MAIL:	

SERVICE:	TERMINATING DATE:
NAME OF TERMINATING FIRM	
ADDRESS OF FIRM	
CONTACT PERSON:	
TELEPHONE:	
FAX:	
E-MAIL:	

SERVICE:	TERMINATING DATE:
NAME OF TERMINATING FIRM	
ADDRESS OF FIRM	
CONTACT PERSON:	
TELEPHONE:	
FAX:	
E-MAIL:	

SIGNATURE \_\_\_\_\_

DATE: \_\_\_\_\_

**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:

\_\_\_\_\_  
\_\_\_\_\_

*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:

**TRANSITIONAL JOB OPPORTUNITIES PREFERENCE APPLICATION**

COMPANY NAME:		
COMPANY ADDRESS:		
CITY:	STATE:	ZIP CODE:

- ☐ I am not requesting consideration under the County's Transitional Job Opportunities Preference Program.

**I hereby certify that I meet all the requirements for this program:**

- ☐ My business is a non-profit corporation qualified under Internal Revenue Services Code - Section 501(c)(3) and has been such for three years (*attach IRS Determination Letter*);
- 
- ☐ I have submitted my three most recent annual tax returns with my application;
- ☐ I have been in operation for at least one year providing transitional job and related supportive services to program participants; and
- ☐ I have submitted a profile of our program; including a description of its components designed to help the program participants, number of past program participants and any other information requested by the contracting department.

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

PRINT NAME:	TITLE:
SIGNATURE:	DATE:

**REVIEWED BY COUNTY:**

<b>SIGNATURE OF REVIEWER</b>	<b>APPROVED</b>	<b>DISAPPROVED</b>	<b>DATE</b>

**COUNTY OF LOS ANGELES CONTRACTOR EMPLOYEE JURY SERVICE PROGRAM  
APPLICATION FOR EXCEPTION AND CERTIFICATION FORM**

This contract is subject to the County of Los Angeles Contractor Employee Jury Service Program (Program) (Los Angeles County Code, Chapter 2.203). All contractors and subcontractors must complete this form to either (1) request an exception from the Program requirements or (2) certify compliance. Upon review of the submitted form, the County department will determine, in its sole discretion, whether the bidder or proposer is exempted from the Program.

Company Name:		
Company Address:		
City:	State:	Zip Code:
Telephone Number:		
(Type of Goods or Services):		

**If you believe the Jury Service Program does not apply to your business, check the appropriate box in Part I (you must attach documentation to support your claim). If the Jury Service Program applies to your business, complete Part II to certify compliance with the Program. Whether you complete Part I or Part II, sign and date this form.**

**Part I: Jury Service Program Is Not Applicable to My Business**

☐ My business does not meet the definition of "contractor," as defined in the Program as it has not received an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts (this exception is not available if the contract/purchase order itself will exceed \$50,000). I understand that the exception will be lost and I must comply with the Program if my revenues from the County exceed an aggregate sum of \$50,000 in any 12-month period.

☐ My business is a small business as defined in the Program. It 1) has ten or fewer employees; and, 2) has annual gross revenues in the preceding twelve months which, if added to the annual amount of this contract, are \$500,000 or less; and, 3) is not an affiliate or subsidiary of a business dominant in its field of operation, as defined below. I understand that the exemption will be lost and I must comply with the Program if the number of employees in my business and my gross annual revenues exceed the above limits.

"Dominant in its field of operation" means having more than ten employees, including full-time and part-time employees, and annual gross revenues in the preceding twelve months, which, if added to the annual amount of the contract awarded, exceed \$500,000.

"Affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation.

☐ My business is subject to a Collective Bargaining Agreement that expressly provides that it supersedes all provisions of the Program. **ATTACH THE AGREEMENT.**

**Part II: Certification of Compliance**

☐ My business has and adheres to a written policy that provides, on an annual basis, no less than five days of regular pay for actual jury service for full-time employees of the business who are also California residents, or my company will have and adhere to such a policy prior to award of the contract.

**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:

**PROPOSER'S COMPLIANCE WITH THE MINIMUM MANDATORY REQUIREMENTS  
THE EXCLUSIVE RESIDENTIAL FRANCHISE AGREEMENT FOR THE AREA OF  
LA CRESCENTA/MONTROSE (2013-FA008)**

**NAME OF PROPOSER:** \_\_\_\_\_

**PROPOSER MUST CHECK A BOX IN EVERY SECTION**

**At the time of proposal submission, Proposer's must meet the following minimum requirements:**

1. Proposer must have three years experience collecting and managing refuse, recyclable materials, and green waste from single-family and multifamily residences.

- ☐ Yes. Proposer does meet the experience requirement stated above. (In addition to responding on this form, as specified in Part I, Section 3.A.6, Experience, please ~~provide a detailed narrative in your proposal to support this minimum mandatory requirement~~).

No. of Years	Description of Service

- ☐ No. Proposer does not meet the experience requirement stated above. **If you check this box, your proposal will be immediately disqualified as non-responsive.**

2. Proposer must possess the required valid Waste Collector Permit naming the Proposer as the permittee or a copy of the application for a Waste Collector Permit naming the Proposer as the permittee issued by the County Department of Public Health at the time of proposal submission.

- ☐ Yes. Proposer possesses the required valid Waste Collector Permit naming the Proposer as the permittee or has applied for a Waste Collector Permit naming the Proposer as the permittee issued by the County Department of Public Health. (In addition to responding on this form, as specified in Part I, Section 3.A.12, Permits, please attach a copy of the permit to your proposal to support this minimum mandatory requirement).

- ☐ No. Proposer does not possess the required valid Waste Collector Permit naming the Proposer as the permittee or has not applied for a Waste Collector Permit naming the Proposer as the permittee issued by the County Department of Public Health and therefore does not meet the Permit requirement stated above. **If you check this box, your proposal will be immediately disqualified as non-responsive.**

3. The Proposer must also submit a Bid Guaranty as outlined in Part I, Section 3.A.16. Bid Guaranty.

- ☐ Yes. Proposer's submitted a Bid Guaranty in accordance with the RFP. (In addition to responding to this form, as specified in Part I, Section 3.A.16, Bid Guaranty, please attach the Bid Guaranty to your proposal to support this minimum mandatory requirement).
- ☐ No. Proposer did not submit a Bid Guaranty as outlined in Part I, Section 3.A.16. and therefore does not meet the Bid Guaranty requirement stated above. **If you check this box, your proposal will be immediately disqualified as non-responsive.**

Print Name:	Title:
Signature:	Date:



## **COUNTY OF LOS ANGELES**

### ***Policy on Doing Business With Small Business***

Forty-two percent of businesses in Los Angeles County have five or fewer employees. Only about four percent of businesses in the area exceed 100 employees. According to the Los Angeles Times and local economists, it is not large corporations, but these small companies that are generating new jobs and helping move Los Angeles County out of its worst recession in decades.

#### **WE RECOGNIZE...**

##### **The importance of small business to the County:**

- In fueling local economic growth.
- Providing new jobs.
- Creating new local tax revenues.
- Offering new entrepreneurial opportunity to those historically under-represented in business.

##### **The County can play a positive role in helping small business grow:**

- As a multi-billion dollar purchaser of goods and services.
- As a broker of intergovernmental cooperation among numerous local jurisdictions.
- By greater outreach in providing information and training.
- By simplifying the bid/proposal process.
- By maintaining selection criteria which are fair to all.
- By streamlining the payment process.

#### **WE THEREFORE SHALL:**

1. Constantly seek to streamline and simplify our processes for selecting our vendors and for conducting business with them.
2. Maintain a strong outreach program, fully coordinated among our departments and districts, as well as other participating governments to: (a) inform and assist the local business community in competing to provide goods and services; and, (b) provide for ongoing dialogue with and involvement by the business community in implementing this policy.
3. Continually review and revise how we package and advertise solicitations, evaluate and select prospective vendors, address subcontracting, and conduct business with our vendors, in order to: (a) expand opportunity for small business to compete for our business; and, (b) to further opportunities for all businesses to compete regardless of size.
4. Ensure that staff who manage and carry out the business of purchasing goods and services are well-trained, capable, and highly motivated to carry out the letter and spirit of this policy.



## **Listing of Contractors Debarred in Los Angeles County**

**List of Debarred Contractors in Los Angeles County may be obtained by going to the following website:**

**[http://lacounty.info/doing\\_business/DebarmentList.htm](http://lacounty.info/doing_business/DebarmentList.htm)**

Revised 7/10/08

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# County of Los Angeles *Lobbyist Ordinance*



## IT'S THE LAW

## It may affect you!

Chapter 2.160 of the Los Angeles County Code requires Lobbyists, Lobbying Firms and Lobbyist Employers to register with the Executive Office of the Board of Supervisors. This ordinance imposes extensive reporting requirements on individuals, businesses and other organizations. It places restrictions on the activities of anyone seeking to influence an official action of the County of Los Angeles including actions of the Board of Supervisors or the granting or denial of County contracts, licenses, permits, grants and franchises.

### YOU MAY BE CONSIDERED A COUNTY LOBBYIST

If you are compensated to communicate directly (or through agents) with any County official for the purpose of influencing official action, then you may be required to register with the Executive Office of the Board of Supervisors. The requirement to register is the same whether you are an employee of, or on contract with, a firm or organization with business before the County. Additionally, an individual or business entity may be considered a County Lobbying Firm if it receives compensation to influence the County on behalf of any **other** persons or businesses. An individual, business entity or organization that employs or contracts with another individual or firm to represent or make contacts with a County agency on their behalf to influence County action may be considered a County Lobbyist Employer who must also register. If in doubt, it is best to register.

Furthermore, each person or entity who is not otherwise required to register as a County Lobbyist, Lobbying Firm or Lobbyist Employer, but who directly or indirectly expends \$5,000 or more during a calendar quarter to influence official action need not register BUT must report the expenditure to the Executive Office of the Board of Supervisors on a form available from the Executive Office.

### REGISTERING IS IMPORTANT

Failure to comply with the ordinance may subject offending Lobbyists, Lobbying Firms, and Lobbyist Employers to **serious penalties including fines up to \$2,000 and denial of contracts, licenses, permits, grants or franchises.** Moreover, some violators may be refused permission to address the Board of Supervisors or any County commission.

### HERE'S HOW TO COMPLY WITH THE LAW

Within 10 days of qualifying as a County Lobbyist, Lobbying Firm, or Lobbyist Employer as described in the ordinance, you must register with the Executive Office of the Board of Supervisors.

Registering with the County is easy. To receive a copy of the ordinance and registration forms, or to receive additional information or answers to specific questions, please contact the Executive Office of the Board of Supervisors at the following address or you may call one of the following telephone numbers:

Executive Office of the Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall Of Administration  
500 West Temple Street  
Los Angeles, California 90012

(213) 974-1093      (213) 974-1578

A copy of the ordinance is available for your review at this County facility or on the Internet.

<http://bos.co.la.ca.us/>

Thank you for your cooperation and attention.

**SERVICE AREA INFORMATION  
FOR  
LA CRESCENTA/MONTROSE**

**Residential customer information**

The service area for the La Crescenta/Montrose unincorporated community contains 5,651 residential parcels.

**Residential refuse, recyclables, and green waste tons collected**

Estimated at 12,066 tons per year (2012), based on information provided by the current franchise waste hauler for this service area in accordance with the reporting requirements of its franchise agreement.

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<http://ladpw.org/swims>

**Disposal and processing facilities**

As identified on the County of Los Angeles Department of Public Works website

<http://ladpw.org/swims/general/facilities/nearestfacility.asp>

**County Waste Reduction Programs**

As identified on the County of Los Angeles Department of Public Works website

<http://www.888cleanla.com/>

**County historical waste diversion rates**

As identified on the California Integrated Waste Management Boards website

<http://www.ciwmb.ca.gov/Profiles/Juris/JurProfile2.asp?RG=U&JURID=274&JUR=Los+Angeles%2DUnincorporated>

**Task 2 – County Service (Abandoned Waste On-Call Collection Services)**

Estimated 30 – 60 tons per year

**PROPOSERS ARE RESPONSIBLE FOR INDEPENDENTLY  
INVESTIGATING SERVICE CONDITIONS IN THE SERVICE AREA  
PRIOR TO PROPOSAL SUBMISSION.**

**La Crescenta/Montrose 2013  
SD5**

<b>Land Classification</b>	<b>Parcel Count</b>	<b>Dwelling Count</b>
<b>Single Family</b>	<b>4,764</b>	
<b>Condominiums</b>	<b>454</b>	
<b>2 Units</b>	<b>198</b>	
<b>3 Units</b>	<b>112</b>	
<b>4 Units</b>	<b>86</b>	
<b>5 or More Units</b>	<b>16</b>	
<b>Mobile Homes/Parks</b>	<b>21</b>	
<b>Total</b>	<b>5,651</b>	

## BOND FOR FAITHFUL PERFORMANCE

### Annually Renewable Performance and Payment Bond

KNOW ALL MEN BY THESE PRESENTS: That \_\_\_\_\_

("Principal") and \_\_\_\_\_ ("Surety"), are held and firmly bound unto the COUNTY OF LOS ANGELES, State of California ("Obligee"), in the penal sum of \_\_\_\_\_ (\$ \_\_\_\_\_) dollars for the payment of which sum, the Principal and Surety bind themselves, and each of their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a contract with the Obligee entitled (Title) \_\_\_\_\_

(the "Franchise Agreement") for the performance of the terms, conditions, covenants and obligations and services set forth in the Franchise Agreement, including but not limited to providing Franchise services in bins or dumpsters and roll-off boxes in the unincorporated areas of Los Angeles County and payment of the applicable franchise fee; and payment of any liquidated damages assessed pursuant to the Franchise Agreement; and

~~WHEREAS, the Franchise Agreement is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein;~~

NOW, THEREFORE, THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that if the Principal shall well and truly perform each and every covenant and obligation in the Franchise Agreement at the time and in the manner specified in the Franchise Agreement during the term of this bond, and shall reimburse the Obligee for all loss and damage which the Obligee may sustain by reason of failure or default on the part of the Principal, then this obligation shall be void, otherwise it shall remain in full force and effect.

PROVIDED, however that this bond is subject to the following conditions and provisions:

1. This bond is for the term beginning \_\_\_\_\_ and ending \_\_\_\_\_.
2. In the event of default by the Principal in the performance of the Franchise Agreement during the term of this bond, the Surety shall be liable only for the loss to the Obligee due to damages as described in Section 15 of the Franchise Agreement. The Surety, after investigation, shall with reasonable promptness determine the amount for which it may be liable to the Obligee as soon as practicable after the amount is determined, and tender payments to the Obligee to secure substitute services, remedy damages incurred, and ensure satisfaction of all performance obligations as set forth in Section 15 of the Franchise Agreement and only for the purpose of enforcing such Franchise Agreement obligations as they pertain to this bond.
3. Except for a claim for compensatory damages as defined in Section 17, D.1 of the Franchise Agreement, no claim, action, suit or proceeding, except as hereinafter set forth, shall be had or maintained against the Surety on this instrument unless it be brought or instituted and process served upon the Surety within two years after the expiration of the stated terms of this bond.
4. Neither non-renewal by the Surety, nor the failure or inability of the Principal to file a replacement bond in the event of non-renewal, shall itself constitute loss by the Obligee recoverable under this bond, notwithstanding any language in the Franchise Agreement to the contrary.
5. The bond may be extended for additional one-year terms at the option of the Surety, by Continuation Certificate executed by the Surety.
6. The liability of the Surety under this bond and all Continuation Certificates shall not be cumulative and under no circumstances shall the Surety's liability exceed the penal sum stated herein.
7. No right of action shall accrue on this bond to or for the use of any person, entity or corporation other than the Obligee and this bond cannot be assigned to any other party without the written consent of the Surety.
8. Other than the Surety's right to renew this bond to extend its termination date, the Surety stipulates and agrees that any change, extension of time, alteration or addition to the terms of the Contract, including alterations in the work to be done, or increase or decrease of the material to be furnished, shall not in any way release either the Principal or Surety, and Surety hereby waives notice of any such change, extension of time, alteration or addition.

9. In the event that suit is brought against this bond, the Surety will pay, in addition to the penal sum herein, costs and reasonable expenses and fees, including reasonable attorney's fees, as awarded and fixed by the court.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Surety

BY: \_\_\_\_\_ (Seal) BY: \_\_\_\_\_ (Seal)

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Attorney-in-fact

BY: \_\_\_\_\_

\_\_\_\_\_  
Name and Title

APPROVED AS TO FORM:

\_\_\_\_\_  
JOHN F. KRATTLI  
County Counsel

BY: \_\_\_\_\_  
Deputy

## PARENT/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 CA"

\_\_\_\_\_  
 \_\_\_\_\_ (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 Contractor Name

\_\_\_\_\_  
 \_\_\_\_\_ (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 \_\_\_\_\_ for an **EXCLUSIVE FRANCHISE**  
 \_\_\_\_\_ Insert date of submission of RFP

**AGREEMENT FOR THE AREA OF** \_\_\_\_\_  
 \_\_\_\_\_ Insert Area Name

(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.
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.
- 
- 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.
  - 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.

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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:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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.

**(17) COUNTERPARTS**

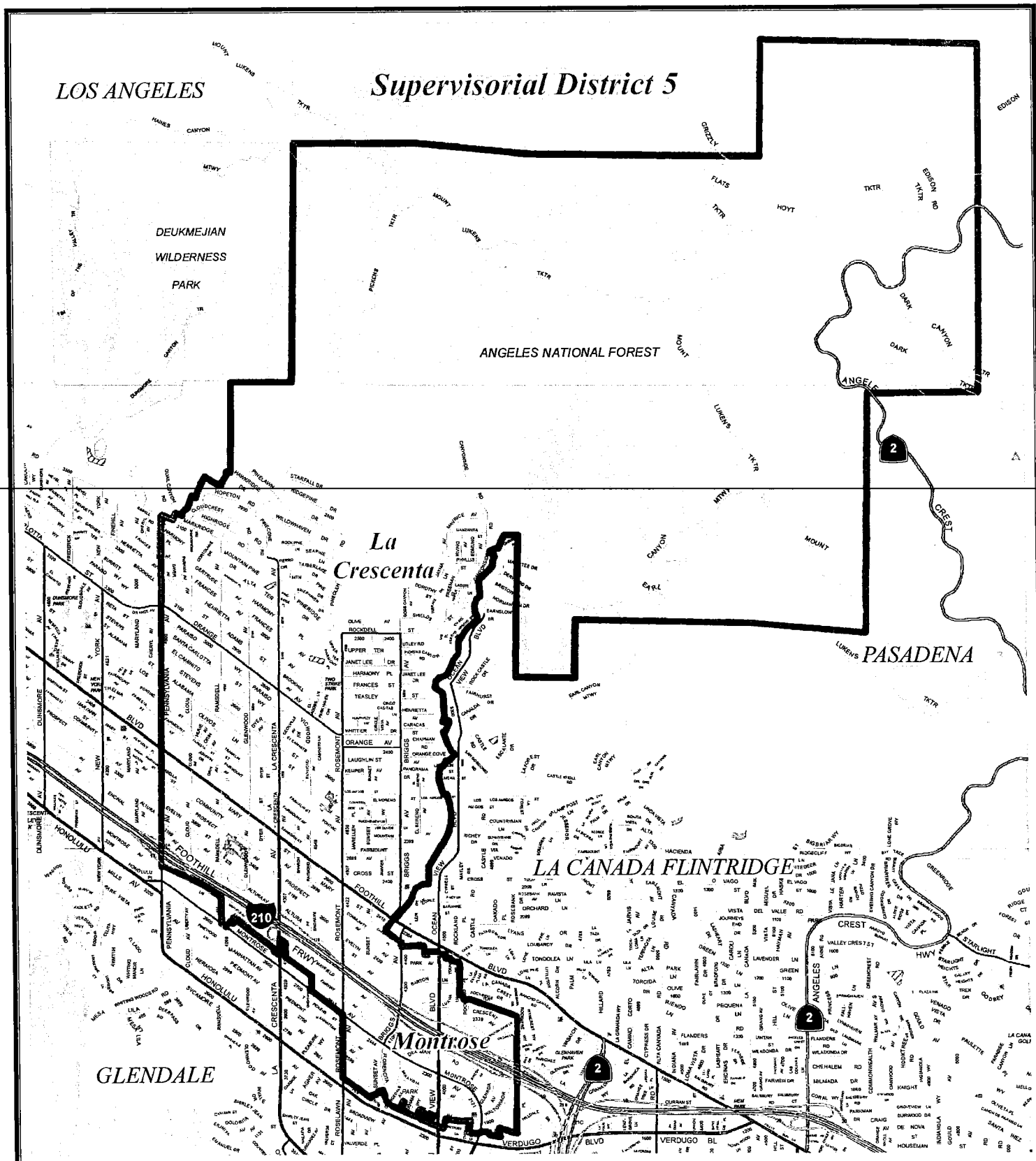
Guarantor may sign this Guaranty in any number of counterparts, some of which may not bear the signatures Guarantor. When signed and delivered, each counterpart, is deemed to be an original and all of the counterparts, taken together, are deemed to constitute one and the same instrument; *provided, however,*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

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

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

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

[Notarize]

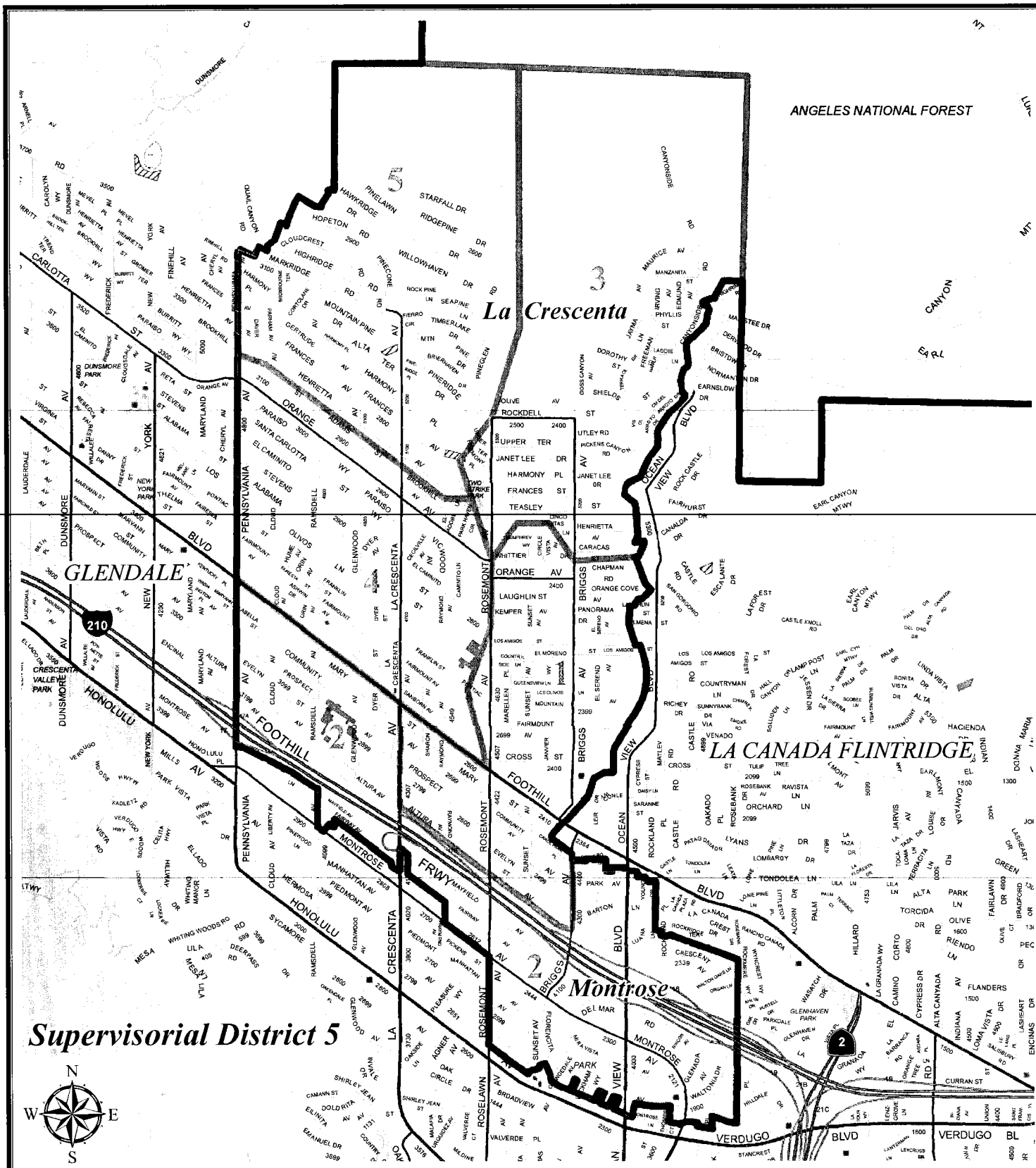


0.25 0 0.25 0.5 Mile

## La Crescenta / Montrose Residential Franchise



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### TRASH AREA COLLECTION

- |   |           |
|---|-----------|
| 1 | Monday    |
| 2 | Tuesday   |
| 3 | Wednesday |
| 4 | Thursday  |
| 5 | Friday    |

## La Crescenta / Montrose Residential Franchise Trash Collection Schedule

0.25 0 0.25 0.5 Mile



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Department of the Treasury  
Internal Revenue Service

## Notice 1015

(Rev. December 2012)

### Have You Told Your Employees About the Earned Income Credit (EIC)?

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#### What is the EIC?

The EIC is a refundable tax credit for certain workers.

#### Which Employees Must I Notify About the EIC?

You must notify each employee who worked for you at any time during the year and from whom you did not withhold income tax. However, you do not have to notify any employee who claimed exemption from withholding on Form W-4, Employee's Withholding Allowance Certificate.

**Note.** You are encouraged to notify each employee whose wages for 2012 are less than \$50,270 that he or she may be eligible for the EIC.

#### How and When Must I Notify My Employees?

You must give the employee one of the following:

- The IRS Form W-2, Wage and Tax Statement, which has the required information about the EIC on the back of Copy B.
- A substitute Form W-2 with the same EIC information on the back of the employee's copy that is on Copy B of the IRS Form W-2.
- Notice 797, Possible Federal Tax Refund Due to the Earned Income Credit (EIC).
- Your written statement with the same wording as Notice 797.

If you are required to give Form W-2 and do so on time, no further notice is necessary if the Form W-2 has the required information about the EIC on the back of the employee's copy. If a substitute Form W-2 is given on time but does not have the required information, you must

notify the employee within 1 week of the date the substitute Form W-2 is given. If Form W-2 is required but is not given on time, you must give the employee Notice 797 or your written statement by the date Form W-2 is required to be given. If Form W-2 is not required, you must notify the employee by February 7, 2013.

You must hand the notice directly to the employee or send it by first-class mail to the employee's last known address. You will not meet the notification requirements by posting Notice 797 on an employee bulletin board or sending it through office mail. However, you may want to post the notice to help inform all employees of the EIC. You can get copies of the notice from IRS.gov or by calling 1-800-829-3676.

#### How Will My Employees Know If They Can Claim the EIC?

The basic requirements are covered in Notice 797. For more detailed information, the employee needs to see Pub. 596, Earned Income Credit (EIC), or the instructions for Form 1040, 1040A, or 1040EZ.

#### How Do My Employees Claim the EIC?

Eligible employees claim the EIC on their 2012 tax return. Even employees who have no tax withheld from their pay or owe no tax can claim the EIC and get a refund, but they must file a tax return to do so. For example, if an employee has no tax withheld in 2012 and owes no tax but is eligible for a credit of \$800, he or she must file a 2012 tax return to get the \$800 refund.

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Notice 1015 (Rev. 12-2012)  
Cat. No. 205991

# *Safely* Surrendered



No shame. No blame. No names.

In Los Angeles County: 1-877-EASY SAFE • 1-877-222-9723

www.losangeles.gov





# Safely Surrendered Baby Law

## What is the Safely Surrendered Baby Law?

California's Safely Surrendered Baby Law allows parents or other persons, with lawful custody, which means anyone in whom the parent has given permission to confidentially surrender a baby. As long as the baby is three days (72 hours) of age or younger and has not been abused or neglected, the baby may be surrendered without fear of criminal prosecution.

In Los Angeles County: 1-877-BABY SAFE 1-877-222-9723  
www.babysafela.org

## How does it work?

A distressed parent who is unable or unwilling to care for a baby can legally, confidentially, and safely surrender a baby within three days (72 hours) of birth. The baby must be handed to an employee at a hospital or fire station in Los Angeles County. As long as the baby shows no sign of abuse or neglect, no name or other information is required. In case the parent changes his or her mind at a later date and wants the baby back, staff will use bracelets to help connect them to each other. One bracelet will be placed on the baby, and a matching bracelet will be given to the parent or other surrendering adult.

## What if a parent wants the baby back?

Parents who change their minds can begin the process of reclaiming their baby within 14 days. These parents should call the Los Angeles County Department of Children and Family Services at 1-800-540-4000.

## Can only a parent bring in the baby?

No. While in most cases a parent will bring in the baby, the Law allows other people to bring in the baby if they have lawful custody.

## Does the parent or surrendering adult have to call before bringing in the baby?

No. A parent or surrendering adult can bring in a baby anytime, 24 hours a day, 7 days a week, as long as the parent or surrendering adult surrenders the baby to someone who works at the hospital or fire station.

## Does the parent or surrendering adult have to tell anything to the people taking the baby?

No. However, hospital or fire station personnel will ask the surrendering party to fill out a questionnaire designed to gather important medical history information, which is very useful in caring for the baby. The questionnaire includes a stamped return envelope and can be sent in at a later time.

## What happens to the baby?

The baby will be examined and given medical treatment. Upon release from the hospital, social workers immediately place the baby in a safe and loving home and begin the adoption process.

## What happens to the parent or surrendering adult?

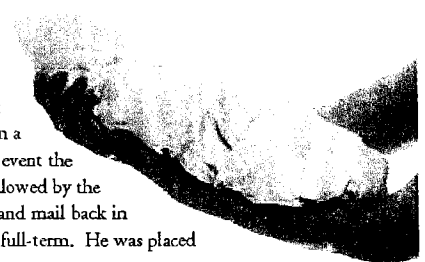
Once the parent or surrendering adult surrenders the baby to hospital or fire station personnel, they may leave at any time.

## Why is California doing this?

The purpose of the Safely Surrendered Baby Law is to protect babies from being abandoned, hurt or killed by their parents. You may have heard tragic stories of babies left in dumpsters or public bathrooms. Their parents may have been under severe emotional distress. The mothers may have hidden their pregnancies, fearful of what would happen if their families found out. Because they were afraid and had no one or nowhere to turn for help, they abandoned their babies. Abandoning a baby is illegal and places the baby in extreme danger. Too often, it results in the baby's death. The Safely Surrendered Baby Law prevents this tragedy from ever happening again in California.

## A baby's story

Early in the morning on April 9, 2005, a healthy baby boy was safely surrendered to nurses at Harbor-UCLA Medical Center. The woman who brought the baby to the hospital identified herself as the baby's aunt and stated the baby's mother had asked her to bring the baby to the hospital on her behalf. The aunt was given a bracelet with a number matching the anklet placed on the baby; this would provide some identification in the event the mother changed her mind about surrendering the baby and wished to reclaim the baby in the 14-day period allowed by the Law. The aunt was also provided with a medical questionnaire and said she would have the mother complete and mail back in the stamped return envelope provided. The baby was examined by medical staff and pronounced healthy and full-term. He was placed with a loving family that had been approved to adopt him by the Department of Children and Family Services.



# *Ley de* Entrega de Bebés *Sin Peligro*



*Los recién nacidos pueden ser entregados en forma segura al personal  
de cualquier hospital o cuartel de bomberos del Condado de Los Ángeles*

**Sin pena. Sin culpa. Sin nombres.**

**En el Condado de Los Ángeles: 1-877-BABY SAFE • 1-877-222-9723**

[www.babysafe1a.org](http://www.babysafe1a.org)



# Ley de Entrega de Bebés Sin Peligro

## ¿Qué es la Ley de Entrega de Bebés sin Peligro?

La Ley de Entrega de Bebés sin Peligro permite a las madres o padres entregar a su recién nacido a un empleado de cualquier hospital o cuartel de bomberos del Condado de Los Angeles. Siempre que el bebé no presente signos de abuso o negligencia, no será necesario suministrar nombres ni información alguna. Si el padre/madre cambia de opinión posteriormente y desea recuperar a su bebé, los trabajadores utilizarán brazaletes para poder vincularlos. El bebé llevará un brazalete y el padre/madre o el adulto que lo entregue recibirá un brazalete igual.

*Cada recién nacido se merece la oportunidad de tener una vida saludable. Si alguien que usted conoce está pensando en abandonar a un recién nacido, infórmele que tiene otras opciones. Hasta tres días (72 horas) después del nacimiento, se puede entregar un recién nacido al personal de cualquier hospital o cuartel de bomberos del condado de Los Angeles.*

En el Condado de Los Angeles: 1-877-BABY SAFE • 1-877-222-9723

www.baby-safe.org

## ¿Cómo funciona?

El padre/madre con dificultades que no pueda o no quiera cuidar de su recién nacido puede entregarlo en forma legal, confidencial y segura dentro de los tres días (72 horas) del nacimiento. El bebé debe ser entregado a un empleado de cualquier hospital o cuartel de bomberos del Condado de Los Angeles. Siempre que el bebé no presente signos de abuso o negligencia, no será necesario suministrar nombres ni información alguna. Si el padre/madre cambia de opinión posteriormente y desea recuperar a su bebé, los trabajadores utilizarán brazaletes para poder vincularlos. El bebé llevará un brazalete y el padre/madre o el adulto que lo entregue recibirá un brazalete igual.

## ¿Qué pasa si el padre/madre desea recuperar a su bebé?

Los padres que cambien de opinión pueden comenzar el proceso de reclamar a su recién nacido dentro de los 14 días. Estos padres deberán llamar al Departamento de Servicios para Niños y Familias (Department of Children and Family Services) del Condado de Los Angeles al 1-800-540-4000.

## ¿Sólo los padres podrán llevar al recién nacido?

No. Si bien en la mayoría de los casos son los padres los que llevan al bebé, la ley permite que otras personas lo hagan si tienen custodia legal.

## ¿Los padres o el adulto que entrega al bebé deben llamar antes de llevar al bebé?

No. El padre/madre o adulto puede llevar al bebé en cualquier momento, las 24 horas del día, los 7 días de la semana, siempre y cuando entreguen a su bebé a un empleado del hospital o cuartel de bomberos.

## ¿Es necesario que el padre/madre o adulto diga algo a las personas que reciben al bebé?

No. Sin embargo, el personal del hospital o cuartel de bomberos le pedirá a la persona que entregue al bebé que llene un cuestionario con la finalidad de recabar antecedentes médicos importantes, que resultan de gran utilidad para cuidar bien del bebé. El cuestionario incluye un sobre con el sello postal pagado para enviarlo en otro momento.

## ¿Qué pasará con el bebé?

El bebé será examinado y le brindarán atención médica. Cuando le den el alta del hospital, los trabajadores sociales inmediatamente ubicarán al bebé en un hogar seguro donde estará bien atendido, y se comenzará el proceso de adopción.

## ¿Qué pasará con el padre/madre o adulto que entregue al bebé?

Una vez que los padres o adulto hayan entregado al bebé al personal del hospital o cuartel de bomberos, pueden irse en cualquier momento.

## ¿Por qué se está haciendo esto en California? ?

La finalidad de la Ley de Entrega de Bebés sin Peligro es proteger a los bebés para que no sean abandonados, lastimados o muertos por sus padres. Usted probablemente haya escuchado historias trágicas sobre bebés abandonados en basureros o en baños públicos. Los padres de esos bebés probablemente hayan estado pasando por dificultades emocionales graves. Las madres pueden haber ocultado su embarazo, por temor a lo que pasaría si sus familias se enteraran. Abandonaron a sus bebés porque tenían miedo y no tenían nadie a quien pedir ayuda. El abandono de un recién nacido es ilegal y pone al bebé en una situación de peligro extremo. Muy a menudo el abandono provoca la muerte del bebé. La Ley de Entrega de Bebés sin Peligro impide que vuelva a suceder esta tragedia en California.

## Historia de un bebé

A la mañana temprana del día 9 de abril de 2005, se entregó un recién nacido saludable a las enfermeras del Harbor-UCLA Medical Center. La mujer que llevó el recién nacido al hospital se dio a conocer como la tía del bebé, y dijo que la madre le había pedido que llevara al bebé al hospital en su nombre. Le entregaron a la tía un brazalete con un número que coincidía con la pulsera del bebé; esto serviría como identificación en caso de que la madre cambiara de opinión con respecto a la entrega del bebé y decidiera recuperarlo dentro del período de 14 días que permite esta ley. También le dieron a la tía un cuestionario médico, y ella dijo que la madre lo llenaría y lo enviaría de vuelta dentro del sobre con franqueo pagado que le habían dado. El personal médico examinó al bebé y se determinó que estaba saludable y a término. El bebé fue ubicado con una buena familia que ya había sido aprobada para adoptarlo por el Departamento de Servicios para Niños y Familias.

## **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.**

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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.)
- 

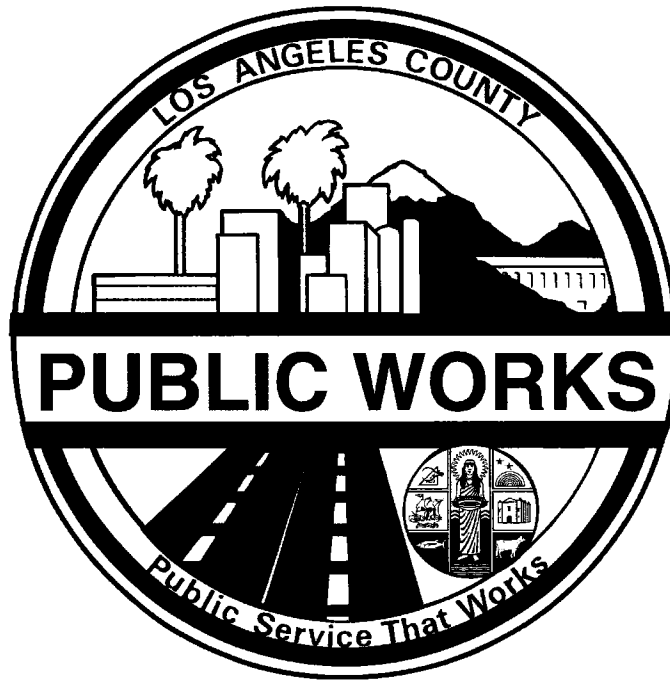
**2.206.070 Enforcement and remedies.**

- 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.)

Part II  
Sample Franchise Agreement



**BY AND BETWEEN**

**THE COUNTY OF LOS ANGELES,  
DEPARTMENT OF PUBLIC WORKS**

**AND**

**[NAME OF CONTRACTOR]**

**FOR**

**THE EXCLUSIVE RESIDENTIAL FRANCHISE AGREEMENT FOR THE  
AREA OF LA CRESCENTA/MONTROSE (2013-FA008)**



PART II

SAMPLE EXCLUSIVE  
FRANCHISE AGREEMENT

BETWEEN  
THE COUNTY OF LOS ANGELES  
AND  
**[INSERT NAME OF HAULER]**

FOR  
PROVISION  
OF  
REFUSE, RECYCLABLES, AND GREEN WASTE  
AUTOMATED CART SERVICES  
TO CUSTOMERS  
AT  
RESIDENTIAL PREMISES  
AND CERTAIN MULTIFAMILY AND COMMERCIAL PREMISES  
AND  
ABANDONED WASTE COLLECTION SERVICES  
FOR COUNTY

FOR THE SERVICE AREA OF

**LA CRESCENTA/MONTROSE**

[INSERT DATE]

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**SAMPLE EXCLUSIVE FRANCHISE AGREEMENT**

**FOR THE AREAS OF**

**LA CRESCENTA/MONTROSE**

THIS AGREEMENT is made and entered into on \_\_\_\_\_, 2013, by and between the County of Los Angeles, a political subdivision of the State of California (COUNTY), and **[Name of FRANCHISEE], [Form of Entity]** ("FRANCHISEE").

**RECITALS:**

WHEREAS, Municipal Solid Waste (MSW) Management Services have been provided by waste haulers pursuant to permit. Historically, in the approximately 2,700 square mile unincorporated territory of the COUNTY, with a population of approximately one million inhabitants, MSW Management Services have not been provided by the COUNTY itself but rather by private industry through competitive, free enterprise, open-market, and private operations, except in Garbage Disposal Districts where the Garbage Disposal Districts contract with waste haulers. Residents and businesses have individually arranged for Solid Waste collection. Customer service charges have been negotiated between customers and haulers. The practice of private arrangements for MSW Management Services between a hauler and Customers will continue under this AGREEMENT, but in order to limit the wear and tear on COUNTY streets, reduce pollution from collection vehicle exhaust, increase customer service accountability, improve Assembly Bill (AB) 939 program implementation performance and reporting accuracy, and facilitate more efficient Franchise Agreement administration and enforcement by COUNTY staff, only FRANCHISEE will arrange with Customers for MSW Management Services, subject to the terms of this AGREEMENT.

WHEREAS, the COUNTY is authorized to award franchises to waste haulers, Article XI, Section 7 of the California State Constitution authorizes the COUNTY to protect the public health and safety by exercising its authority over police and sanitary matters. Historically, the COUNTY Department of Health Services issued permits to haulers for the hauling of solid waste with requirements to protect public health and safety, including frequency of collection and collection vehicle maintenance. It will continue to do so, and FRANCHISEE will continue to obtain that permit and comply with all of its provisions; and

WHEREAS, California Public Resources Code Section 40059 specifically authorizes the COUNTY to prescribe the terms and conditions of aspects of MSW Management Services, including frequency of collection; means of collection and transportation; level of services; charges and fees; and the nature, location, and extent of providing MSW Management Services; and whether the services are to be provided by means of nonexclusive, partially exclusive, or wholly exclusive franchise, contract, license, permit, or otherwise; and

WHEREAS, the County Code authorizes the COUNTY'S Director to require franchises in any part of the unincorporated territory of the COUNTY not served by a Garbage Disposal District; and

WHEREAS, the COUNTY must comply with AB 939. The State of California has found and declared that the amount of solid waste generated in California coupled with diminishing landfill space and potential adverse environmental impacts from land filling have created an urgent need for State of California and local agencies to enact and implement an aggressive, new integrated waste management program. Through enactment of AB 939, the State of California has directed agencies, such as the COUNTY to divert 50 percent of all solid waste through source reduction, recycling, and composting activities. The California Integrated Waste Management Board has granted the COUNTY a time line to achieve compliance with the AB 939 diversion requirements. Compliance is based in part on executing and implementing this AGREEMENT in order to secure cooperation with FRANCHISEE'S AB 939 waste diversion programs, record keeping, and reporting; and

WHEREAS, the COUNTY'S Director has determined to require franchises for Franchise Services (otherwise referred to as "Task 1" in this AGREEMENT). In order to assist residents and businesses located in the Service Area to receive quality MSW Management Services and to provide the COUNTY with programs, records, and reports that will help the COUNTY comply with AB 939, the Director has determined to franchise MSW Management Services in portions of the COUNTY, under the terms of this AGREEMENT. The COUNTY issued a 5-year notice under California Public Resources Code Section 49520 of the COUNTY'S intent to authorize, among other options, the exclusive franchising of MSW Management Services in portions of the COUNTY; and

WHEREAS, residents and businesses in the Service Area are not required to subscribe to Franchise Services, they may self-haul their refuse, and this AGREEMENT excludes the collection of self-hauled waste. Owners and occupants of residential premises may collect solid waste in their own containers, transport in their own vehicles, and themselves dispose of solid waste generated at their premises. The obligation to FRANCHISEE'S customers under this AGREEMENT to pay Customer Service Charges under this AGREEMENT does not arise because they own property, but because they generate refuse and do not exercise their right to self-haul; and

WHEREAS, the FRANCHISEE will perform Franchise Services in accordance with the laws governing the safe collection, transport, recycling and disposal of Residential and Commercial Solid Waste, such as AB 939, Recovered Conservation and Recovery Act (RCRA), and Comprehensive Environmental Response Compensation and Liability Act (CERCLA). The COUNTY will not exercise control over the disposal or other disposition of the Solid Waste handled by the FRANCHISEE, and the COUNTY will not designate or determine the use of any given solid waste facility. FRANCHISEE acknowledges that by entering into this AGREEMENT, the COUNTY does not assume any of FRANCHISEE'S obligation to or responsibility for providing



Franchise Services, and the COUNTY does not become a "generator" or an "arranger" as those terms are used in the context of CERCLA Section 107(a)(3). FRANCHISEE agrees that FRANCHISEE, an independent entity, and not the COUNTY, is arranging for Franchise Services provided under this AGREEMENT. Although minimum scope of Franchise Services, Service Specifications, and Service Standards are set forth in this AGREEMENT, the COUNTY has not, and by this AGREEMENT does not, supervise Franchise Services or assume title to Solid Waste; and

WHEREAS, the COUNTY consulted with representatives of waste haulers in developing this AGREEMENT. The COUNTY and representatives of the private hauling industry met many times to discuss the scope of Franchise Services, Service Specifications, Service Standards, and other Performance Obligations and to address certain of the industry's questions, comments, and concerns, and the COUNTY provided multiple drafts of this AGREEMENT to these representatives; and

WHEREAS, the COUNTY is responsible and provides for collection of solid waste abandoned on public rights of way and is authorized to fulfill its responsibility through contracting for collection service; and

WHEREAS, under California Streets and Highways Code Section 953, COUNTY must pay for collection of abandoned waste in Public Right of Way (otherwise referred to as "Task 2" in this AGREEMENT) out of public money deposited in the County Road Fund. COUNTY cannot use Customer Service Charges (or Rates) to pay for Task 2; and

WHEREAS, the COUNTY issued a Request for Proposals (RFP) to provide Task 1 and Task 2 services under this AGREEMENT, and private waste hauling companies submitted proposals, including their proposed schedule of rates and charges. The COUNTY selected FRANCHISEE based, *inter alia*, on FRANCHISEE'S price proposal and work plan for Task 1. There was no separate evaluation of proposals with respect to Task 2 services. The compensation to be paid to the FRANCHISEE for Task 2 services has been established and stipulated by the County in Exhibit 3A2 of this AGREEMENT. Under this AGREEMENT, the FRANCHISEE cannot charge its customers more than the proposed rates and charges; and

WHEREAS, the FRANCHISEE is awarded this AGREEMENT. The Board of Supervisors determines and finds pursuant to California Public Resources Code Section 40059, that the public health, safety, and welfare require that FRANCHISEE be awarded this AGREEMENT for Franchise Services (Task 1) pursuant to Chapter 20.70 of the County Code and County Services (Task 2) pursuant to California Streets and Highways Code Section 953. FRANCHISEE acknowledges and understands that this AGREEMENT encompasses both Task 1 and Task 2, and shall perform both tasks pursuant to the terms set forth in this AGREEMENT; and

This AGREEMENT applies to both Task 1 and Task 2, unless specifically indicated otherwise at the beginning of a Section or subsection. However, Exhibit 3A applies only to Task 1, and Exhibit 3A2 applies only to Task 2.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

**SECTION 1—GRANT OF RIGHT AND PRIVILEGE TO PROVIDE FRANCHISE SERVICES. Applicable to Task 1 only.**

- A. Grant of Franchise.** COUNTY grants to FRANCHISEE the right and privilege described in this Section. COUNTY'S grant is conditioned on FRANCHISEE being at all times ready, willing, and able to fully and timely meet all of its Performance Obligations. FRANCHISEE accepts this Franchise subject to all of the terms and conditions in this AGREEMENT and the exclusions in subsection B.

**Grant of Exclusive Franchise for Collection in Carts.** COUNTY grants to FRANCHISEE and FRANCHISEE accepts the exclusive right and privilege together with the obligation to provide franchise services, by making independent arrangements with customer, with respect to solid waste discarded in carts and within the Service Area.

**B. Exclusions from Franchise.**

1. **Customer Self-Haul.** This Franchise excludes the right and privilege to Collect self-hauled Solid Waste in Carts. Anyone, including Persons performing services other than MSW Management Services (such as roofers and gardeners) at those Premises may collect in receptacles other than Carts provided by FRANCHISEE, transport in their own vehicles, and themselves dispose of some or all of the Solid Waste generated at those Premises.
2. **COUNTY and Third-Party Agencies.** This Franchise excludes the right and privilege to arrange to provide Franchise Services to Premises owned or controlled by any of the following entities:
  - a. COUNTY or any other entity governed by the Board of Supervisors;
  - b. The State of California;
  - c. Any school district;
  - d. Any entity that is excluded by law from the obligation to subscribe to Franchise Services under this AGREEMENT.

This Franchise does not prohibit FRANCHISEE from executing separate agreements with those entities to provide MSW Management Services.

3. **Collection of Solid Waste in Bins.** This Franchise excludes the right and privilege to provide Collection of Solid Waste in Bins for any Residential Customer requesting Bins instead of Carts. The Customer may arrange with FRANCHISEE or another Person to provide MSW Management Services in Bins.
  4. **Rights Under California Public Resources Code Section 49520.** This Franchise excludes the right and privilege to arrange for provision of Franchise Services with any Person who is receiving solid waste handling services from a solid waste enterprise that has the statutory right to continue to provide solid waste handling services to that Person in accordance with California Public Resources Code Section 49520 *et seq.* This Franchise does not prohibit FRANCHISEE from executing separate agreements with those Persons to provide Franchise Services.
  5. **County Services – Abandoned Waste and Litter On-Call Collection Services (Task 2 – County Services).** This Franchise excludes the right and privilege to Collect Abandoned Waste.
  6. **Donation or Selling of Recyclables.** The Franchise excludes the right and privilege to Collect Recyclables that Customers donate or sell to Persons other than FRANCHISEE.
- C. **Definition of Rights.** FRANCHISEE acknowledges having received a timely notice from COUNTY under California Public Resources Code Section 49520 before entering into this AGREEMENT, which notice precludes FRANCHISEE from asserting the right to continue to provide MSW Management Services in the Service Area without a Franchise Agreement as may be required by COUNTY, now or in the future.

FRANCHISEE further acknowledges that the signing of this AGREEMENT does not confer on FRANCHISEE any rights under California Public Resources Code Section 49520 and that FRANCHISEE does not have the right to make any claim under California Public Resources Code Section 49520 but only under the terms of this AGREEMENT. Notwithstanding the foregoing, in accordance with California Public Resources Code Section 49523, COUNTY and FRANCHISEE agree, based on the mutually satisfactory terms of providing Franchise Services set forth in this AGREEMENT and receipt of compensation therefore, that FRANCHISEE shall cease providing MSW Management Services in the Service Area on the Termination Date even if that Termination Date should occur before the expiration of the period described in California Public Resources Code Section 49520. FRANCHISEE'S agreement and acknowledgments in this AGREEMENT do not foreclose COUNTY from re-procuring agreements for MSW

Management Services, including from FRANCHISEE, after termination of this AGREEMENT, by nonexclusive, partially exclusive, or wholly exclusive franchise, contract, license, permit or otherwise, with or without competitive bidding.

- D. **Franchise Fee.** In consideration for this Franchise, FRANCHISEE shall pay COUNTY the Franchise Fee at the time and in the amount and manner established from time to time by COUNTY ordinance or resolution of the Board of Supervisors. FRANCHISEE shall not separately identify the Franchise Fee in correspondence with Customers, including in Subscription Orders, bills, or invoices.

## SECTION 2–TERM

- A. **Term.** This AGREEMENT commences on the date both parties have executed this AGREEMENT, and expires on the later of Termination Date provided in Exhibit 3A

- B. **Obligations Upon Expiration or Termination of AGREEMENT.** The following provisions will survive the expiration or termination of this AGREEMENT:

1. **Acknowledgements.** All acknowledgments, including those in the following Sections:
  - Section 1C (inapplicability of PRC 49520)
  - Section 2C (no recovery of undepreciated asset value)
  - Section 3A (no COUNTY responsibility for supervising or performing Franchise Services)
  - Section 11A (Record maintenance)
  - Section 21F (interpretation of this AGREEMENT)
2. **Representations and Warranties.** All representations and warranties, including those made in accordance with the following Sections:
  - Section 21F with respect to review of this AGREEMENT
  - Section 24B, Authority to Execute
  - Exhibit 20H, FRANCHISEE'S Representations and Warranties
3. **Indemnities:** All Indemnities
4. **Payments:** All obligations to pay any due and payable monetary amounts or claims for those amounts, including:
  - Any Franchise Fees
  - Payment of Transfer Deposits and Transfer Costs
  - Damages under Section 18D
  - Payment of County Service Charges under Exhibit 3A2.

5. **Records and Reports.** All obligations to maintain and submit Records and Reports, including:

- The final Annual Report
- Information with respect to Solid Waste Facilities
- Copies of certificates of insurance or other evidence of coverage
- Records of Disposal
- Notice of Destruction of Records of Disposal
- Inspection and audit
- Records of Abandoned Waste Collection including supporting documentation.

6. **Provisions Surviving Termination Date.** Any other provisions of this AGREEMENT and rights and obligations of the Parties stated to survive the Termination Date, including:

- This subsection B (cooperation during transition; removal of Carts), and
- Subsection C (no recovery of undepreciated asset value)

If FRANCHISEE is not awarded an agreement to allow FRANCHISEE to continue to provide MSW Management Services substantially similar to Franchise/County Services in the Service Area after the expiration or termination of this AGREEMENT, FRANCHISEE shall cooperate fully with COUNTY and the succeeding franchisee, licensee, permittee, or other provider of MSW Management Services to assure a smooth, efficient, orderly, timely, and effective transition and continued delivery of MSW Management Services to FRANCHISEE'S former Customers.

With respect to Franchise Services (Task 1), FRANCHISEE shall not remove a Cart from any Premises until the earlier of: (1) the date any replacement Carts are provided to the Customer, or (2) two weeks after the Termination Date.

FRANCHISEE'S OBLIGATIONS AND COUNTY'S RIGHTS IN THIS SUBSECTION B SURVIVE THE TERM.

C. **Undepreciated Assets.** If any of FRANCHISEE'S assets remain undepreciated upon the expiration or earlier termination by COUNTY of this Franchise, FRANCHISEE has no right to recover amounts equal to the undepreciated asset value from COUNTY or Customers, and neither COUNTY nor Customers are obligated to compensate FRANCHISEE for any undepreciated asset value.

### **SECTION 3—SCOPE OF SERVICES AND SPECIFICATIONS**

A. **Prescribed Scope.** With respect to Task 1, FRANCHISEE shall arrange to provide Franchise Services (Task 1) to Premises in the Service Area with any Person who requests them, in accordance with Exhibit 3A. With respect to

Task 2, FRANCHISEE shall provide County Services (Task 2) in the Service Area to COUNTY in accordance with Exhibit 3A2.

Notwithstanding the foregoing, subject to the minimum required scope of Franchise/County Services, Service Specifications and Service Standards, FRANCHISEE has the freedom and discretion to determine the means, manner, or method of providing Franchise Services. FRANCHISEE acknowledges that in entering into this AGREEMENT, COUNTY is not responsible for supervising FRANCHISEE or for performance of any Franchise/County Services. FRANCHISEE is solely responsible for choosing the Solid Waste Facilities. In addition, COUNTY is not the owner or titleholder of any material Collected, transported, Disposed of, or otherwise handled by FRANCHISEE.

Any work performed outside the Performance Specifications without COUNTY's prior written approval shall be deemed to be a gratuitous effort by FRANCHISEE, and FRANCHISEE shall have no claim, therefore, against COUNTY.

- B. **County Notice.** Applicable to Task 1 only. Upon Notice of request by the Director, FRANCHISEE shall use its best efforts to promptly provide Franchise Services to any Premises, as the Director deems necessary to protect public health or safety.
- C. **Change in Scope of Services.** COUNTY may change the scope of Franchise Services and Service Standards. However, with respect to Task 1, the change is subject to any Rate adjustment agreed to with FRANCHISEE in accordance with Section 10A.
- D. **FRANCHISEE Documentation.**
  - 1. **FRANCHISEE'S Compliance with FRANCHISEE Documentation.** FRANCHISEE shall provide Franchise/County Services in compliance with the FRANCHISEE Documentation attached as Exhibit 3D.
  - 2. **Changes in FRANCHISEE Documentation.**
    - a. ***Notice to COUNTY.*** FRANCHISEE shall give the Director prompt Notice of any changes in FRANCHISEE Documentation listed in Section A of Exhibit 3D FRANCHISEE Documentation, after the Execution Date. The Director's receipt of those changes will be evidenced by the following acknowledgment appended to the changed FRANCHISEE Documentation:

**"Acknowledgment:** FRANCHISEE has submitted the attached FRANCHISEE Documentation listed below as of the following date:

Date: \_\_\_\_\_ Director: \_\_\_\_\_ "

- b. **COUNTY Consent.** FRANCHISEE shall submit to the Director for review and consent any changes occurring in FRANCHISEE Documentation listed in Section B of Exhibit 3D FRANCHISEE Documentation, after the Execution Date. The Director's approval will be evidenced by the following acknowledgment appended to the changed FRANCHISEE Documentation:

**"Acknowledgment:** I have reviewed and approved the attached FRANCHISEE Documentation submitted by FRANCHISEE as of the following date:

Date: \_\_\_\_\_ Director: \_\_\_\_\_ "

## **SECTION 4—SERVICE STANDARDS**

### **A. Public Health and Safety; Nuisances**

1. **Litter.** FRANCHISEE shall clean up all litter caused by FRANCHISEE. When Collecting any Bulky Item, CED, E-waste or Abandoned Waste, FRANCHISEE shall also clean up all litter within a 10-foot radius of the site from which FRANCHISEE Collected the Bulky Item, CED, E-waste or Abandoned Waste. FRANCHISEE shall ensure that each Vehicle is properly staffed and equipped at all times for this purpose.
2. **Spills.** FRANCHISEE shall enclose or cover Solid Waste that it transports in Vehicles, debris boxes, hoppers, compactors, or any other containers. FRANCHISEE shall prevent Solid Waste from escaping, dropping, spilling, leaking, blowing, sifting, falling, or scattering from Vehicles ("**Spills**") during Collection and transportation. FRANCHISEE shall not transfer loads from one Vehicle to another Vehicle unless necessitated by mechanical failure or accidental damage to a Vehicle. FRANCHISEE shall immediately clean up any Solid Waste that it Spills onto any alley, street, or public place.
3. **Leaking.** FRANCHISEE shall prevent oil, hydraulic fluid, paint, or other liquid from leaking from its Vehicles. FRANCHISEE shall ensure that each Vehicle carries petroleum absorbent agents and other appropriate cleaning agents and if any liquid leaks from a Vehicle, FRANCHISEE shall immediately cover, treat, or remove the liquid materials from the ground, as necessary, and apply the necessary cleaning agent to minimize the adverse impact of the liquid materials.
4. **Noise.** FRANCHISEE shall conduct Collection as quietly as possible, in compliance with noise levels prescribed by Applicable Law, including County Code Section 12.08.520-Refuse Collection Vehicles. FRANCHISEE shall perform so as to cause the least possible obstruction

and inconvenience to public traffic or disruption to the peace and quiet of the Service Area.

5. **Emergency Telephone Number.** FRANCHISEE shall maintain a local emergency telephone number disclosed to the Director for use by the Director outside FRANCHISEE Office Hours. FRANCHISEE shall make a representative available at the emergency number outside FRANCHISEE Office Hours who will return any emergency call as soon as possible and in any event within one hour.
- B. Streets and Alleys.** Applicable to Task 1 only. FRANCHISEE shall obtain all approvals required to operate Vehicles on private alleys, streets, and parking lots. Subject to COUNTY review and approval and notwithstanding FRANCHISEE's obligations under Section 20C, FRANCHISEE may require those Customers for whom FRANCHISEE is required to operate Vehicles on private property to sign a Subscription Order containing a waiver of liability with respect to damage to private driveways or pavement.
- C. Non-Collection Notice.** Applicable to Task 1 only. FRANCHISEE is not obligated to Collect in any of the following events:
1. FRANCHISEE observes the presence of Unpermitted Waste at the Set-Out Site other than any Unpermitted Waste that FRANCHISEE Collects as Bulky Items, E-waste or CEDs;
  2. FRANCHISEE observes an unsafe condition at the Set-Out Site;
  3. Solid Waste not placed in a Cart, *except* for uncontainerized materials set out as part of any on-call Collection of Bulky Items, E-waste, and CEDs and annual cleanup campaigns, and uncontainerized Green Waste prescribed as part of Franchise Services;
  4. Carts, Bulky Items, E-waste, or CEDs that are not placed at the Set-Out Site;
  5. A Cart exceeds any weight limitations described in Subscription Orders;
  6. The Customer has not timely paid FRANCHISEE'S invoice for Franchise Services;
  7. The Premises are not safely accessible to Vehicles;
  8. FRANCHISEE observes the presence of Refuse or Green Waste in a Recyclables Cart or the presence of Refuse or Recyclables in a Green Waste Cart;



9. FRANCHISEE observes any other event provided in Exhibit 3A.

If FRANCHISEE determines not to provide Collection as provided above, FRANCHISEE shall complete and leave a Non-Collection notice, substantially in the form included in FRANCHISEE Documentation, securely attached to a Cart if safe to do so, describing the reason the Customer's Solid Waste was not collected, how the Customer can correct the problem, and how the Customer may contact FRANCHISEE. FRANCHISEE shall Collect the Customer's Solid Waste without additional cost to the Customer no later than 6 p.m. on the day it left the Non-Collection notice, if the Customer notifies FRANCHISEE by 3 p.m. that day that the Customer has corrected the condition justifying non-collection.

**D. Subscription Order.** Applicable to Task 1 only. Before commencing Franchise Services for an individual Customer, FRANCHISEE shall provide a Subscription Order to that Customer, substantially in the form included in FRANCHISEE Documentation, which must include at a minimum, all of the following items:

1. The scope of Franchise Services, including size and number of Carts, subscription date, and Set-Out Site;
2. Customer Service Charges, which may be in the form of a general fee schedule, clearly marked to indicate the fees that are specifically applicable to the Customer but which may not separately indicate the portion of Rates for Basic Service indicated on the Rate Schedule attributable to any of the following Solid Waste materials types: Refuse, Green Waste, and Recyclables;
3. FRANCHISEE'S billing procedures, including payment due and delinquency dates, FRANCHISEE'S right to terminate Franchise Services for delinquent payments, and, in accordance with Section 10B, the Customer's refund rights after termination of Franchise Services;
4. Holiday schedules in accordance with Section B1 of Exhibit 3A;
5. Delivery, pick up, exchange, and replacement of Carts;
6. Any weight limitations of Carts;
7. Customer's privacy rights in accordance with Section 5;
8. Nondiscrimination information in accordance with subsection F;
9. Term of the Subscription Order and the Customer's termination rights in accordance with Section 20I;

10. FRANCHISEE'S Office Hours, toll-free Customer service telephone number, e-mail address, and website;
11. Notice that the Customer's subscription is subject to FRANCHISEE'S execution of this AGREEMENT and will be terminated if this AGREEMENT is terminated;
12. The Customer's right to donate or sell any or all of their Recyclables to Persons other than FRANCHISEE as set forth in Section 1A2a above;
13. The Customer's right to self-haul as set forth in Section 1B1 above;
14. The Customer's rights in the event of property damage or personal injury as described in Section 20C;
15. COUNTY'S telephone number, which the Customer may call after contacting FRANCHISEE if the Customer's service complaint is not satisfactorily resolved;
16. Description of Green Waste and items that do not comprise Green Waste, including items approved by County, as described in Exhibit 21;
17. Description of the Recyclables; and
18. Any other information requested by the Director.

FRANCHISEE shall annually distribute to Customers a summary, substantially in the form included in FRANCHISEE Documentation, of the Customer's Subscription Order containing the general information described in items 1 through 18 and describing where a Customer can contact FRANCHISEE to obtain a copy of that Customer's Subscription Order. FRANCHISEE may distribute that summary together with other correspondence from FRANCHISEE to all Customers, such as Customer outreach and educational materials.

The Director may change the form and content of Subscription Order from time to time after Notice to FRANCHISEE. FRANCHISEE may change the form of Subscription Order only with the Director's prior written consent in accordance with Section 3D.

- E. **Exceptions to Performance Obligations.** No exceptions to Performance Obligations described in the text of this AGREEMENT are permitted unless they are specifically identified in Section A3 of EXHIBIT 3A or Section A1 of EXHIBIT 3A2, or both Exhibits.
- F. **Nondiscrimination.** FRANCHISEE shall comply with Subchapter VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000e-2000e(17), to the end that no

Customer or any other Person will, on the grounds of race, creed, color, sex, gender, national origin, ancestry, religion, age, physical or mental disability, marital status, or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this AGREEMENT or under any project, program, or activity supported by this AGREEMENT.

**G. FRANCHISEE Waste Reduction Practices.** Consistent with the Board of Supervisors' policy to reduce the amount of Solid Waste that is disposed of at landfills within the COUNTY, FRANCHISEE shall implement waste reduction practices and procurement policies, including use of recycled-content paper, to the maximum extent possible in providing Franchise/County Services and maintaining Records. All recycled-content paper that is distributed to Customers or COUNTY must be labeled to indicate recycled content.

**H. Customer Correspondence and Other Materials.** Applicable to Task 1 only. FRANCHISEE shall submit to the Director for approval at least five County Business Days before printing, distributing, or mailing forms of written materials sent or given to Customers (other than with respect to a particular Customer's Subscription Order or Franchise Services complaints). In addition, at the request of the County, FRANCHISEE shall make Reasonable Business Efforts to distribute County authorized information materials to its Customers.

**I. Publicity and News Media Relations.**

**1. Publicity.** Unless otherwise required by subsection H or subsection I.2, FRANCHISEE and its Affiliates, employees, consultants, agents, or subcontractors may, without COUNTY consent, publicize its Franchise/County Services or indicate in its proposals and sales materials that it has been awarded this AGREEMENT to provide Franchise/County Services, if FRANCHISEE develops that publicity, proposals, or sales materials in a professional manner.

Neither FRANCHISEE nor any of its Affiliates, employees, consultants, agents, or Subcontractors may publish or disseminate commercial advertisements, news or press releases, opinions or feature articles using the name of COUNTY without the prior written consent of COUNTY'S Chief Administrative Officer and County Counsel. COUNTY shall not unreasonably withhold written consent. COUNTY'S consent will be deemed given if COUNTY does not submit to FRANCHISEE any adverse comments within two weeks after FRANCHISEE submitted the publicity material to COUNTY.

**2. News Media Relations; Trade Journal Articles.** FRANCHISEE shall notify COUNTY by telephone followed by facsimile or e-mail, if possible, of all requests for news media interviews related to the Franchise/County

Services (and not other communities) within 24 hours of FRANCHISEE'S receipt of the request. Before responding to requests involving issues other than those relating to descriptions of Collection programs and scope of Franchise/County Services, FRANCHISEE shall discuss FRANCHISEE'S proposed response with COUNTY.

FRANCHISEE shall submit copies of FRANCHISEE'S draft news releases or proposed trade journal articles related to Franchise/County Services to County for prior review and approval at least five County Business Days in advance of release.

FRANCHISEE shall provide to County, within five days after publication, copies of articles related to Franchise/County Services resulting from media interviews or news releases.

- J. **Responsiveness to County.** FRANCHISEE shall return telephone calls from COUNTY to the individual who made that call during County Office Hours no later than the next County Business Day. FRANCHISEE shall meet with COUNTY during County Office Hours within one week of COUNTY'S oral or written request at COUNTY offices or other location directed by COUNTY. FRANCHISEE shall respond to all e-mails from COUNTY within two County Business Days of receipt and shall respond to other written correspondence from COUNTY within one week of receipt thereof.
- K. **No Commingling of Interjurisdictional Materials.** Applicable to Task 1 only. FRANCHISEE may not commingle, in its Vehicles or otherwise, any Solid Waste that it Collects with any other materials that it collects in cities, without the express prior written consent of the Director, who may require documentation such as records of customers, including Cart capacities, in cities and in the Service Area, respectively. FRANCHISEE shall maintain Records with respect to Solid Waste separately from weight and records with respect to those other materials.
- L. **Key Personnel.** FRANCHISEE acknowledges that it identified certain personnel and described their professional experience and qualifications in the proposal it submitted to the COUNTY in connection with the procurement of this AGREEMENT, and that COUNTY awarded this AGREEMENT to FRANCHISEE based in part on those individuals' experience and qualifications. FRANCHISEE shall identify those personnel ("**Key Personnel**") in FRANCHISEE Documentation. FRANCHISEE shall provide COUNTY at least 30 days' Notice of changes in Key Personnel, including the professional experience and qualifications of the individual FRANCHISEE proposes to serve in place of a departing Key Personnel, unless a Key Personnel gives FRANCHISEE less than 30 days' notice of resignation, in which case FRANCHISEE shall provide COUNTY prompt Notice. During that 30-day period, COUNTY may request

FRANCHISEE to propose an alternative individual to serve in the position of the departing Key Personnel.

- M. Confidentiality.** FRANCHISEE shall maintain the confidentiality of all records obtained from COUNTY under this AGREEMENT in accordance with all applicable Federal, State, and local laws, ordinances, regulations, and directives relating to confidentiality. FRANCHISEE shall inform all of its officers, employees, agents, and Subcontractors providing services hereunder of the confidentiality provisions of this AGREEMENT.

**SECTION 5–PRIVACY.** Applicable to Task 1 only.

- A. General.** FRANCHISEE shall strictly observe and protect the Trade Secrets and rights of privacy of Customers. FRANCHISEE shall not reveal to a Person other than COUNTY any information identifying individual Customers or the composition or contents of a Customer's Solid Waste to any Person unless under Section 11 or upon the authority of law or upon valid authorization of the Customer. This provision may not be construed to excuse FRANCHISEE from its obligations to assist COUNTY in the preparation of Solid Waste characterization studies or waste stream analyses, keeping Records, making Reports, or assisting COUNTY on meeting any of the requirements of AB 939.
- B. Mailing Lists.** FRANCHISEE shall not market or distribute mailing lists with the names and addresses of Customers.
- C. Privacy Rights Cumulative.** FRANCHISEE'S obligations in this Section are in addition to any other privacy rights accorded Customers under Applicable Law.

**SECTION 6–UNPERMITTED WASTE SCREENING AND REPORTING**

- A. Protocol.** FRANCHISEE shall develop and implement the Unpermitted Waste Screening Protocol included in FRANCHISEE Documentation, in compliance with Applicable Law and including, at a minimum, the following provisions:
1. Ongoing employee training in identification, safety and notification procedures, including leaving Non-Collection notices, when safe;
  2. Means of driver inspection, such as visual inspection during tipping of Carts into Vehicles;
  3. Immediate driver response, such as load segregation;
  4. Driver notification, such as calling FRANCHISEE'S dispatcher or field supervisor;
  5. Notification of appropriate local agency or department;

6. Appropriate action, such as segregation and containerization for manifesting and transport for disposal in accordance with Applicable Law or securing services of permitted handling and transport company;
  7. Compliance with Applicable Law, including regulations of the federal Department of Transportation (DOT) (Title 49 CFR) and of the United States Environmental Protection Agency (Title 40 CFR); and
  8. Form and content of labels described in subsection D.
- B. Prohibition on Collection.** FRANCHISEE is prohibited, unless licensed in accordance with Applicable Law, from Collecting any Unpermitted Waste observed by FRANCHISEE other than in connection with providing Collection of Bulky Items, CEDs, or E-waste. FRANCHISEE shall notify all Persons required by Applicable Law of Unpermitted Waste that FRANCHISEE finds or observes in Solid Waste.
- C. Reports to Director.** If FRANCHISEE observes that any substance it reasonably believes or suspects to contain Unpermitted Waste has been disposed of or released on any COUNTY or any other public property, including storm drains, streets, or other public rights of way, FRANCHISEE shall use Reasonable Business Efforts to report its observation to the Director in addition to notifying Persons as required by Applicable Law.
- D. Labels.** Applicable to Task 1 only. FRANCHISEE shall conspicuously label Carts with stickers, embossing, or other secure means, prohibiting Customers from discarding Unpermitted Waste and including illustrative examples.
- E. Safe Disposal Customer Education Program.** Applicable to Task 1 only. As part of its Unpermitted Waste Screening Protocol, FRANCHISEE shall develop and implement a Customer educational program to maximize exclusion of Unpermitted Waste from Disposal and promote safe handling of Unpermitted Waste. FRANCHISEE shall include a copy of its program in FRANCHISEE Documentation. At least once each Calendar Year, FRANCHISEE shall distribute flyers, pamphlets, brochures, or other written information describing the safe disposal Customer education program. FRANCHISEE shall submit the materials to COUNTY at least one month before mailing them, and COUNTY may comment on them. FRANCHISEE may combine this distribution with its Customer outreach for the Waste Diversion Program as provided in Section B2b of Exhibit 3A.

## **SECTION 7—CUSTOMER SERVICE**

- A. Office.** FRANCHISEE shall maintain an Office and Vehicle maintenance yard at the address provided in FRANCHISEE Documentation, which FRANCHISEE may change following COUNTY consent in accordance with Section 3D2b.

- B. Telephone Service.** Applicable to Task 1 only. FRANCHISEE shall maintain a toll-free telephone number. FRANCHISEE shall list the telephone number under FRANCHISEE'S name in at least two telephone directories (white pages and yellow pages) available in the Service Area, including English and Spanish or other language as required by the Director. FRANCHISEE'S choice of directories must be approved by the Director before printing. FRANCHISEE shall be available during FRANCHISEE Office Hours at that number to receive calls (including from the Director, Customers, and the public) with respect to its Performance Obligations or Franchise Services (including Subscription Orders, Franchise Services payments, and complaints). FRANCHISEE shall provide an answering machine or answering service at that number to take reports of missed pick-ups and other complaints that are received outside of FRANCHISEE Office Hours and otherwise provide Customer service in accordance with County Code Section 20.72.160 and any additional provisions in Exhibit 3A.
- C. Bilingual.** Applicable to Task 1 only. FRANCHISEE shall respond to Customers in English and Spanish and/or any alternative or additional language prescribed in Exhibit 3A, as requested by a Customer.
- D. Customer Complaints; Missed Collections. Applicable to Task 1 only.**

1. **Resolution of Complaints.** The protection of public health, safety, and well-being require that Customer complaints be acted on promptly and that a record be maintained in order to permit COUNTY and FRANCHISEE to identify potential public health and safety problems. Accordingly, FRANCHISEE'S Subscription Order shall direct Customers to make all complaints to FRANCHISEE at the telephone number identified in subsection B.

FRANCHISEE shall address all Customer complaints by the end of the next Service Day following Customer contact.

If the Director or a Customer notifies FRANCHISEE that FRANCHISEE has missed Collecting from any Cart that it should have Collected, FRANCHISEE shall Collect from that Cart:

- a. No later than 6 p.m. on the day it receives the complaint, if it receives the complaint by 3 p.m.; or
  - b. On the next day, if it receives the complaint after 3 p.m. FRANCHISEE shall promptly resolve all other complaints.
2. **Complaint Logs.** FRANCHISEE shall enter, log, and maintain Records of all complaints and their resolution in computerized format and in accordance with County Code Section 20.72.160. At COUNTY'S request, FRANCHISEE shall immediately e-mail the following to COUNTY during

County Office Hours: (1) those Records and (2) the complaining Customer's Customer Service Charge and Subscription Order. FRANCHISEE shall include a copy or summary of this log for the applicable month in its Monthly Report.

3. **County's Reimbursement Costs.** If COUNTY employees or agents spend either: (1) more than two hours in the aggregate resolving complaints from any single Customer that the Customer states have previously been filed with FRANCHISEE, or (2) more than one hour in any work week (Monday through Friday) resolving complaints from different Customers; then FRANCHISEE shall reimburse COUNTY its County's Reimbursement Costs incurred to resolve the complaint, as evidenced by an invoice indicating the name and address of the Customer, nature of complaint, amount of time spent, hourly fees for employees involved, and materials or other disbursements, including phone and postage costs.

## **SECTION 8--OWNERSHIP OF SOLID WASTE**

This AGREEMENT does not purport to grant FRANCHISEE ownership over Solid Waste, CEDs, or E-waste. The right to possession or ownership of Solid Waste, CEDs, or E-waste placed at the Set-Out Site for Collection, including Green Waste, Recyclables, and Abandoned Waste, will be determined in accordance with existing law and is not affected by this AGREEMENT. COUNTY acknowledges that it has no ownership rights in Solid Waste and that FRANCHISEE may provide for transfer of ownership in the Subscription Order.

## **SECTION 9--DIVERSION**

FRANCHISEE agrees to use Reasonable Business Efforts to Divert all Recyclables, Green Waste (including holiday trees), Bulky Items, clothing, E-waste, and CEDs that it Collects, including implementing its Waste Diversion Program.

## **SECTION 10--RATES AND CUSTOMER BILLING. Applicable to Task 1 only.**

- A. **Rates.** FRANCHISEE shall charge Customers no more than the Customer Service Charges provided in Attachment 2 of Exhibit 10. FRANCHISEE shall charge the same, uniform rates to all Customers receiving the same services listed in Attachment 2 of Exhibit 10.
- B. **Billing.** FRANCHISEE shall include in its form of Customer invoice the following information:
  1. Set-out times and places for Carts as required by the County Code and other County Code requirements as may be requested by County; and



2. FRANCHISEE's telephone number, Office address, and e-mail address for Customer complaints and questions.

At COUNTY'S request, FRANCHISEE shall promptly submit its form of Customer invoice to COUNTY. FRANCHISEE shall itemize costs in accordance with service options itemized on the Rate Schedule. FRANCHISEE shall not separately segregate, separate, or designate that portion of a Customer's bill attributable to the Franchise Fee or identify it to Customers. FRANCHISEE may bill Customers monthly, bimonthly, or quarterly as the Customer and FRANCHISEE may agree.

At COUNTY'S request, FRANCHISEE shall use Reasonable Business Efforts to enclose with Customer bills all inserts promoting recycling and waste reduction prepared and provided by COUNTY.

FRANCHISEE shall refund any overcharges to a Customer (including advance payments for Franchise Services that are subsequently canceled) within 30 days after collection thereof. FRANCHISEE shall pay the Customer interest on overcharges (other than advance payments for subsequently canceled services) with interest thereon at 10 percent per annum from the date originally overcharged until the date refunded.

## **SECTION 11–FRANCHISEE RECORDS–AUDITS**

FRANCHISEE'S OBLIGATIONS AND COUNTY'S RIGHTS IN THIS SECTION SURVIVE THE TERM.

### **A. Record Maintenance and Retention.**

1. **All Records.** FRANCHISEE shall prepare and maintain all Records in accordance with generally accepted auditing principles during the Term and for an additional period of not less than five years after the Termination Date or any longer period required by Applicable Law.
2. **Disposal Records.** FRANCHISEE acknowledges:
  - a. That COUNTY may need to respond to claims under CERCLA or similar claims with respect to Disposal of Solid Waste; and
  - b. COUNTY'S need to determine the quantity of FRANCHISEE'S Disposal of Solid Waste.

Therefore, FRANCHISEE shall establish and maintain a protocol for the retention and preservation of those Records, for a period of five years after the Termination Date or any longer period required by Applicable Law, which protocol will document where FRANCHISEE Disposed of

Solid Waste that it Collected (whether landfilled, incinerated, composted, or otherwise processed or marketed).

3. **Notification.** FRANCHISEE shall give Notice to the Director at least 30 days before destroying Records of Disposal at any time after the retention period referred to in subsection A2.
- B. **County Custody.** If the Director has reason to believe that Records may be lost, discarded, or destroyed for any reason, the Director may require that FRANCHISEE give COUNTY custody of any or all Records in which event access to those Records is granted to any Person duly authorized by FRANCHISEE. FRANCHISEE shall pay for storage cost.
- C. **Inspection and Audit.** Upon five Service Days advance notice by telephone or writing, or a lesser amount of time in the event of extraordinary circumstances, COUNTY and its auditors may inspect, audit (including using outside auditors), excerpt, transcribe, and copy all Records at FRANCHISEE'S Office during FRANCHISEE Office Hours. FRANCHISEE may maintain Records outside of the County (1) if it promptly provides copies thereof to COUNTY at COUNTY'S offices, (2) if COUNTY, in its sole discretion, agrees to travel outside the County and FRANCHISEE pays COUNTY's Reimbursement Costs.

In addition to travel costs, COUNTY will bear the expense of the audit and of obtaining a copy of Records; however, within 30 days of COUNTY Notice, FRANCHISEE shall reimburse COUNTY for COUNTY'S Reimbursement Cost of the expenses for the audit if the audit reveals a discrepancy of the lesser of 3 percent or \$2,500 between:

1. The amount contained in the Records (e.g., the amount of Solid Waste Collected or Diverted or the amount of Gross Receipts received), and
2. Any representation or Report that FRANCHISEE made to COUNTY; Franchise Fee or other money paid to COUNTY; County Service Charges paid by COUNTY, or information that FRANCHISEE submitted to COUNTY.

The Director may give Notice to FRANCHISEE identifying any discrepancy.

FRANCHISEE will pay any discrepant shortfall in Franchise Fee or other payments due COUNTY, or excess of County Service Charges, upon COUNTY demand, including fees and charges for the late payment of Franchise Fees. Failure to make those payments will constitute a FRANCHISEE Default in accordance with Section 17. In lieu of payment, COUNTY in its sole discretion may (1) deduct that shortfall from amounts that COUNTY owes FRANCHISEE under this AGREEMENT, other contracts, or any other obligation, or (2) draw that shortfall from the performance bond, letter of credit, certificate of deposit, or other

form of performance assurance provided by FRANCHISEE in accordance with Section 15.

COUNTY will pay any discrepant shortfall in County Service Charges due FRANCHISEE in cash up to COUNTY'S maximum obligation for County Service Charges appropriated by COUNTY for purpose of this AGREEMENT.

- D. Copies of Customer Information.** Franchise shall provide copies of Customers' names, addresses, and Franchise Services subscription levels to COUNTY upon request.
- E. Copies of Audits.** If anyone, including Federal or State auditors and auditors or accountants employed by FRANCHISEE or others, conducts an audit of FRANCHISEE specifically regarding this AGREEMENT, then within 30 days of the audit report, FRANCHISEE shall file a copy of the audit report with County's Auditor-Controller, unless otherwise provided by Applicable Law. Subject to Applicable Law, COUNTY shall make a reasonable effort to maintain the confidentiality of such audit report(s)

## **SECTION 12–PROGRAM IMPLEMENTATION AND REPORTING REQUIREMENTS**

- A. Programs.** FRANCHISEE acknowledges that one of COUNTY'S primary reasons for entering into this AGREEMENT with FRANCHISEE is to assist COUNTY in complying with AB 939. FRANCHISEE shall implement its Waste Diversion Program. FRANCHISEE shall use its best efforts to implement measures intended to achieve COUNTY'S source reduction, recycling, and waste stream diversion goals for Solid Waste it Collects. FRANCHISEE shall further use its best efforts to cooperate with COUNTY in conducting Solid Waste characterization studies and waste stream audits.
- B. Submission of Records.** FRANCHISEE shall submit to the Director, without charge to COUNTY or charge to Customers, any Records relating to Diversion requested by COUNTY to assist COUNTY in meeting obligations imposed by AB 939. FRANCHISEE shall submit those Records in a format compatible with COUNTY'S computers (such as by e-mail or on computer discs or hard copy) as requested by the Director.
- C Public Record Request.**
1. The following become the exclusive property of COUNTY:
    - Any Record or other document that FRANCHISEE gives COUNTY, including in connection with the procurement of this AGREEMENT (such as proposals);

- Any Record or other document that COUNTY obtains in connection with COUNTY'S audit or inspection under this AGREEMENT, including books and accounting records;

The above Records or other documents become a matter of public record and shall be regarded as public records, *except* if FRANCHISEE marks them as a "trade secret," "confidential," or "proprietary", they will be deemed excluded from disclosure under Government Code 6250 et seq. (Public Records Act). COUNTY shall not in any way be liable or responsible for the disclosure of any such records including, with limitation, those so marked, if disclosure is required by law, or by an order issued by a court of competent jurisdiction.

2. FRANCHISEE will defend, indemnify and hold harmless County from all costs and expenses, including reasonable attorney's fees, in connection with any requested action or liability arising under the Public Records Act, including request for any of the Records or other documents marked "trade secret," "confidential," or "proprietary,". FRANCHISEE releases COUNTY from liability or responsibility for disclosing Records or other documents including those so marked, if disclosure is required by Applicable Law, including an order issued by a court of competent jurisdiction.

## SECTION 13–REPORTS

### A. Types and Content.

1. **Monthly.** Within 45 days after the end of each calendar month, FRANCHISEE shall submit the Monthly Report for that calendar month to COUNTY in a form satisfactory to COUNTY, including the following information:
  - a. The total number of Commercial Premises, Multifamily Premises, and Residential Premises, respectively, at which FRANCHISEE provided for regularly scheduled Collection of Refuse or other measurement requested by COUNTY concerning these items;
  - b. The respective total **quantities** of:
    - i. Refuse (in Tons), Recyclables (in Tons), and any Green Waste (in Tons or, if not weighed at the Solid Waste Facility where it is delivered, in cubic yards); and Abandoned Waste (in Tons or measure approved by the Director) Collected by FRANCHISEE,

- ii. Materials recovered from those Recyclables, Abandoned Waste (such as CEDs or E-waste) and residual Refuse remaining after processing of Recyclables,
    - iii. The final destination of that Refuse, and
    - iv. Where FRANCHISEE delivered those Recyclables;
  - c. The estimated **number of holiday trees**, bushes, and biomass Collected by FRANCHISEE and their final destination;
  - d. Using Reasonable Business Efforts, the estimated number and **Tons of Bulky Items, E-waste, and CEDs** Collected by FRANCHISEE (such as major appliances/white goods and metallic discards, used tires and other Solid Waste recovered by FRANCHISEE during any annual cleanup campaigns), and final destination thereof;
  - e. The **Collection route maps and schedule** for the entire Service Area if any map or schedule has changed during the prior month; and
  - f. Any other information compiled from Records or formatting of that information requested by the Director; and
  - g. Number of households and customers served and/or invoiced for payment; and
  - h. Records of Collection for Task 2 requested by the Director.
2. **Quarterly Reports.** Within 45 days after the last day of each March, June, September, and December FRANCHISEE shall submit the Quarterly Report for the preceding three calendar months ending with that month to COUNTY in a form satisfactory to COUNTY, including the following information:
- a. A narrative description of efforts made to deter and prevent unauthorized removal or scavenging of Recyclables;
  - b. The number of Tons of any type of Recyclables rejected for sale after Processing together with the reason for rejection and place at which the rejected materials were Disposed;
  - c. A report of Waste Diversion Program promotional activities, including materials distributed by FRANCHISEE to its Customers;

- d. The total number of Commercial Premises, Multifamily Premises, and Residential Premises, respectively, at which Customers set out Recyclables and Green Waste Carts, respectively, together with Tonnage of Recyclables and Green Waste or other measurement of participation requested by COUNTY concerning these items;
  - e. The Collection route maps and schedule for the entire Service Area;
  - f. A summary of the number of Non-Collection notices issued and the reasons for issuance;
  - g. FRANCHISEE customer service list, which includes a list of all current and closed accounts, account numbers, name associated with each account, customer addresses, level of service provided at each address, additional services provided, billing and payment dates, payment received by each Franchise customer, and any other information associated with Franchise Services as requested by the Director; and
  - h. Information relating to Task 2 requested by the Director.
3. **Annual Report.** On or before each February 28, FRANCHISEE shall submit the Annual Report to COUNTY in a form satisfactory to COUNTY, for the preceding Calendar Year, including the following information:
- a. General information about FRANCHISEE, including a list of its respective officers, principals, major shareholders, general and limited partners, limited liability company members, and members of its boards of directors or governing board as the case may be;
  - b. A copy of the most recent annual public financial reports and other periodic public financial reports of FRANCHISEE and, at the Director's request, each of its Affiliates and other entities, if any, performing Franchise Services or providing Goods or Services; provided however, that if FRANCHISEE did not submit its own financial reports before the Execution Date of this AGREEMENT, it must provide a guaranty in the form provided by the Director, by a guarantor satisfactory to the Director, which guarantor must provide its own audited financial reports;
  - c. A report of FRANCHISEE'S compliance with its Performance Obligations with respect to Waste Diversion Program implementation during the preceding Calendar Year;

- d. An updated inventory of Service Assets in accordance with Section 16A3;
  - e. A copy of the telephone directories described in Section 7B;
  - f. A description of contamination audits of Recyclables Carts in accordance with Service Specifications; and
  - g. An updated list naming all Subcontractors, the amount of Goods or Services that each Subcontractor provides to FRANCHISEE, and a description of FRANCHISEE'S relationships to each Subcontractor (including ownership interests) in accordance with Exhibit 3A.
  - h. each Vehicle's compliance with SCAQMD Rule 1193, Clean On-Road Residential and Commercial Collection Vehicles, and Diesel Particulate Matter Control Measures (13 CCR 202 *et seq.*).
  - i. Information relating to Task 2 requested by the Director.
4. **Reports of Violators.** Applicable to Task 1 only. If FRANCHISEE discovers that any Person is providing MSW Management Services in the Service Area that are not authorized by COUNTY or are in Violation of Applicable Law, then FRANCHISEE shall use Reasonable Business Efforts to promptly provide COUNTY with a written report containing at least the following:
- a. The identity and address of the Person ("Violator"), if known;
  - b. The facts and documentation supporting FRANCHISEE'S report; and
  - c. Any other information or documentation in connection with the Violator and FRANCHISEE'S report that COUNTY may reasonably request.

COUNTY acknowledges that FRANCHISEE may seek legal or injunctive relief against the Violator in accordance with Applicable Law to cease providing those MSW Management Services. Notwithstanding the foregoing, COUNTY is not liable to FRANCHISEE, and FRANCHISEE hereby releases COUNTY in connection with any act of a Violator.

- B. **Format.** FRANCHISEE shall submit Reports in a format compatible with COUNTY'S computers (such as by e-mail or on computer discs or printed copy) as determined by the Director.

**C. Reporting Adverse Information.** FRANCHISEE shall provide the Director copies of all reports, pleadings, applications, notifications, and notices of violation, communications or other material directly relating to its Performance Obligations submitted by FRANCHISEE to, or received by FRANCHISEE from, any of the following:

1. The United States or California Environmental Protection Agency;
2. Cal Recycle;
3. The Securities and Exchange Commission;
4. Any other Regulatory Agency;
5. Any federal, State, or County court.

FRANCHISEE shall submit copies to the Director simultaneously with FRANCHISEE'S submission of those materials to those entities. At COUNTY'S request, FRANCHISEE shall promptly make available to COUNTY any other correspondence between FRANCHISEE and those entities.

**D. Submission of Reports.** FRANCHISEE shall submit Reports to the Director at COUNTY'S address provided for Notices.

**E. County's Right to Request Information.** At the Director's request, FRANCHISEE shall promptly provide to COUNTY additional information reasonably and directly pertaining to this AGREEMENT (including substantiation of information submitted in Reports).

**F. Reporting Requirements for Improper Solicitations.** FRANCHISEE shall immediately report any attempt by a COUNTY officer or employee to solicit improper consideration. FRANCHISEE shall make the report either to COUNTY manager charged with the supervision of the employee or to the COUNTY Fraud Hotline at (800) 554-6861 or [www.lacountyfraud.org](http://www.lacountyfraud.org). Among other items, improper consideration may take the form of cash; discounts; service; or the provision of travel, entertainment, or tangible gifts.

## **SECTION 14—INDEMNIFICATION AND INSURANCE**

**A. Indemnification and Release of County.** FRANCHISEE shall release, indemnify, defend, and hold harmless COUNTY and County's Related Parties from and against any and all Liabilities arising from, connected with, or relating to all of the following:

1. **Operations.** FRANCHISEE'S and FRANCHISEE's Related Parties' operations or any of their respective services on or after the date of this



AGREEMENT, including the Franchise/County Services and Liabilities further detailed in the following Indemnifications contained in subsections A2 through 5, but excluding any Liabilities arising from the sole active negligence of COUNTY.

2. **Cal/OSHA.** Without limiting the operations Indemnification in subsection A1, employer sanctions and any other Liabilities that may be assessed against FRANCHISEE or COUNTY or both in connection with any alleged act or omission of FRANCHISEE or any of FRANCHISEE's Related Parties that is in violation of any Cal/OSHA regulation. This obligation includes all investigations and proceedings associated with purported violations of 8 CCR 336.10 pertaining to multi-employer work sites. FRANCHISEE shall not be obligated to so release, indemnify, defend, and hold harmless COUNTY from and against any Liabilities arising from the active negligence of COUNTY.
3. **Immigration.** Without limiting the operations Indemnification in subsection A1, employer sanctions and any other Liabilities that may be assessed against FRANCHISEE, any of FRANCHISEE's Related Parties or COUNTY or any one or all of them in connection with any alleged violation of federal Applicable Law (including the Immigration Reform and Control Act of 1986 (PL. 99-603) pertaining to the eligibility for employment of individuals performing Franchise/County Services. FRANCHISEE shall not be obligated to so indemnify, release, defend, and hold harmless COUNTY from and against any Liabilities arising from active negligence of COUNTY.
4. **Enforcement of AGREEMENT or Applicable Law.** Without limiting the operations Indemnification in subsection A1, any Liabilities that may be assessed against FRANCHISEE, any of FRANCHISEE's Related Parties or COUNTY or any one or all of them in connection with any alleged failure of COUNTY to exercise COUNTY's rights under this AGREEMENT or to enforce provisions of this AGREEMENT or of Applicable Law as permitted under Section 22A4.
5. **Disposal.** The presence, Disposal, escape, migration, leakage, spillage, discharge, release, or emission of Unpermitted Waste or petroleum to, in, on, at or under any Vehicle, place, site, or facility where FRANCHISEE or any of FRANCHISEE's Related Parties transports, delivers, stores, processes, Recycles, composts or Disposes of Solid Waste to the extent that Liabilities are caused indirectly or directly by any of the following:
  - a. ***FRANCHISEE Negligence or Misconduct.*** The wrongful, willful or negligent act, error or omission, or the misconduct of FRANCHISEE or any of FRANCHISEE's Related Parties;

- b. ***Non-Customer Materials.*** The collection, delivery, handling, recycling, processing, composting or disposal by FRANCHISEE or any of FRANCHISEE's Related Parties of any materials or waste, including Unpermitted Waste, that are generated by Persons other than Customers or collected from premises other than Premises;
- c. ***Failure to Comply with Unpermitted Waste Screening Protocol.*** The failure of FRANCHISEE or any of FRANCHISEE's Related Parties to undertake Unpermitted Waste training procedures required by Applicable Law or the Unpermitted Waste Screening Protocol, whichever is more stringent; or
- d. ***FRANCHISEE-Identified Unpermitted Waste.*** The improper or negligent collection, handling, delivery, processing, recycling, composting, or disposal by FRANCHISEE or any of FRANCHISEE's Related Parties of Unpermitted Waste that FRANCHISEE or any of FRANCHISEE's Related Parties inadvertently collects from Customers and that FRANCHISEE or any of FRANCHISEE's Related Parties identifies as Unpermitted Waste before its delivery, processing, recycling, composting, or disposal whether:
  - (i) In one or more occurrence;
  - (ii) Threatened or transpired;
  - (iii) FRANCHISEE or any of FRANCHISEE's Related Parties is negligent or otherwise culpable; or
  - (iv) Those Liabilities are litigated, settled or reduced to judgment.

For purposes of this subsection A5, "**Liabilities**" includes Liabilities arising from or attributable to any operations, repair, cleanup, or detoxification, or preparation and implementation of any removal, remedial, response, closure, postclosure, or other plan, regardless of whether undertaken due to government directive or action, such as remediation of surface or ground water contamination and replacement or restoration of natural resources.

The foregoing Indemnification under this subsection A5 is intended to operate as an agreement under 42 U.S.C. Section 9607(e) and California Health and Safety Code Section 25364, to insure, protect, hold harmless, and indemnify COUNTY from liability in accordance with this Section.

The mere presence of household hazardous waste in the Solid Waste that is Collected by FRANCHISEE or any of FRANCHISEE's Related Parties under this AGREEMENT will not constitute negligence and in and of itself create any liability

on the part of FRANCHISEE or any of FRANCHISEE's Related Parties absent any of the circumstances described in items a through d in this subsection A5.

With respect to COUNTY's defense under this subsection A, COUNTY reserves the right to retain co-counsel at its own cost and expense and FRANCHISEE shall direct FRANCHISEE'S counsel to assist and cooperate with COUNTY'S co-counsel.

FRANCHISEE hereby releases and shall not seek contribution or compensation of any nature from COUNTY for Liabilities relating to Unpermitted Waste, including relating to RCRA, CERCLA, or the California Health and Safety Code. FRANCHISEE shall not make any claims against or assert an interest in any account, fund, or reserve that COUNTY may establish or set aside from the proceeds of the Franchise Fee or otherwise or maintains to cover Liabilities relating to Unpermitted Waste, which established fund or reserve COUNTY is under no obligation to establish or maintain.

**B. Insurance.** Without limiting its Indemnities, and in the performance of this AGREEMENT and until all of its Performance Obligations pursuant to this AGREEMENT have been met, FRANCHISEE shall provide and maintain the following programs of insurance at its own expense. Performance Obligations under this Section 14B are in addition to and separate from any other Performance Obligation in this AGREEMENT. COUNTY reserves the right to review and adjust the insurance requirements in this Section 14B if COUNTY determines that there have been changes in risk exposures. COUNTY makes no warranty that the insurance coverage terms, types, and limits in this Section 14B is sufficient to protect the FRANCHISEE for liabilities that may arise from or in relation to this AGREEMENT.

1. **Primary, Excess, Non-Contributory.** All FRANCHISEE'S insurance carried under this Section 14B shall be primary with respect to any other insurance or self-insurance programs available to COUNTY.
2. **Cancellation notices.** All insurance shall contain the express condition that COUNTY is to be given written notice by mail at least 30 days in advance of cancellation, or at least 10 days in advance of cancellation for nonpayment of premium, for all policies evidenced on the certificate of insurance.
3. **Noncompliance.** Neither the COUNTY'S failure to obtain, nor the COUNTY'S receipt of, or failure to object to a noncomplying insurance certificate or endorsement or any other insurance documentation or information provided by the FRANCHISEE, its insurance broker(s) and/or insurer(s), shall be construed as a waiver of any Performance Obligation under this Section 14B. If FRANCHISEE does not provide and maintain those programs of insurance, COUNTY may elect to purchase required

insurance coverage without further notice to FRANCHISEE, and COUNTY may charge FRANCHISEE any premium costs advanced by COUNTY for that insurance and draw on the performance bond, letter of credit, or other form of performance assurance provided by FRANCHISEE.

4. **Evidence of Insurance: COIs and copies of policies.** At least 30 days prior to the Execution Date and thereafter 30 days prior to each policy renewal and also within two business days of any COUNTY request, FRANCHISEE shall deliver a certificate or certificates of insurance or other evidence of coverage acceptable to the Director at the address provided for Notices. Certificates or other evidence must:
- a. Specifically identify this AGREEMENT by name or number; name the insured party that matches the name of FRANCHISEE executing this AGREEMENT; provide the full name of each insurer providing coverage and the insurer's NAIC (National Association of Insurance Commissioners) identification number, and financial rating.
  - b. Types and limits: Clearly evidence all coverage, types and limits required in this AGREEMENT. Identify standard policy forms or their equivalent. Coverage may consist of a combination of primary and excess policies. Excess policies must provide coverage as broad as ("follow form" over) the underlying primary policies;
  - c. Cancellation notice. Contain the express condition that COUNTY is to be given written notice by mail at least 30 days in advance of cancellation (10 days for nonpayment of premium) for all policies evidenced on the certificate of insurance;
  - d. List additional endorsements.
    - i. Additional insured endorsements. Include copies of the additional insured endorsements to General Liability Policy which must add COUNTY and its Special Districts, elected officials, officers, agents, and employees as additional insureds with respect to liability arising out of ongoing and completed Franchise/County Services, and applicable with respect to liability and defense of suites arising out of FRANCHISEE'S acts or omissions, whether that liability is attributable to the FRANCHISEE or the COUNTY. The full policy limits and scope of protection must apply to each of those additional insureds even if those limits or scope exceed the minimum required insurance specifications in this AGREEMENT. FRANCHISEE may use an automatic additional insured endorsement if the endorsements meet the requirements of this Section 14B.

- ii. Waiver of Subrogation Endorsements. Include copies of subrogation endorsements necessary to effect FRANCHISEE'S waiver of its and its insurer(s)' rights of recovery against COUNTY under all insurance under this Section 14B, to the fullest extent permitted by law.
- e. Deductibles and SIRs. Identify any deductibles or self-insured retention ("SIR") exceeding \$50,000 for COUNTY'S approval. FRANCHISEE'S policies shall not obligate COUNTY to pay any portion of any FRANCHISEE deductible or SIR.

COUNTY retains the right to require FRANCHISEE to reduce any deductibles or self-insured retention as they apply to COUNTY or to require FRANCHISEE to provide a bond, letter of credit, or certificate of deposit guaranteeing payment of all retained losses and related costs, including expenses, or both, related to investigations, claims administrations, and defense. The bond must be executed by a corporate surety licensed to transact business in the State of California; the letter of credit must be issued by a bank or other financial institution acceptable to the COUNTY; and

- f. Signature verification. Include documentation acceptable to COUNTY verifying that the individual signing or countersigning the certificates, and at COUNTY'S request, the policies, endorsements, or other evidence of coverage, is authorized to do so and identifies his or her company affiliation and title.
- g. COUNTY'S request, FRANCHISEE will promptly provide COUNTY with complete, certified copies of any policy of insurance that FRANCHISEE must secure and maintain under this AGREEMENT.
- h. Claims Made/Retroactive Date. The policy retroactive date, which can be identified on any insurance written on claims made basis, which must precede the Execution Date. FRANCHISEE shall maintain any claims made coverage for a period of not less than 3 years following expiration, termination or cancellation of this AGREEMENT.
- i. Insured-vs.-insured. Clearly evidence that all liability policies provide cross-liability coverage as would be afforded by the standard ISO (Insurance Services Office, Inc.) separation of insureds provision with no insured-versus-insured exclusions or limitations.

- 5. **Insurer Financial Rating.** FRANCHISEE shall secure insurance provided by an insurance company acceptable to COUNTY with a rating

by A.M. Best Company of not less than A: VII, unless otherwise approved by COUNTY.

6. **Notification of Incidents, Claims, or Suits.** FRANCHISEE shall promptly report the following in writing to the Director:

- a. Any accident or incident relating to the Franchise/County Services involving injury or property damage that may result in the filing of an insurance claim, its legal claim, or lawsuit against FRANCHISEE, any Subcontractor and/or COUNTY;
- b. Any third-party claim or lawsuit filed against FRANCHISEE arising from or related to Franchise/County Services;
- c. Any injury to a FRANCHISEE employee that occurs on COUNTY property; or,
- d. Any loss, disappearance, destruction, misuse, or theft of COUNTY property, money, or securities entrusted to FRANCHISEE.

FRANCHISEE shall submit its report on a COUNTY "Nonemployee Injury Report" form available on COUNTY'S website at <http://cao.co.la.ca.us/RMB/pdf/NonEmployeeInjuryReport.pdf>.

7. **Insurance Coverage Requirements.** FRANCHISEE shall secure and maintain insurance coverage meeting the following requirements:

- a. **General Liability Insurance** (written on ISO policy form CG 00 01 or its equivalent) with limits of not less than the following:

General Annual Aggregate:	\$4 million
Products/Completed Operations Aggregate:	\$4 million
Personal and Advertising Injury:	\$1 million
Each Occurrence:	\$2 million

The general liability policy must provide contractual liability coverage for FRANCHISEE'S indemnification of COUNTY.

- b. **Pollution Liability Coverage** for pollution conditions resulting from transported cargo, with annual limits of not less than \$2 million per occurrence and \$4 million aggregate, covering loss (including cleanup costs) that FRANCHISEE becomes legally obligated to pay as a result of claims for bodily injury, property damage, and cleanup costs (including expenses required by environmental laws or incurred by Federal, State, or local governments or third parties) resulting from pollution conditions caused by transported cargo

(including waste). For the purpose of this subsection 14B7b, "pollution conditions" includes the dispersal, discharge, release, or escape of any solid, liquid, gaseous, or thermal irritant or contaminant (such as smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, medical waste, and waste materials) into or upon land, any structure on land, the atmosphere, or any watercourse or body of water (including groundwater), provided the conditions are not naturally present in the environment in the amounts or concentrations discovered. The pollution liability coverage must provide contractual liability coverage, by endorsement, if necessary, for FRANCHISEE'S indemnification of COUNTY. FRANCHISEE'S general liability policy may be endorsed to provide the required pollution liability coverage.

- c. **Automobile Liability Coverage** (written on ISO policy forms CA 00 12 or CA 00 20 or their equivalent) with a limit of liability not less than \$2 million for each accident and endorsed to include pollution liability (written on form CA 99 48 or its equivalent). The insurance must cover all vehicles used by FRANCHISEE pursuant to its operations and services and the terms of this AGREEMENT. FRANCHISEES subject to federal regulations also shall maintain any other coverage necessary to satisfy State or Federal financial responsibility requirements.
- d. **Workers' Compensation and Employers' Liability** insurance providing workers' compensation benefits required by the California Labor Code or by any other state labor law, and for which FRANCHISEE is responsible. In all cases, this insurance must also include Employers' Liability coverage with limits of not less than the following:

- i. Each accident: \$1 million
- ii. Disease - policy limit: \$1 million
- iii. Disease - each employee: \$1 million

8. **Insurance Coverage Requirements for Subcontractors.** FRANCHISEE shall ensure that all Subcontractors performing Franchise/County Services under this AGREEMENT secure and maintain the insurance coverage required in subsections B1 through 7 by providing evidence that either:

- a. FRANCHISEE is maintaining the required insurance covering the activities of Subcontractors, or
- b. Subcontractors are maintaining the required insurance coverage.

FRANCHISE shall provide COUNTY with any Subcontractor request to modify that insurance coverage and get COUNTY approval prior to modification.

- C. **Compensation for County Costs.** If FRANCHISEE fails to comply with any Performance Obligations, including Indemnification, insurance, and performance assurance and that failure results in any costs to COUNTY, FRANCHISEE shall pay full compensation for all County's Reimbursement Costs.
- D. **Alternative Risk Financing Programs:** COUNTY reserves the right to review and then approve FRANCHISEE'S use of self-insurance, risk retention groups, risk purchasing groups, pooling arrangements and captive insurance to satisfy Performance Obligations under this Section 14B. COUNTY and Persons named as additional insureds under Section 14B4d shall be designated as an Additional Covered Party under any approved program.

## **SECTION 15—PERFORMANCE ASSURANCE**

FRANCHISEE shall secure and maintain throughout the Term a faithful performance bond, in a form satisfactory to COUNTY or, at COUNTY'S sole and absolute discretion, any alternative security acceptable to the Director, including cash, certified check payable to COUNTY, certificate of deposit, or letter of credit (together, "**Performance Assurance**").

The Performance Assurance secures full and timely satisfaction of Performance Obligations for both Task 1 and Task 2, including payment of Franchise Fees and any liquidated damages.

COUNTY shall establish the amount of the performance assurance for the period beginning on the Execution Date and ending on the last day of the first Contract Year.

The amount of the Performance Assurance will be set pursuant to Section A of Exhibit 3A.

Beginning on the first day of the next Contract Year, and in all subsequent Contract Years, that amount must be not less than the sum of:

- 15 percent of FRANCHISEE'S Gross Receipts from Task 1 minus Franchise Fees for the prior Contract Year;
- + 110 percent of the Franchise Fees paid by FRANCHISEE during the first six months of the prior Contract Year;
- + 110 percent of any liquidated damages assessed FRANCHISEE by COUNTY during the first six months of the prior Contract Year;
- + Up to \$50,000, at the discretion of the Director; and
- + Any additional amounts provided in Exhibit 3A.



= SUM OF PERFORMANCE ASSURANCE

A performance bond must be payable to COUNTY and executed by a corporate surety licensed to transact business (admitted) as a surety in the State of California. The corporate surety must have an A.M. Best Rating of not less than A:VII, unless otherwise approved by COUNTY. The form of performance bond may not allow the bond surety to substitute another Person to perform Franchise/County Services but must provide for payment of moneys to COUNTY to; (1) secure substitute Franchise/County Services; (2) remedy damages incurred by COUNTY, including reasonable expenses, attorney's fees, and liquidated and compensatory damages; (3) ensure satisfaction of all Performance Obligations, including payment of Franchise Fees; and, (4) repay any money recovered from COUNTY in any bankruptcy or similar proceedings relating to FRANCHISEE. The performance bond must be conditioned on faithful performance by FRANCHISEE of all the terms and conditions of this AGREEMENT, including payment of Franchise Fees and any liquidated damages.

Each Performance Assurance must be renewed to provide for continuing liability in the above amount notwithstanding any payment or recovery thereon. At least 30 days prior to the Execution Date and 30 days prior to any renewal of the Performance Assurance, FRANCHISEE shall deliver the Performance Assurance to COUNTY.

COUNTY may verify the accuracy and authenticity of the Performance Assurance submitted.

## **SECTION 16—EMERGENCY SERVICE**

### **A. COUNTY'S Right to Provide MSW Management Services.**

1. **Events.** COUNTY may perform, or contract for the performance of, any or all of Franchise/County Services, including the collection of Solid Waste or any portion thereof and the transportation and delivery to a solid waste facility, upon the occurrence of either of the following events, determined by COUNTY in its sole discretion:

- a. FRANCHISEE, due to Uncontrollable Circumstances or for any reason whatsoever, fails, refuses, or is unable for a period of 48 hours to collect and/or at any time to transport Solid Waste or any portion thereof to a Solid Waste Facility and the Director determines there is danger to the public health, safety, or welfare; or
- b. COUNTY suspends or terminates this AGREEMENT.

If COUNTY contracts for the performance of any or all of Franchise/County Services, it will consider contracting with other COUNTY franchisees. COUNTY has no obligation to continue providing Franchise/County Services and may at any time, in its sole discretion,

cease to provide Franchise/County Services. However, COUNTY'S right to provide Franchise/County Services will continue until FRANCHISEE can demonstrate to COUNTY'S satisfaction that FRANCHISEE is ready, willing, and able to resume timely and full Franchise/County Services or until COUNTY can make alternative arrangements for providing MSW Management Services comparable to Franchise/County Services in scope and price, which may include contracting with another service provider.

2. **Notice.** COUNTY may give FRANCHISEE oral notice that COUNTY is exercising its right to perform Franchise/County Services, which notice is effective immediately, but must confirm oral notice with a Notice within 24 hours thereafter.
3. **Service Assets Applicable to Task I only.**
  - a. ***COUNTY Possession.*** Upon giving FRANCHISEE oral notice, COUNTY may take possession of any or all Service Assets necessary or convenient in providing Franchise Services and FRANCHISEE shall fully cooperate with COUNTY to transfer possession of Service Assets to COUNTY. Customers' possession of Carts will be deemed possession by COUNTY if necessary to exercise this right.
  - b. ***Service Assets Document.*** Any document that encumbers or limits FRANCHISEE'S interest in Service Assets, including a lease, financing contract, acquisition over time, mortgage, or other instrument establishing a security interest to or by FRANCHISEE, must allow COUNTY to assume FRANCHISEE'S obligations and to continue use of Service Assets in performing MSW Management Services.
  - c. ***Updated Inventory.*** In each Annual Report and at any other time requested by COUNTY, FRANCHISEE shall update its inventory of Service Assets included in FRANCHISEE Documentation to reflect acquisition or replacement of Service Assets or additional or amended Service Assets document described in Section 16A3b, accompanied by a certification signed by FRANCHISEE that all Vehicles meet any specifications provided in this AGREEMENT and all Carts meet the specifications described in FRANCHISEE Documentation.
  - d. ***County Use.*** COUNTY may use Service Assets to provide all or a portion of Franchise Services. COUNTY shall have absolute and exclusive control over Service Assets as though COUNTY were the absolute owner thereof. However, at COUNTY'S request, FRANCHISEE shall keep Service Assets in good condition.

Unless FRANCHISEE repairs and maintains them, COUNTY shall assume complete responsibility for use of Service Assets while they are in its possession and shall maintain Service Assets in the same condition as they were in when FRANCHISEE transferred possession thereof to COUNTY. Subject to repair and maintenance by FRANCHISEE, COUNTY shall return Service Assets to FRANCHISEE in the same condition as received, normal wear and tear excepted.

FRANCHISEE shall maintain in full force and effect all insurance required in accordance with Section 14 during COUNTY'S possession of Service Assets. By granting COUNTY the right to possession and use of FRANCHISEE'S Service Assets, FRANCHISEE declares as follows:

- i. COUNTY and Customers are permitted users for purposes of liability insurance policies that FRANCHISEE must procure and maintain under this AGREEMENT; and
- ii. COUNTY'S and Customers' use and possession is not intended to be and is not transfer of ownership for purposes of any liability policies.

Furthermore, if COUNTY has possession and/or use of FRANCHISEE'S Service Assets, FRANCHISEE shall execute whatever documentation its liability insurers require to ensure that COUNTY and Customers are protected and covered by FRANCHISEE'S general and automobile policies, including requesting and executing endorsements to those policies. FRANCHISEE hereby gives COUNTY the right to call and confer with FRANCHISEE'S insurance broker to determine what, if any, documentation or actions are necessary to achieve protection satisfactory to COUNTY. FRANCHISEE hereby gives COUNTY the right to pay for any endorsements, additional premiums, or other costs. By executing this AGREEMENT, FRANCHISEE authorizes its insurance broker to cooperate with and respond to requests from COUNTY, which authorization FRANCHISEE may not rescind without COUNTY consent.

4. **FRANCHISEE'S Personnel.** Upon giving FRANCHISEE oral notice in accordance with subsection A2, COUNTY may immediately engage personnel necessary or convenient for providing all or a portion of Franchise/County Services, including employees previously or then employed by FRANCHISEE. However, COUNTY shall not be obligated to hire FRANCHISEE'S employees and may use municipal employees or other individuals to provide all or a portion of Franchise/County Services, including driving Vehicles. At COUNTY'S request, FRANCHISEE shall

promptly make available to COUNTY all FRANCHISEE'S management and office personnel necessary or convenient for providing Franchise/County Services (including Customer services) and billing at the cost, if any, provided in subsection A8.

5. **Records and Reports.** At COUNTY'S request, FRANCHISEE shall promptly provide COUNTY with immediate access to or possession of Records, including those related to routing and billing. Without limiting its available remedies provided elsewhere in this AGREEMENT, COUNTY may seek specific performance of this obligation.
6. **Reimbursement.** FRANCHISEE shall reimburse COUNTY for County's Reimbursement Costs incurred in taking over possession and use of Service Assets in accordance with subsection A3 and in providing MSW Management Services in amounts exceeding Rates.
7. **Stipulations.** FRANCHISEE stipulates that COUNTY'S exercise of rights under this Section does not constitute a taking of private property for which COUNTY must compensate FRANCHISEE, shall not create any liability on the part of COUNTY to FRANCHISEE, and does not exempt FRANCHISEE from any Indemnities, which Parties acknowledge are intended to extend to circumstances arising under this Section. However, FRANCHISEE is not required to indemnify COUNTY against claims and damages arising from the negligence or misconduct of COUNTY officers and employees (other than employees of FRANCHISEE at the time COUNTY began performing Franchise/County Services) and agents driving Vehicles. COUNTY shall indemnify FRANCHISEE, its Affiliates and its and their officers, directors, employees, and agents from and against damages, costs, or other expenses or losses they incur arising out of or relating to that negligence or misconduct.
8. **Rental and Other Compensation.**
  - a. ***Uncontrollable Circumstances.*** If an event enumerated in item a or b in subsection A1 is due to Uncontrollable Circumstances, then COUNTY shall pay FRANCHISEE the following Direct Costs of FRANCHISEE that FRANCHISEE is not then being compensated for through charging and collecting Rates:
    - (i) Rental fees for COUNTY'S use and possession of Service Assets equal to fair market value thereof as determined by an independent appraiser selected by the Parties as provided in this subsection A8a.

- (ii) FRANCHISEE'S Direct Costs of providing Vehicles with fuel, oil, and other maintenance in accordance with subsection A3d.
- (iii) FRANCHISEE'S Direct Costs of making FRANCHISEE'S personnel available to COUNTY in accordance with subsection A4.

The Parties shall select an appraiser as follows: within 10 days after FRANCHISEE requests payment of rental fees in events described in item (i) of this subsection 8a, each Party will prepare a separate list of five Persons who do not work for either Party having experience in solid waste equipment appraisal, in numerical order with the first preference at the top, and exchange and compare lists. The Person ranking highest on the two lists by having the lowest total rank order position on the two lists is the appraiser. In case of a tie in scores, the Person having the smallest difference between the rankings of the two Parties is selected; other ties are determined by a coin toss. If no Person appears on both lists, this procedure is repeated. If selection is not completed after the exchange of three lists or 60 days, whichever comes first, then each Party will select one Person having the qualifications and experience described above and those two Persons will together select an appraiser.

- b. ***Other Than Uncontrollable Circumstances.*** If an event enumerated in item a or b in subsection A1 is not due to Uncontrollable Circumstances, then COUNTY will not be obligated to pay the compensation enumerated in subsection A8a, and FRANCHISEE shall pay County's Reimbursement Costs in accordance with subsection A6 within 10 days of COUNTY'S submitting an invoice therefore. If FRANCHISEE does not so timely pay, COUNTY may draw upon any performance bond, letter of credit, or other security provided under this AGREEMENT.

**B. Emergency Assistance.** FRANCHISEE shall give first consideration to County in the event that solid waste in any part of the unincorporated area of the COUNTY is not collected and in the judgment of the Director creates a danger to public health, safety or welfare, including in the event of a major disaster such as an earthquake, fire, mudslide, storm, riot, or civil disturbance, by providing vehicles and drivers to collect any solid waste as requested by COUNTY, at charges no greater than the following:

- 1. Rates (with respect to solid waste discarded in Carts); and

2. \$60/Ton (with respect to CEDs, E-Waste, and solid waste, including Abandoned Waste, discarded in Carts other than Carts);
3. Rates the FRANCHISEE charges for comparable MSW Management Services (with respect to Solid Waste *not* discarded in Carts)

None of these rates can be greater than the limits provided in Section D11 of Exhibit 3A2, unless the Director, at her sole discretion, provides authorization based on information provided by FRANCHISEE substantiating the need for an increase. FRANCHISEE shall cooperate with COUNTY, State of California, and Federal officials in filing information related to a regional, State, or Federally-declared state of emergency or disaster as to which FRANCHISEE has provided equipment and drivers under this AGREEMENT.

**C. Backup Service Plan.** FRANCHISEE shall develop a backup service plan included in FRANCHISEE Documentation. FRANCHISEE shall implement the plan upon COUNTY request if Customer's Solid Waste is not Collected at Customer's Set-Out Site or Abandoned Waste is not Collected for any reason, including uncontrollable circumstances, within 7 days of COUNTY request. An example might be a strike of FRANCHISEE drivers. FRANCHISEE shall include in the plan at a minimum, the following provisions:

1. Provide conveniently located Bins or roll-off Carts where Customers may discard Refuse and other putrescible Solid Waste;
2. Offer Customers the option of self-hauling Refuse and other putrescible Solid Waste to a transfer station or disposal facility;
3. Inform Customers of procedures for handling Refuse and other putrescible Solid Waste, preventing litter and discouraging vectors (such as keeping Carts in their storage place and not at Set-Out Sites, discarding excess Solid Waste in closed plastic bags and not loose in Carts);
4. Describe any Customer Service Charge refund policy for missed Franchise Services;
5. Provide replacements for drivers and other employees who are not providing Collection or other Franchise/County Services (such as supervisory personnel or management, or employees of Affiliates or other solid waste management companies) and security for those drivers and other employees; and
6. Identify customers that require priority service.

## **SECTION 17-DEBARMENT BREACHES AND DEFAULTS; SUSPENSION; TERMINATION**

**A. Notice of Breach; FRANCHISEE Cure.** If the Director determines that FRANCHISEE is in Breach, the Director may give Notice to FRANCHISEE identifying and describing the Breach, including any of the following:

1. Failure to keep Records required by this AGREEMENT;
2. Failure to file any Reports at the time, in the manner, and containing the information required in Section 13;
3. Failure to timely provide COUNTY with complete information (including any test results such as prescribed noise levels in accordance with Section 4A4) required by this AGREEMENT or requested by the Director in good faith in accordance with this AGREEMENT;
4. Failure to timely pay the Franchise Fee;
5. Failure to timely pay an Indemnification;
6. Failure to timely implement the start-up transition and Cart roll-out plan described in Section I of Exhibit 3A; or
7. Failure to timely respond to County.

FRANCHISEE shall remedy the Breach within 30 days from the receipt of Notice (or with respect to a Breach of the Child Support Compliance Program described in Section 22B, 90 days after notice by the Los Angeles County's Child Support Services Department) unless COUNTY determines that the public health and safety require a shorter period of time in which FRANCHISEE must remedy the Breach. COUNTY will hold a conference with FRANCHISEE within 30 days of FRANCHISEE request. FRANCHISEE may request additional time to correct the Breach, but COUNTY may accept or reject that request in its sole discretion.

**B. FRANCHISEE Default.** The following constitute FRANCHISEE Defaults:

1. **Fraud, Misrepresentation, or Breach of Warranties.** FRANCHISEE committed any fraud or deceit or made any intentional misrepresentations in the procurement of this AGREEMENT; commits, or attempts to commit, any fraud or deceit upon COUNTY after the Execution Date of this AGREEMENT; makes any material misrepresentations or breaches any warranties in this AGREEMENT (including Exhibit 20H); or includes any materially false or misleading statement, representation, or warranty in any Record or Report.

2. **Insolvency or Bankruptcy.** FRANCHISEE becomes insolvent or files a voluntary petition to declare bankruptcy; a receiver or trust is appointed for FRANCHISEE; or FRANCHISEE executes an assignment for the benefit of creditors. FRANCHISEE is deemed to be "insolvent" if it has ceased to pay its debts in the ordinary course of business or cannot pay its debts as they become due, whether or not FRANCHISEE has committed an act of bankruptcy and whether or not FRANCHISEE is insolvent within the meaning of the Federal bankruptcy law or not.
3. **Failure to Provide Insurance, Bonds.** FRANCHISEE does not provide or maintain in full force and effect all insurance and other assurances of its Performance Obligations, including as required under Sections 14 and 15, or provide evidence of insurance coverage acceptable to COUNTY.
4. **Material or Repeated Violation of Applicable Law.**
  - a. Any material Violation of Applicable Law that is not cured to the satisfaction of COUNTY or applicable Regulatory Agency within 30 days of the notice, assessment, or determination of that Violation of Applicable Law; or
  - b. Any repeated Violation of Applicable Law.

If FRANCHISEE is entitled to and does contest a notice, assessment, or determination of Violation of Applicable Law by proceedings conducted in good faith, no FRANCHISEE Default will be deemed to have occurred until a final decision adverse to FRANCHISEE is entered.
5. **Failure to Collect for Seven Days.** Unless due to Uncontrollable Circumstances, FRANCHISEE fails to Collect for a period of either:
  - a. With respect to Task 1, seven consecutive days; or
  - b. With respect to Task 1, seven days in the aggregate from the Execution Date.
  - c. With respect to Task 2, seven days any Contract Year.
6. **Failure to Collect for More Than Seven Days.** With respect to Task 1, Whether or not due to Uncontrollable Circumstances, FRANCHISEE fails to Collect for a period of more than seven consecutive days.
7. **Payments to County.** FRANCHISEE does not timely and fully make any payment to COUNTY required under this AGREEMENT (including payment of Franchise Fees, damages or County's Reimbursement Costs):



- a. More than twice in any Calendar Year;
- b. Within 30 days of Notice by COUNTY that payment is due; or
- c. With respect to payment of a shortfall in Franchise Fees, within 30 days of Notice in accordance with Section 11C.

8. **Specified FRANCHISEE Defaults.** FRANCHISEE Breaches any of the following Sections:

- a. Section 22B Child Support Compliance Program (if not cured within 90 days of Notice given as described in Section 17A);
- b. Section 23D1 Compliance with ILO Convention Concerning Minimum Age for Employment;
- c. Section 23E Nondiscrimination;
- d. Section 23G County Lobbyist Ordinance; or
- e. Subsection F of this Section, Termination for Breach of Warranty to Maintain Compliance with County's Defaulted Property Tax Reduction Program.

9. **Uncured or Repeated Breach.** FRANCHISEE does not timely cure any other Breach in accordance with subsection A or FRANCHISEE Breaches any of its Performance Obligations repeatedly or habitually, as determined by the Director in his or her sole discretion, whether or not a specific instance of failure or refusal has been previously cured. However, this FRANCHISEE Default will be excused for a period of seven days beginning on the first occurrence of that FRANCHISEE Default in the event of Uncontrollable Circumstances, if the event materially affects FRANCHISEE'S ability to provide Franchise/County Services. Nevertheless, if Uncontrollable Circumstances interrupt Collection, Customers may take actions and COUNTY may exercise any of its rights under Section 16. This FRANCHISEE Default will not be excused if it continues for a period of more than seven days beginning on the first occurrence of this FRANCHISEE Default.

10. **Improper Consideration.** COUNTY finds that consideration, in any form, was offered or given by FRANCHISEE either directly or through an intermediary to any COUNTY officer, employee, or agent with the intent of securing this AGREEMENT or securing favorable treatment with respect to the award, amendment, or extension of this AGREEMENT or the making of any determinations with respect to FRANCHISEE'S performance under this AGREEMENT where that consideration may take

any form including cash; discounts; service; or the provision of travel, entertainment, or tangible gifts.

11. **Default Under Guaranty.** A default exists under the guaranty, if any, provided in accordance with Section 13A3b.

**C. Notice of FRANCHISEE Default.**

1. **Effective Immediately.** The COUNTY may terminate this AGREEMENT effective immediately after Notice by COUNTY to FRANCHISEE of any of the following FRANCHISEE Defaults:
  - a. Any FRANCHISEE Default, if the COUNTY determines that protection of public health and safety requires immediate suspension or termination;
  - b. A FRANCHISEE Default in subsection B3 (failure to provide insurance, bonds);
  - c. A FRANCHISEE Default described in subsection B4 (material or repeated Violation of Applicable Law, including the County Lobbyist Ordinance) or as identified in Exhibit 3A2;
  - d. A FRANCHISEE Default described in subsection B10 (improper consideration).
2. **Effective 30 days.** The COUNTY may terminate this AGREEMENT effective 30 days after Notice by COUNTY to FRANCHISEE of any FRANCHISEE Default other than the FRANCHISEE Defaults listed in this subsection C1 or termination events listed in subsection D.
3. **Effective 15 days.** The COUNTY may terminate this AGREEMENT effective 15 days after Notice by COUNTY to FRANCHISEE of COUNTY'S right to terminate this AGREEMENT in the event of Criminal Activity in accordance with Section 20J and subsection D2c.
4. **Effective 10 days.** The COUNTY may terminate this AGREEMENT effective 10 days after Notice given by COUNTY for failure to comply with the County Defaulted Property Tax Reduction Program in accordance subsection F of this Section.

**D. Suspension or Termination of AGREEMENT.**

1. **Suspension.** Together with any other rights COUNTY may have under this AGREEMENT (including the right to use and possession of Service Assets under Section 16), the Director may suspend this AGREEMENT, in

whole or in part, for a period of 45 days effective immediately upon Notice to FRANCHISEE in any of the following events:

- a. A FRANCHISEE Default;
- b. COUNTY exercise of its right to suspend this AGREEMENT under Section 20J in the event of Criminal Activity of FRANCHISEE; or
- c. any other FRANCHISEE Default in Exhibit 3A or 3A2.

During that 45-day period FRANCHISEE shall have the opportunity to demonstrate to COUNTY that FRANCHISEE can once again fully perform Franchise/County Services in accordance with this AGREEMENT. If FRANCHISEE so demonstrates, COUNTY'S right to suspend this AGREEMENT will cease and FRANCHISEE may resume providing services. If FRANCHISEE does not so demonstrate, COUNTY may terminate this AGREEMENT and exercise any other rights and remedies under this AGREEMENT.

## 2. **Termination.**

- a. ***FRANCHISEE Default.*** The COUNTY may terminate this AGREEMENT, in whole or in part, upon the occurrence of a FRANCHISEE Default and Notice to FRANCHISEE at the times provided in subsection C.
- b. ***Failure to Agree on Rate Adjustments.*** Notwithstanding the foregoing, the COUNTY may terminate this AGREEMENT on six months' Notice if in the judgment of the Director, COUNTY and FRANCHISEE are unable to reach satisfactory agreement to adjust Rates in accordance with item c of Section A1 of Exhibit 10 for a Change in Law or changes in Service Specifications or Service Standards after good faith negotiations during a period of at least 30 days.
- c. ***Criminal Activity.*** The COUNTY may terminate this AGREEMENT upon Notice required in Section 17C if COUNTY exercises its right to terminate this AGREEMENT under Section 20J in the event of Criminal Activity of FRANCHISEE.
- d. ***Annexation of Service Area.*** Upon request of COUNTY, FRANCHISEE shall use Reasonable Business Efforts to cooperate with a local agency with respect to providing Franchise/County Services or MSW Management Services, in the following events:

- (i) the Service Area is annexed by that local agency in accordance with applicable laws, and
- (ii) the Parties agree to amend this AGREEMENT to delete the annexed area from the definition of "Service Area".

**E. FRANCHISEE Responsibility and Debarment.**

1. **Child Support Compliance Program.** COUNTY may debar FRANCHISEE from doing business with COUNTY if COUNTY determines after giving notice and conducting a hearing in accordance with Chapter 2.202 of the County Code, which shall apply to this AGREEMENT, that FRANCHISEE (or any of its Subcontractors) is not responsible within the meaning of Chapter 2.202 and in accordance with COUNTY'S policy to do business with responsible contractors; FRANCHISEE'S failure to comply with the Child Support Compliance Program, as provided in Section 22B, may be cause for debarment in accordance with Section 2.200.020 of the County Code.
2. **County Defaulted Property Tax Reduction Program.** COUNTY may debar FRANCHISEE from doing business with COUNTY as provided in subsection F of this Section.

**F. TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY DEFAULTED PROPERTY TAX REDUCTION PROGRAM.**

1. **FRANCHISEE Default.** Failure of FRANCHISEE to maintain compliance with the requirements set forth in Section 22C "COMPLIANCE WITH APPLICABLE LAW/County Defaulted Property Tax Reduction Program" shall constitute a FRANCHISEE Default under subsection B8e of this Section.
2. **Termination/Debarment.** Without limiting the rights and remedies available to COUNTY under any other provision of this AGREEMENT, failure of FRANCHISEE to cure that FRANCHISEE Default within 10 days of Notice shall be grounds upon which COUNTY may terminate this AGREEMENT under subsection D2a of this Section and/or pursue debarment of FRANCHISEE pursuant to County Code Chapter 2.206 and subsection E2 of this Section.

**SECTION 18—ENFORCEMENT OF AGREEMENT**

- A. As Provided by Law.** Either Party may avail itself of any remedy available under law.

**B. County's Additional Remedies.** Without limiting COUNTY'S remedies otherwise available under this AGREEMENT in law or equity, at its option, COUNTY may enforce a Breach in any or all of the following ways:

1. Execute alternative agreements for MSW Management Services in the event of FRANCHISEE Default;
2. Seek to obtain injunctive relief and/or damages;
3. Assess damages under subsection D, and
4. With respect to a FRANCHISEE Default under Section 17B3 (Failure to Provide Insurance, Bonds), immediately withhold payments due FRANCHISEE.

**C. Injunctive Relief.** FRANCHISEE acknowledges that COUNTY'S remedy of damages for a Breach may be inadequate for reasons including the following:

1. The urgency of timely, continuous and high-quality Franchise/County Services, including Collection, transportation, and/or transfer for Disposal of wastes which constitute a threat to public health;
2. The long time and significant commitment of money and personnel and elected officials (both COUNTY staff and private consultants, including engineers, procurement counsel, citizens, public agency colleagues, and elected COUNTY officials) invested in this AGREEMENT, including developing COUNTY'S Option Analysis dated February 2001 and implementing its recommendations through numerous meetings of a Working Group comprised of Solid Waste industry representatives from small and large businesses, requesting and evaluating qualifications and proposals for this AGREEMENT (including FRANCHISEE'S), reviewing and commenting on documentation submitted by FRANCHISEE in conjunction with execution of this AGREEMENT, and review of FRANCHISEE Documentation;
3. The time and investment of personnel and elected officials described in the preceding item 2 to develop alternative Solid Waste services comparable to Franchise/County Services for the price provided under this AGREEMENT, and to negotiate new agreements therefore; and
4. COUNTY'S reliance on FRANCHISEE'S technical Solid Waste management expertise.

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

**D. Recovery of Damages.**

1. **Compensatory.** COUNTY may seek compensatory damages, including the following:
  - a. Amounts equal to any Franchise Fees, liquidated damages, or other amounts that FRANCHISEE has previously paid to COUNTY but are subsequently recovered from COUNTY by a trustee in bankruptcy as preferential payments or otherwise;
  - b. If COUNTY terminates this AGREEMENT for a FRANCHISEE Default or in the event of Criminal Activity in accordance with Section 17D2a or c, respectively, costs incurred by COUNTY to provide or reprocur MSW Management Services in lieu of Franchise/County Services;
  - c. If COUNTY terminates this AGREEMENT before expiration for a FRANCHISEE Default or in the event of Criminal Activity in accordance with Section 17D2a or c, respectively, costs of MSW Management Services provided or reprocured in lieu of Franchise/County Services in excess of Customer Service Charges/County Service Charges for the balance of the Term remaining if this AGREEMENT had not been terminated; and
  - d. In the event of FRANCHISEE DEFAULT under 17B3 (Failure to Provide Insurance, Bond), in COUNTY'S sole discretion, obtain damages resulting from that DEFAULT.

COUNTY may draw upon the performance bond, letter of credit, certificate of deposit, or other form of performance assurance provided by FRANCHISEE in accordance with Section 15 to pay compensatory damages.

For FRANCHISEE'S misrepresentation regarding contingent fees in Exhibit 20H, in addition to terminating this AGREEMENT, COUNTY may recover from FRANCHISEE the full amount of the proscribed commission, percentage, brokerage, or contingent fee.

2. **Liquidated.** COUNTY may seek liquidated damages listed in Exhibit 18D2 and Exhibit 3A2.

The Parties have set these liquidated damages in recognition of the following circumstances existing at the time of the formation of this AGREEMENT:

- COUNTY incurred considerable time and expense procuring this AGREEMENT in order to secure an improved level of Collection quality and increased Customer satisfaction. Therefore, consistent and reliable Franchise/County Services are of the utmost importance to COUNTY and Customers.
- COUNTY has considered and relied on FRANCHISEE'S representations as to its quality of service commitment in entering into this AGREEMENT, and FRANCHISEE'S Breach represents a loss of bargain to COUNTY. FRANCHISEE is experienced in providing services like Franchise Services and County Services.
- Quantified standards of performance are necessary and appropriate to ensure quality, consistent, and reliable Collection, and if FRANCHISEE fails to meet its Performance Obligations, COUNTY will suffer damages (including its Customers' inconvenience; anxiety, frustration, potential political pressure, criticism, and complaint by Customers; lost Supervisors and staff time; deprivation of the benefits of this AGREEMENT and loss of bargain) in subjective ways and in varying degrees of intensity that are incapable of measurement in precise monetary terms, and that it is and will be impracticable and extremely difficult to ascertain and determine the value thereof. It would be difficult for the COUNTY to prove its loss resulting from FRANCHISEE'S Breaches and nonperformance or untimely, negligent, or inadequate performance of County Services.
- The AGREEMENT contains a reasonable statement of Franchise/County Services in order that the Parties will realize their expectations. COUNTY expects that FRANCHISEE will perform Franchise/County Services with due care in a workmanlike, competent, timely, and cost-efficient manner. FRANCHISEE expects to realize a profit by performing Franchise/County Services in accordance with the terms and conditions of the AGREEMENT for County Service Charges.
- In addition, in the event of Breach or FRANCHISEE Default, urgency of protecting public health and safety may necessitate that COUNTY enter into emergency or short-term arrangements for services without competitive procurement at prices substantially greater than under this AGREEMENT, and the monetary loss resulting there from is impossible to precisely quantify. Time is of the essence.
- The FRANCHISEE accepts COUNTY'S assessment of liquidated damages for certain Breaches as part of the consideration

FRANCHISEE offers to the COUNTY for the award of this AGREEMENT to FRANCHISEE.

- Lastly, termination of this AGREEMENT for FRANCHISEE Default and other remedies provided in this AGREEMENT are, at best, a means of future correction and not remedies that make COUNTY whole for past Breaches and FRANCHISEE Defaults.

Therefore, the Parties agree that the liquidated damages listed in Exhibit 18D2 represent a reasonable estimate and fair approximation of the amount of damages COUNTY would incur as a consequence of FRANCHISEE'S Breach corresponding to each item of specified liquidated damages, considering all of the circumstances existing on the date of this AGREEMENT, including the relationship of the sums to the range of harm to COUNTY that reasonably could be anticipated and anticipation that proof of actual damages would be costly or inconvenient.

In signing this AGREEMENT, each Party specifically confirms the following:

- the accuracy of the statements made above, and
- the fact that each Party had ample opportunity to consult with legal counsel and obtain an explanation of this liquidated damage provision at the time that this AGREEMENT was made.

- E. County's Reimbursement Costs.** FRANCHISEE shall pay COUNTY promptly upon request, COUNTY'S Reimbursement Costs of conducting a nonroutine investigation of any alleged Breach, when appropriate in judgment of the Director. FRANCHISEE shall reimburse COUNTY for COUNTY'S Reimbursement Costs incurred as a consequence of FRANCHISEE'S Breach, including failure to maintain insurance.
- F. Waiver.** No waiver by COUNTY of any breach of any provision of this AGREEMENT constitutes a waiver of any other breach of that provision. Failure of COUNTY to enforce at anytime, or from time to time, any provision of this AGREEMENT will not be construed as a waiver thereof. The rights and remedies set forth in this subsection F are exclusive and are in addition to any other rights and remedies provided by law or under this AGREEMENT.

## **SECTION 19—TRANSFER OF FRANCHISE**

- A. COUNTY Consent.** FRANCHISEE may not Transfer this AGREEMENT, the Franchise granted under it, or any rights or duties under it, in whole or in part, and whether voluntarily or involuntarily, without COUNTY'S prior written consent,



the exercise of which is in COUNTY'S sole discretion. Any Transfer or attempted Transfer of this AGREEMENT, the franchise granted under it or any rights and duties under it, made without COUNTY'S consent, at COUNTY'S option, will be null and void. COUNTY'S consent must be a written amendment to this AGREEMENT that is formally approved by the Board of Supervisors and executed by (1) the FRANCHISEE and (2) the Board, or if delegated by the Board, the Director. Any Transfer, with or without consideration for any reason whatsoever without COUNTY'S (or Director's, if applicable) express prior written approval, shall be a Breach of this AGREEMENT, which may result in the termination of this AGREEMENT. In the event of such termination, COUNTY shall be entitled to pursue the same remedies against FRANCHISEE as it could pursue in the event of default by FRANCHISEE. The COUNTY may condition consent on payment of amounts specified in Exhibit 3A in consideration for the value of good will and intangibles that accrued to COUNTY and Customers in the award of this AGREEMENT to FRANCHISEE.

**B. FRANCHISEE Demonstration.** Without obligating the Director to give consent, FRANCHISEE shall demonstrate to the Director's satisfaction that the proposed transferee has the operational and financial ability to satisfy FRANCHISEE'S Performance Obligations.

**C. Payment of County's Transfer Costs.**

1. **Transfer Deposit.** FRANCHISEE must make any request for the Director's consent to a Transfer in the manner prescribed by the Director. FRANCHISEE shall pay COUNTY a Transfer Deposit before the Director's consideration of FRANCHISEE'S request. COUNTY will return to FRANCHISEE any amounts paid in excess of the Transfer Costs incurred.

2. **Additional Transfer Costs.** In the course of COUNTY'S processing FRANCHISEE'S request for Transfer, FRANCHISEE shall further pay COUNTY its additional Transfer Costs in excess of the Transfer Deposit within 30 days of the Director's request therefore, whether or not the Director approves the Transfer. At FRANCHISEE'S request, COUNTY will provide FRANCHISEE access to all records evidencing the Transfer Costs incurred.

**D. County's Reimbursement Costs of Enforcement.** In addition, Franchise shall 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 therefore.

Any payment by COUNTY to any approved delegate or transferee on any claim under this AGREEMENT shall be deductible, at COUNTY's sole discretion, against the claims which FRANCHISEE may have against COUNTY.

## SECTION 20—GENERAL PROVISIONS

- A. Exercise of Options.** Parties will exercise any approval, disapproval, consent, judgment, option, discretion, election, opinion, or choice under this AGREEMENT, make a requirement under this AGREEMENT or interpret this AGREEMENT ("**Discretionary Action**") reasonably. Any mediator, arbitrator, or court must find the Party's exercise to be reasonable. Recognizing the essential public health and safety protections this AGREEMENT serves, where this AGREEMENT specifically provides that the exercise of any Discretionary Action is in either Party's independent, sole, exclusive or absolute discretion, control or judgment, the other Party will not question or challenge the first Party's exercise thereof. Parties will nevertheless exercise their rights and remedies in good faith in accordance with Applicable Law.
- B. Independent Status.** FRANCHISEE is an independent entity and not an officer, agent, servant, or employee of COUNTY. This AGREEMENT is between COUNTY and FRANCHISEE and is not intended, and will not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association between COUNTY and FRANCHISEE, including for purposes of workers' compensation. FRANCHISEE is solely responsible for the acts and omissions of its officers, agents, employees, and any Subcontractors. Nothing in this AGREEMENT will be construed as creating an arrangement for handling Unpermitted Waste. FRANCHISEE bears the sole responsibility and liability for furnishing workers' compensation and all other benefits required by law to any individual for injuries arising from or connected with Franchise/County Services performed on behalf of FRANCHISEE under this AGREEMENT.
- C. Damage to Property and Personal Injury.** FRANCHISEE shall not cause damage to property or personal injury. At its sole expense, FRANCHISEE shall repair or replace to the satisfaction of the owner of damaged property, any physical damage to public or private property and shall reimburse to the satisfaction of an injured individual, the cost of any personal injury caused by the negligent or willful acts or omissions of FRANCHISEE. COUNTY may refer all complaints of damage or injury to FRANCHISEE as a matter within FRANCHISEE'S sole responsibility. Notwithstanding any Rights COUNTY has for breach of contract, disputes between FRANCHISEE and Persons as to damage to private pavement or other property or to injury are civil matters between FRANCHISEE and that Person, and the Person may institute suits with respect thereto as allowed by law.
- D. Venue.** In the event of litigation between the Parties, venue in State of California trial courts will lie exclusively in the COUNTY. In the event of litigation in a United States District Court, exclusive venue will lie in the Central District of California.

**E. Changes and Amendments.**

1. **Changes following Notice.** The following changes in this AGREEMENT after the Execution Date will be effective after Notice from the Director to FRANCHISEE (or with respect to certain changes referenced in item b, from FRANCHISEE to the Director, in accordance with Section 3D2a) as consented to by FRANCHISEE:
  - a. Changes in the scope of Franchise/County Services and Service Specifications and minimum Service Standards that do not result in a Rate adjustment in accordance with Section 3C or change in the County Service Fee;
  - b. Changes to Exhibit 3D FRANCHISEE Documentation;
  - c. Changes to Exhibit 20G Authorized Representative of Director;
  - d. Immaterial changes to immaterial Performance Obligations.
2. **Written Amendments.** The following changes in this AGREEMENT after the Execution Date will be effective only upon execution of a written amendment to this AGREEMENT, including warranties by the Parties in accordance with Section 24B:
  - a. Changes in the scope of Franchise/County Services and Service Standards that result in a Rate adjustment in accordance with Section 3C or change in County Service Fee; and
  - b. Material changes to material Performance Obligations (such as the period of performance, payments, or any material term or condition included in this AGREEMENT).

**F. Notices.** All Notices required or permitted to be given under this AGREEMENT must be in writing and must be personally delivered or sent by telecopier or registered or certified mail, return receipt requested. All Notices to COUNTY must be addressed to the Director as provided in Exhibit 20G. All Notices to FRANCHISEE must be addressed to the authorized representative of FRANCHISEE named in FRANCHISEE Documentation (who will be FRANCHISEE'S primary contact under this AGREEMENT), except for Notices of suspension or termination of this AGREEMENT, which Notices may be personally delivered to any individual whose actual knowledge of suspension or termination would be sufficient notice to FRANCHISEE, including:

1. An individual, if FRANCHISEE is a sole proprietor;
2. Copartner, if FRANCHISEE is a partnership; or

3. The president, vice president, secretary, or general manager, if FRANCHISEE is a corporation.

Notice is deemed effective:

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

**G. Authorized Representative of Director.** COUNTY authorizes the Director to make requests or requirements of FRANCHISEE or give approvals under this AGREEMENT, excluding consents to Transfer or written amendments of this AGREEMENT. The authorized representative of the Director named in Exhibit 20G is FRANCHISEE'S primary contact under this AGREEMENT and can be contacted as provided in Exhibit 20G. FRANCHISEE shall give that authorized representative a copy of all Notices in accordance with Section 20F. From time to time, COUNTY may change Exhibit 20G by Notice to FRANCHISEE.

**H. Authority and Representations; COUNTY Disclaimer.**

1. **COUNTY.** COUNTY represents and disclaims as follows:
  - a. **Status.** COUNTY is a political subdivision of the State of California.
  - b. **Authority and Authorization.** COUNTY has full legal right, power, and authority to execute and deliver this AGREEMENT and perform its obligations under this AGREEMENT. This AGREEMENT has been duly executed and delivered by COUNTY and constitutes a legal, valid, and binding obligation of COUNTY enforceable against COUNTY in accordance with its terms.
  - c. **No Warranty Regarding Waste Characterization.** COUNTY makes no representations or warranties with respect to the waste characterization within the COUNTY, any waste disposal characterization study, or projections by material type with respect to waste in the COUNTY. COUNTY expressly disclaims any representations and warranties, either express or implied, as to the merchantability or fitness for any particular purpose of Solid Waste or any portion thereof.
2. **FRANCHISEE.** FRANCHISEE represents and warrants as provided in Exhibit 20H.

I. **Limitation on Subscription Orders.** With respect to Task 1 only, FRANCHISEE shall limit the terms of Subscription Orders to no longer than the remaining period of the Term. FRANCHISEE shall give each Customer the option to terminate its Subscription Order without cause on 90-days notice. FRANCHISEE shall also give each Customer the right to terminate service immediately in the event of emergency in accordance with Section 16A, or within 30 days if FRANCHISEE:

1. Fails to provide Franchise Services in accordance with the Terms of this AGREEMENT (including missed Collections, failure to timely repair or replace Carts, or failure to provide Collection or Recyclables) or the Subscription Order; or
2. Bills the Customer for amounts not provided in the Subscription Order or in excess of Rates.

FRANCHISEE may not include in the terms of Subscription Orders any automatic renewals or extensions, colloquially referred to as "evergreen" clauses, which obligate a Customer to take affirmative, prescribed action (such as written notice within a specified time period before the stated expiration of the Subscription Order) in order to terminate the Subscription Order.

J. **Criminal Activity.**

1. **Notice.** FRANCHISEE shall immediately give Notice to COUNTY on the occurrence of any convictions of a Criminal Activity or any pleas of "guilty," "nolo contendere," or "no contest" to a Criminal Activity with respect to FRANCHISEE or any of its FRANCHISEE Managers (except for FRANCHISEE Managers in a Position of Influence). FRANCHISEE shall use Reasonable Business Efforts to immediately give Notice to COUNTY on the occurrence of any convictions or any pleas with respect to FRANCHISEE or any of its FRANCHISEE Managers in a Position of Influence, and any of its FRANCHISEE employees who come in direct contact with the residents.
2. **FRANCHISEE Cure.** Upon the occurrence of any conviction or any plea described in subsection J1, FRANCHISEE immediately shall do or cause to be done both of the following:
  - a. Terminate from employment or remove from office any offending FRANCHISEE Manager who is an individual, or with respect to FRANCHISEE or an Affiliate, the individual or individuals responsible for the Criminal Activity; and

- b. Eliminate the participation in management of FRANCHISEE by that FRANCHISEE Manager who is an individual or, with respect to FRANCHISEE or an Affiliate, the individual or individuals responsible for the Criminal Activity from any Position of Influence.
- 3. **COUNTY Remedies.** COUNTY may suspend or terminate this AGREEMENT or may impose other sanctions (which may include financial sanctions or any other condition deemed appropriate short of suspension or termination), as it deems proper, in either or both of the following events:
  - a. FRANCHISEE or any Affiliate fails to effectuate the cure described in subsection J2; or
  - b. The Criminal Activity is related to this AGREEMENT or occurring in the COUNTY.
- 4. **Limitations on FRANCHISEE Manager.** No FRANCHISEE Manager may have previously been convicted of a Criminal Activity or any plea of "guilty," "*nolo contendere*," or "no contest" to a Criminal Activity.
- 5. **FRANCHISEE Documentation.** FRANCHISEE shall list all FRANCHISEE Managers in FRANCHISEE Documentation.
- K. **Notice of Delay.** Within one day of learning that any actual or potential circumstance is delaying or threatening to delay the timely satisfaction of a Performance Obligation, FRANCHISEE shall give COUNTY a Notice of the delay, including all relevant information, such as identifying the particular Performance Obligation, circumstance, and duration of the delay, and whether or not FRANCHISEE believes that the delay is due to Uncontrollable Circumstances.
- L. **COUNTY'S Quality Assurance Plan.** COUNTY or its agent will evaluate FRANCHISEE'S performance under this AGREEMENT on not less than an annual basis. The evaluation will include assessing FRANCHISEE'S compliance with all terms and performance standards of this AGREEMENT. FRANCHISEE deficiencies that COUNTY determines are severe or continuing and that may place performance of this AGREEMENT in jeopardy, if not corrected within 30 days after FRANCHISEE'S receipt of the evaluation, will be reported to the Board of Supervisors. The report will include improvement/corrective action measures taken by COUNTY and FRANCHISEE. If improvement does not occur consistent with the corrective action measures within 30 days after FRANCHISEE'S receipt of the report, COUNTY may terminate this AGREEMENT or impose other penalties as specified in this AGREEMENT.

## SECTION 21—DEFINITIONS AND INTERPRETATION OF AGREEMENT

A. **Definitions.** Defined words in this AGREEMENT have the meanings given in Exhibit 21 and in some instances within Sections 1 through 24.

B. **Interpretation and Construction.**

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. (For example, reference to a defined "Solid Waste Facility" may include reference to more than one facility identified by FRANCHISEE in FRANCHISEE Documentation.)
2. **Headings; Font.** Any captions or headings following the Exhibit, Attachment, Section, subsection, paragraph, and other attachments and subdivisions of this AGREEMENT that precede the operative text of this AGREEMENT are for convenience of reference only and do not control or affect the scope, intent, meaning, construction, interpretation, or effect of this AGREEMENT. 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 AGREEMENT.
3. **References to Parts.** References to Sections refer to Sections of this AGREEMENT, unless specified otherwise. References to Exhibits and Attachments refer to Exhibits and Attachments attached to this AGREEMENT. Reference to "subsections" refers to the subsections contained in the same Section in which the reference occurs, unless otherwise referenced.
4. **Examples.** Examples are for purpose of illustration only. If any example is ambiguous, inconsistent, or conflicts with the text that it illustrates, the text governs.
5. **Specifics No Limitation on Generalities.** The mention of any specific duty or liability imposed on FRANCHISEE may not be construed as a limitation or restriction of any general liability or duty imposed on FRANCHISEE by this AGREEMENT or Applicable Law.
6. **Exhibits.** The Exhibits to this AGREEMENT, including their attachments, are part of this AGREEMENT to the same extent and effect as if included in the text of Sections 1 through 24.

**7. Inconsistencies and Conflicts.**

- a. If any provision of Exhibit 3A or 3A2 is inconsistent or conflicts with Sections 1 through 24 of this AGREEMENT or any other Exhibits or Attachments to this AGREEMENT, then the provisions of Exhibit 3A and 3A2 will govern, and
- b. If any provision of Sections 1 through 24 of this AGREEMENT is inconsistent or conflicts with any Exhibit (other than Exhibit 3A or 3A2), including FRANCHISEE Documentation, then the provision of Sections 1 through 24 of this AGREEMENT will govern unless the Director determines that it is contrary to the interest of the Parties.

**8. References to Task 1 and Task 2.**

Unless specifically indicated otherwise at the beginning of a Section or subsection, this AGREEMENT applies to both Task 1 and Task 2. However, Exhibit 3A only applies to Task 1, and Exhibit 3A2 only applies to Task 2.

- C. **Integration.** This AGREEMENT contains the entire agreement between the Parties with respect to the rights and responsibilities of the Parties under this AGREEMENT. This AGREEMENT completely and fully supersedes all prior oral and written understandings and agreements between the Parties with respect to those rights and responsibilities.
- D. **Governing Law.** This AGREEMENT is governed by, and construed and enforced in accordance with the law of the State of California, without giving effect to the State's principles of conflicts of laws.
- E. **Severability.** If any clause, sentence, provision, subsection, or Section of this AGREEMENT or Exhibit to this AGREEMENT (an "Agreement Provision") is ruled illegal, invalid, nonbinding, or unenforceable by any court of competent jurisdiction, then the Parties will take the following actions:
  - 1. Promptly meet and negotiate a substitute for the Agreement Provision and any related amendments, deletions, or additions to other provisions of this AGREEMENT, which together effect the Parties' original intent to the greatest extent allowable under Applicable Law; and
  - 2. If necessary or desirable to accomplish preceding item 1, apply to the court that declared the invalidity for a judicial construction of the substituted Agreement Provision and any amendments, deletions, or additions to this AGREEMENT. Within ten days of COUNTY's request, FRANCHISEE shall pay COUNTY an amount equal to the Direct Costs of the application or other amount provided in Exhibit 3A.



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

- F. **Interpretation.** This AGREEMENT will be interpreted and construed neither for nor against either Party, regardless of the degree to which either Party participated in its drafting. FRANCHISEE acknowledges that it determined to provide Franchise/County Services in the Service Area and to execute this AGREEMENT upon FRANCHISEE'S own choice and initiative. Each Party represents and warrants that it and its counsel have reviewed this AGREEMENT, and the Parties agree that no provision in this AGREEMENT will be construed against the drafting Party.

## SECTION 22—COMPLIANCE WITH LAWS AND REGULATIONS

### A. **Applicable Law.**

1. **Compliance.** FRANCHISEE shall secure and maintain all permits, and comply with all Applicable Laws, including (as required by 13 CCR 2021.1) all applicable air pollution control laws such as Diesel Particulate Matter Control Measure of on-road, heavy-duty, diesel-fueled Residential and Commercial Solid Waste Collection Vehicles set forth in 13 CCR 2020 *et seq.*, and the Property Tax Reduction Ordinance. No obligation in this AGREEMENT may be construed to relieve FRANCHISEE of any obligations imposed by Applicable Law.
2. **Referenced Provisions.** References in this AGREEMENT to particular provisions or requirements of Applicable Law may not be construed to limit FRANCHISEE'S obligation to comply with all provisions of Applicable Law. Those references are intended to facilitate FRANCHISEE'S satisfaction of its Performance Obligations and COUNTY'S administration and specific enforcement of this AGREEMENT and may not be construed to constitute lack of obligation to comply with other provisions or requirements of Applicable Law not specifically referred to or cited in this AGREEMENT. If any provision of this AGREEMENT is more stringent than Applicable Law, FRANCHISEE shall comply with that provision.
3. **Fines and Penalties.** FRANCHISEE is solely liable for all fines and penalties that may be imposed on FRANCHISEE or may be due to FRANCHISEE'S actions, including fines and penalties that are the result of FRANCHISEE'S Violation of Applicable Law (including Permits). FRANCHISEE shall not seek reimbursement from COUNTY or Customers for any fines or penalties.

4. **Contractual Obligations.** Provisions of Applicable Law are incorporated in this AGREEMENT by reference as if set forth fully in this AGREEMENT as contractual obligations of FRANCHISEE to COUNTY.

a. ***Breaches.*** In addition to or in lieu of prosecuting violations of those provisions as misdemeanors, infractions, or otherwise in the manner provided under Applicable Law, COUNTY may enforce those provisions in the same manner as it may enforce FRANCHISEE'S other contractual obligations under this AGREEMENT, including specific performance and as Breaches subject to cure in accordance with Section 17A. However, COUNTY has no obligation to enforce any Applicable Law.

b. ***Violation.*** Violation of Applicable Law is a FRANCHISEE Default subject to contest as provided in item 4 of Section 17B.

5. **County's Protection of Public Safety, Health, and Welfare.** FRANCHISEE acknowledges that COUNTY is authorized to make all necessary and reasonable rules and regulations regarding all aspects of MSW Management Services to protect the public's health, safety, and welfare.

No provision in this AGREEMENT is deemed to limit the power of COUNTY to regulate FRANCHISEE or to take any action as COUNTY deems appropriate or necessary in COUNTY'S sole and absolute discretion, under COUNTY'S police power, including to protect the public's safety, health, and welfare.

6. **Compliance with Applicable Law of County.** FRANCHISEE shall comply with Applicable Law of COUNTY subject to possible adjustments in the Rates in the event of Changes in Law in accordance with Section A1 of Exhibit 10

B. **County Child Support Compliance Program.** As required by COUNTY'S Child Support Compliance Program (County Code Chapter 2.200), FRANCHISEE shall fully comply with employment and wage reporting requirements under the Federal Social Security Act (42 U.S.C. Section 653(a) and California Unemployment Insurance Code Section 1088.5. FRANCHISEE shall implement lawfully served wage and earnings withholding orders or COUNTY Child Support Services Department notices of wage earnings assignment for child, family, or spousal support issued in accordance with California Code of Civil Procedure Section 706.031 and California Family Code Section 5246(b).

C. **County Defaulted Property Tax Reduction Program.** FRANCHISEE acknowledges that COUNTY has established a goal of ensuring that all individuals and businesses that benefit financially from COUNTY through

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 FRANCHISEE qualifies for an exemption or exclusion, FRANCHISEE warrants and certifies to the best of its knowledge under Exhibit 20H, that as of the Execution Date it is in compliance with County Code Chapter 2.206.

Unless FRANCHISEE qualifies for an exemption or exclusion, FRANCHISEE shall comply with Los Angeles County Code Chapter 2.206.

## **SECTION 23--LABOR-RELATED PROVISIONS REQUIRED IN COUNTY CONTRACTS**

**A. Labor Code.** FRANCHISEE and its agents and employees are bound by and shall comply with all applicable provisions of the California Labor Code as well as all other Applicable Laws related to labor. By and through its execution of this AGREEMENT, FRANCHISEE represents and warrants that it is aware of and understands the provisions of California Labor Code Section 3700, which requires every employer to be insured against liability of Workers' Compensation or to undertake self-insurance in accordance with those provisions before commencing the performance of work under this AGREEMENT and agrees to fully comply with those provisions.

1. **Consideration of GAIN/GROW Participants for Employment.** Should FRANCHISEE require additional or replacement personnel after the Execution Date, FRANCHISEE shall give consideration for any of those employment openings to participants in COUNTY'S Department of Public Social Services' Greater Avenues for Independence (GAIN) Program or General Relief Opportunities for Work (GROW) Program who meet FRANCHISEE'S minimum qualifications for the open position. COUNTY will refer GAIN/GROW participants, by job category, to FRANCHISEE. For this purpose, "consideration" means that FRANCHISEE shall interview qualified candidates. If both laid-off County employees and GAIN and GROW participants in categories identified by COUNTY are available for hiring, FRANCHISEE shall give COUNTY employees first priority.

### **B. Notices to Employees.**

1. **Regarding the Federal Earned Income Credit.** FRANCHISEE shall notify its employees, and shall require each Subcontractor performing Franchise/County Services to notify its employees, that they may be eligible for the Federal Earned Income Credit under the Federal income tax laws. The notice must be provided in accordance with the requirements set forth in Internal Revenue Service Notice 1015 that FRANCHISEE has attached as FRANCHISEE Documentation.

2. **Regarding Safely Surrendered Baby Law.** FRANCHISEE acknowledges that COUNTY places a high priority on the implementation of the Safely Surrendered Baby Law (SB 1368).
  - a. ***Fact Sheet.*** FRANCHISEE shall notify and provide to its employees and shall require each Subcontractor performing Franchise/County Services to notify and provide to Subcontractors' employees a fact sheet regarding the Safely Surrendered Baby Law, its implementation in the COUNTY, and where and how to safely surrender a baby. FRANCHISEE shall print and make available in every facility where its employees are present, including offices and operation yards, the fact sheet that is available at [www.babysafela.org](http://www.babysafela.org).
  - b. ***Poster.*** FRANCHISEE understands that it is COUNTY'S policy to encourage all COUNTY contractors to voluntarily post COUNTY'S "Safely Surrendered Baby Law" poster in a prominent position at the contractor's place of business. FRANCHISEE shall also encourage its Subcontractors to post this poster in a prominent position in the Subcontractors' place of business. COUNTY'S Department of Children and Family Services will supply FRANCHISEE with the poster to be used.
3. **Regarding Child Support.** FRANCHISEE acknowledges that COUNTY places a high priority on the enforcement of child support laws and the apprehension of child support evaders. FRANCHISEE further acknowledges that it is COUNTY'S policy to encourage all COUNTY contractors to voluntarily post COUNTY'S "L.A.'s Most Wanted: Delinquent Parents List" supplied by COUNTY in a prominent position at their place of business.

**C. Prohibition Against Use of Child Labor.**

1. **Compliance with ILO Convention Concerning Minimum Age for Employment.** FRANCHISEE shall not knowingly sell or supply to COUNTY or Customers any products, goods, supplies, or other personal property manufactured in violation of child labor standards set by the International Labor Organization through its 1973 Convention Concerning Minimum Age for Employment (the "**Convention Concerning Minimum Age for Employment**"). If FRANCHISEE discovers that any products, goods, supplies, or other personal property sold or supplied by FRANCHISEE to COUNTY or any Customer are produced in violation of that Convention, FRANCHISEE shall immediately provide an alternative source of supply that complies with that Convention.

2. **Provide COUNTY with Records.** At COUNTY'S request, FRANCHISEE shall provide documentation satisfactory to COUNTY evidencing the country or countries of origin of any products, goods, supplies, or other personal property FRANCHISEE sells or supplies to COUNTY or any Customer in connection with Franchise/County Services.
3. **Provide COUNTY with Manufacturers' Certification.** At COUNTY'S request, FRANCHISEE shall provide to COUNTY the manufacturer's certification of compliance with the Convention Concerning Minimum Age for Employment or other all-international child labor conventions.

**D. Nondiscrimination.**

1. **Employees.** FRANCHISEE and its Affiliates shall employ qualified applicants and treat employees equally without regard to or because of race, color, national origin, ancestry, religion sex, age, physical or mental disability, marital status, or political affiliation and in compliance with all State of California and Federal antidiscrimination laws, including in employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rates of pay, other forms of compensation, and selection of training (including apprenticeship).
2. **Subcontractors, Bidders and Vendors.** FRANCHISEE shall deal with its Subcontractors, bidders, and vendors without regard to or because of race, color, national origin, ancestry, religion, sex, age, physical or mental disability, marital status, or political affiliation.
3. **Certification.** FRANCHISEE shall comply with the provisions of FRANCHISEE'S EEO Certification (Form PW-7), attached as FRANCHISEE Documentation.
4. **Inspection of Records.** At COUNTY'S request, FRANCHISEE shall promptly allow COUNTY and its auditors access to FRANCHISEE'S employment records at FRANCHISEE'S Office during FRANCHISEE Office Hours to verify compliance with the provisions of this subsection E.
5. **Remedies for Discrimination.** If COUNTY finds that FRANCHISEE has violated any provisions of this subsection E, that violation constitutes a FRANCHISEE Default. While COUNTY reserves the right to determine independently that the antidiscrimination provisions of this subsection E have been violated, in addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that FRANCHISEE has violated State of California or Federal antidiscrimination laws will constitute a finding by COUNTY that FRANCHISEE has violated the antidiscrimination provisions of this subsection E.

**E. Safety.**

1. **Services Safety Official.** FRANCHISEE shall designate in FRANCHISEE Documentation a Services Safety Official who shall be thoroughly familiar with FRANCHISEE'S Injury and Illness Prevention Program (IIPP) and Code of Safe Practices (CSP). FRANCHISEE shall ensure that the Services Safety Official is available at all times Franchise/County Services are provided to abate any potential safety hazards. FRANCHISEE shall give the Services Safety Official the authority and responsibility to cease performing any service if necessary to abate any potential safety hazard. If FRANCHISEE fails to designate or make available the Services Safety Official, COUNTY may direct the FRANCHISEE to cease providing Franchise/County Services at no cost to COUNTY until FRANCHISEE is in compliance with this Section.
2. **Safety Responsibilities.** FRANCHISEE is responsible for the safety of equipment, material, and personnel under FRANCHISEE'S control or authority during performance of Franchise/County Services. FRANCHISEE is solely responsible for ensuring that all work performed under this AGREEMENT is performed in strict compliance with all Applicable Laws with respect to occupational safety regulations. FRANCHISEE shall provide at its expense all safeguards, safety devices, protective equipment, and shall take all actions appropriate to providing a safe job environment.

- F. COUNTY Lobbyists.** FRANCHISEE and each COUNTY lobbyist or County lobbying firm as defined in County Code Section 2.160.010, retained by FRANCHISEE shall fully comply with the County Lobbyist Ordinance.

**SECTION 24—EXECUTION OF AGREEMENT**

- A. Execution in Counterparts.** This AGREEMENT, including dated signatures on amended Exhibits and attachments to those Exhibits, may be signed in any number of original counterparts. All counterparts constitute but one and the same agreement.
- B. Authority to Execute.** COUNTY warrants that the individual signing this AGREEMENT has been duly authorized by COUNTY to sign this AGREEMENT on behalf of COUNTY and has the full right, power, and authority to bind COUNTY to this AGREEMENT. FRANCHISEE warrants that the individual signing this AGREEMENT below has been duly authorized by FRANCHISEE to sign this AGREEMENT on behalf of FRANCHISEE and has the full right, power, and authority to bind FRANCHISEE to this AGREEMENT.

IN WITNESS WHEREOF, COUNTY has by order of its Board of Supervisors caused this AGREEMENT to be signed by the Director, and FRANCHISEE has caused this AGREEMENT to be signed by its duly authorized officers, as of the date first written above.

COUNTY OF LOS ANGELES

By \_\_\_\_\_  
Director of Public Works

APPROVED AS TO FORM:

JOHN KRATTLI  
County Counsel

By \_\_\_\_\_  
Deputy

NAME OF FRANCHISEE

By \_\_\_\_\_  
President

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Type or Print Name

**EXHIBIT 3A–FRANCHISE SERVICES AND SERVICE  
SPECIFICATIONS (TASK 1)**

- A. Provisions Cross-Referenced in the Body of AGREEMENT.** The following provisions are referenced in the body of this AGREEMENT and provided in this Exhibit:
1. **Section 2A Termination Date.** The Termination Date is December 31, 2020. The Director in his or her sole discretion may extend the Termination Date for up to three one-year periods after Notice to FRANCHISEE no later than 30 days before the Termination Date. FRANCHISEE acknowledges that in exercising its option to extend the Termination Date, COUNTY need not consider whether any Service Assets are not fully depreciated as of the Termination Date, and that FRANCHISEE invested in and depreciated those Service Assets in FRANCHISEE'S sole discretion.
  2. **Section 4C Non-Collection Notice item 9.** The Parties agree to the following additional items: FRANCHISEE is not obligated to Collect Green Waste in Green Waste Carts if FRANCHISEE observes refuse in the Green Waste Cart.
  3. **Section 4E Exceptions to Performance Obligations.** The Parties agree to the following exceptions to Performance Obligations described in Sections 1 through 24 of this AGREEMENT: none.
  4. **Section 7B Telephone Service.** The Parties agree to the following additional service obligations:
    - a. FRANCHISEE shall use Reasonable Business Efforts to broadcast public education messages to Customers while they are placed on hold waiting to talk to a Customer service representative;
    - b. FRANCHISEE shall require no more than two recorded options on a telephone tree before the Customer speaks to a live Customer service representative (for example, English/Spanish and residential/commercial service choices); and
    - c. FRANCHISEE shall answer the telephone within five rings and shall answer 90 percent of all incoming calls within the first four rings. Upon the Director's determination that the telephone is not answered within five rings based on at least three calls within one week or ten calls within one month made and certified by the Director, the Director may require that FRANCHISEE install additional telephone lines, hire additional operators, and make other Customer service improvements without increasing Rates.



5. **Section 7C Bilingual.** FRANCHISEE shall respond to Customers in English and Spanish as the Customer requests.
6. **Section 15 Initial Amount of Performance Assurance.** FRANCHISEE shall provide performance assurance in the amount of \$305,000 under Section 15.
7. **19A Director's Consent to Transfer.** The Director may condition consent to any Transfer, other than a Transfer to an Affiliate, on FRANCHISEE'S payment to COUNTY of \$5.00 per Customer.
8. **21E Allocable Share of Direct Costs of Application with Respect to Severability of Agreement Provision.** FRANCHISEE'S share is 100 percent.

**B. General Specifications.**

1. **Collection Commencement Date and Hours of Collection.** FRANCHISEE may commence Collection as early as January 1, 2014, and Collect from all Customers during the succeeding week. FRANCHISEE shall Collect only between the hours of 6 a.m. and 6 p.m., Monday through Friday, except that FRANCHISEE may Collect from Commercial Premises that are not located within 500 feet of Residential Premises at other times agreed to between FRANCHISEE and the Commercial Customer in accordance with the County Code, including Section 12.08.520 Refuse Collection Vehicles. FRANCHISEE shall use Reasonable Business Efforts to adjust the early morning start point of Collection routes to address and minimize Customer complaints. FRANCHISEE shall Collect from Premises that were scheduled for Collection on a Holiday on the day before or after the scheduled Service Day that is a Holiday, and shall Collect from all other Premises in the Service Area on their regularly scheduled Collection day or one day later than their regularly scheduled Collection day. FRANCHISEE shall indicate the option it has selected in FRANCHISEE Documentation. *FRANCHISEE shall pay liquidated damages for Breach under this subsection B1 in accordance with Exhibit 18D2 Liquidated Damages.*
2. **Waste Diversion Program.** FRANCHISEE shall develop and implement a Waste Diversion Program for all Residential Premises and Multifamily Premises, including Collection of Recyclables, Green Waste, Bulky Items, clothing, Sharps, E-waste, and CEDs; Customer education and outreach; Record keeping; and submission of Reports. FRANCHISEE shall include a copy of its program in FRANCHISEE Documentation. The Waste Diversion Program must include, at a minimum, all of the following items:

- a. **Customer Recyclables Diversion Education Program.** As part of its Waste Diversion Program, FRANCHISEE shall develop and implement a Customer educational program to maximize Diversion of Recyclables, Green Waste, Bulky Items, clothing, Sharps, E-waste, and CEDs. The Customer educational program must include, at a minimum, all of the following items:

- (i) Recycling and Diversion goals, including method and calculations used and measures that will be used to determine how successful FRANCHISEE is in meeting its waste diversion goals;
- (ii) Identifying Recycling and Diversion strategies and Customer options;
- (iii) Establishing program tasks, such as meeting with managers of Multifamily Premises, visiting schools, speaking at Chambers of Commerce, informing Customers of on-line recycling and diversion information sites, and mailing quarterly four-page newsletters in color;
- (iv) Timetable for program implementation; and
- (v) Developing and distributing literature in the form of fliers, cards, stickers, or otherwise as FRANCHISEE determines to be the most effective means of increasing Recycling and Diversion by Customers.

b. **Promotional Events and Activities**

To increase Diversion, FRANCHISEE shall participate in at least 12 promotional activities such as: local fairs, parades and any other civic event requested by the Director during each Calendar Year. During these events FRANCHISEE shall operate recycling information booths and provide Refuse or Recyclables Carts, if requested by the Director, and distribute flyers, promotional items, pamphlets, and other materials, in color, approved by the COUNTY to encourage area residents to recycle, reduce, reuse and/or divert Solid Waste. FRANCHISEE shall develop and distribute literature, fliers, cards, or stickers specific to each event and activity.

c. **Curbside Recycling Reward Program.**

No later than 3 months after the Execution Date and 3 months before the beginning of each following Contract Year, FRANCHISEE shall submit to the Director for approval a program

plan for rewarding Customers who show an exemplary effort to recycle at the curbside in recycling Carts. FRANCHISEE shall incorporate comments from the Director and implement the program, at no cost to the Customer and the COUNTY. FRANCHISEE shall distribute rewards quarterly at an aggregate amount of \$2,500 for the program each Contract Year. FRANCHISEE shall make its first award within 6 months after beginning Recyclables collection. FRANCHISEE shall implement its approved plan each Contract Year.

**d. *Mulch and Compost Giveaway Program.***

No later than 3 months after the Execution Date and 3 months before the beginning of each following Contract Year, FRANCHISEE shall submit to the Director for approval a program plan for offering Customers free mulch and compost. FRANCHISEE shall incorporate comments from the Director and implement the program, at no cost to the Customer and the COUNTY. FRANCHISEE shall hold at least five events each Contract Year; FRANCHISEE shall offer at least one ton of mulch and one ton of compost at each event without charge to Customers or COUNTY; and use Reasonable Business Efforts to offer mulch and compost that were produced from Green Waste generated in the Service Area. FRANCHISEE shall hold its first giveaway event within six 6 months after beginning Green Waste collection. FRANCHISEE shall implement its approved plan each Contract Year.

**e. *Diversion.*** FRANCHISEE shall use Reasonable Business Efforts to Divert all materials that it Collects in accordance with this subsection B2, including the following:

- (i) Holiday trees that it Collects in accordance with subsection F1;
- (ii) Bulky Items, CEDs, E-waste, and excess Solid Waste, that it Collects in accordance with subsection F2; and
- (iii) Refuse and Recyclables that it Collects at special events in accordance with subsection F3.

FRANCHISEE shall transport those materials only to the facility or facilities, including Solid Waste Facilities, that FRANCHISEE has designated in FRANCHISEE Documentation for Recycling, Processing, or Diversion and shall Dispose of those materials that it does not Divert to the Solid Waste Facility that FRANCHISEE designates in FRANCHISEE Documentation for Disposal.

*FRANCHISEE shall pay liquidated damages for Breach under this subsection F6 in accordance with Exhibit 18D2 Liquidated Damages.*

3. **Carts.** *FRANCHISEE shall pay liquidated damages for Breach under this subsection B3 in accordance with Exhibit 18D2 Liquidated Damages.*

- a. ***Delivery and Exchanges.*** Within 7 days after receiving a Customer's request for commencement or changes in Collection of Refuse, Recyclables, or Green Waste, FRANCHISEE shall deliver Carts of the Customer's requested capacity or replace existing Carts with substitute Carts of the Customer's requested capacity.

***Extra Carts.*** FRANCHISEE shall deliver extra Carts to Customer's Set-Out Site within 7 days after COUNTY or Customer request, without charge for delivery or service.

All Customers may request from FRANCHISEE one extra cart for Recyclable Material and/or one extra cart for Green Waste upon request, at no additional fee.

If Customers request an additional extra cart for Refuse, and/or request extra carts for Recyclable Materials and Green Waste beyond the allotted extra free carts as described above, the customer shall pay the FRANCHISEE a one-time delivery fee plus the monthly surcharge, as provided on the Rate Schedule.

- b. ***Removal Due to Discontinuation of Service.*** On a regularly scheduled Collection day, no later than 8 days after receiving notice from a Customer to discontinue Collection in accordance with the Customer's rights under a Subscription Order, FRANCHISEE shall remove its Carts from the Customer's Premises.
- c. ***Repair and Replacement.*** FRANCHISEE shall repair or replace Carts within 7 days after receiving COUNTY'S or a Customer's request for repair or replacement, including providing and maintaining operable lids. FRANCHISEE shall repair or replace Carts, including Carts that are stolen, without additional cost, except that if the Customer does not report the theft of a Cart to the police, FRANCHISEE may charge the Customer the actual cost of replacement.
- d. ***Specifications.*** FRANCHISEE shall procure, provide to Customers, maintain, and Collect using fully automated, wheeled Carts having the specifications described in FRANCHISEE Documentation and without additional cost to Customers unless otherwise provided on the Rate Schedule. The Refuse Cart shall

be black, the Recyclables Cart shall be blue, and the Green Waste Cart shall be green or other colors approved by Director. Reference in this AGREEMENT to "96 gallons" includes substantially similar capacity upon approval of the Director. Each Cart shall be constructed of recyclable content at a minimum of 25 percent post-consumer materials and on its front side shall clearly display the name of the FRANCHISEE, phone number, a unique serial number, and contents for which the Cart is designated. A conspicuous notice shall be affixed on the Cart warning that the disposal of Unpermitted and Universal Waste in the Cart is prohibited. The notice shall be written in both English and Spanish and approved by the Director

- e. **Upright.** FRANCHISEE shall return Carts upright.
- f. **Inventory.** FRANCHISEE shall maintain a Cart inventory of at least 10 percent of the total number of Carts of each type and capacity provided to all Customers.
- g. **Graffiti.** FRANCHISEE shall remove graffiti from Carts within five Service Days of identification by FRANCHISEE or oral or written notice by COUNTY or a Customer or, if the graffiti is comprised of pictures or written obscenities, within 48 hours (weekends excepted).
- h. **Alternatives to Fully Automated 96-Gallon Carts.** In place of fully automated 96-gallon Carts, FRANCHISEE may Collect Refuse, Recyclables, and/or Green Waste in the type of Carts and in the manner described in FRANCHISEE Documentation, at any premises that is difficult to service with automated collection Vehicles if approved by the Director, or at any Premises if requested by the Customer. FRANCHISEE shall provide the alternative Carts having the same aggregate capacity as FRANCHISEE would have provided to that Customer in Carts for the Rate charge provided in the Rate Schedule.
- i. **Alternatives to 96-Gallon Carts due to Space Restrictions.** If a Customer requests Carts other than 96-gallon Carts due to space restrictions for Cart storage or at the Set-Out Site, FRANCHISEE shall provide the type of Carts and method of Collection described in FRANCHISEE Documentation. FRANCHISEE shall provide alternative Carts having the same aggregate capacity as FRANCHISEE would have provided to that Customer in Carts, without Rate discount or additional cost, if the Customer requests the same aggregate capacity.

- j. **32-Gallon Cart Alternatives to 96-Gallon Carts.** If an elderly Customer as defined in Subsection G who generates small amounts of waste requests a 32-gallon Cart or Carts, FRANCHISEE shall provide the same number of 32-gallon Carts as FRANCHISEE would have provided to that Customer in 96-gallon Carts, without additional cost.
- 4. **Vehicles.** Vehicles used for Collection must be fully automated unless permitted in subsection B3h. Vehicles used for Collection must use LNG (liquid natural gas) or CNG (compressed natural gas) fuel, or alternative fuel (other than diesel) approved by COUNTY unless FRANCHISEE Documentation provides otherwise with respect to Collection at Premises that are difficult to serve as permitted in Section B3h.
- 5. **Subcontractors.** FRANCHISEE shall not engage any Subcontractor in an amount exceeding \$50,000 for any individual Subcontractor without prior COUNTY approval of the Subcontract and Subcontractor. FRANCHISEE is responsible for directing the work of FRANCHISEE'S Subcontractors and any compensation due or payable to FRANCHISEE'S Subcontractors is the sole responsibility of FRANCHISEE. FRANCHISEE shall remove any approved Subcontractor for good cause at COUNTY'S request. FRANCHISEE shall identify all Subcontractors in FRANCHISEE Documentation. In its Annual Report, FRANCHISEE shall disclose to COUNTY the name of all Subcontractors, the amount of Goods or Services that each Subcontractor provides to FRANCHISEE, and a description of FRANCHISEE'S relationships to each Subcontractor (including ownership interests).
- 6. **Routing and Cart Placement.** FRANCHISEE shall schedule Collection in the Service Area on the Service Days listed on the schedule attached as Attachment 1 (Collection Schedule) of Exhibit 3A, or other schedule approved by the County. This schedule may be amended by the Director at any time, and FRANCHISEE shall use Reasonable Business Efforts to implement this amendment. FRANCHISEE shall return empty Carts to their Set-Out Sites or site nearest Set-Out Site that does not impede pedestrian or vehicular traffic. The Set-Out Site must be located at the curb or as otherwise provided in County Code Section 20.72.100. FRANCHISEE shall provide to the Director upon COUNTY request, a list of Customers' names, addresses, Cart sizes and quantities, and other services provided to Customer.
- 7. **Collection Frequency.** In order to protect the public health and safety and control the spread of vectors, FRANCHISEE shall Collect all Refuse at least once per week. The frequency of collection for Refuse, Recyclable Materials, and/or Green Waste may be reduced at the discretion of the Director.

8. **Questionnaire.** FRANCHISEE shall develop and distribute a questionnaire for all Customers for feedback regarding all services and programs offered under this AGREEMENT as a tool to help measure their effectiveness.

FRANCHISEE shall provide the questionnaire to all Customers within six to nine months of the commencement of the MSW Management Services. FRANCHISEE shall obtain approval from the Director one month prior to its distribution. Each Calendar Year thereafter, FRANCHISEE shall develop and distribute a similar questionnaire to continue to solicit feedback from the Customers.

**C. Refuse Collection, Transportation, and Disposal.**

1. **Scope of Franchise Services and Specifications.** FRANCHISEE shall arrange to provide for fully automated Collection, transportation and Disposal of Refuse discarded by any Customer that requests FRANCHISEE to Collect its Refuse in Carts and agrees to pay Customer Service Charges. FRANCHISEE shall provide to each of those Customers the following for Collection of Refuse:

- a. One 96-gallon Cart without additional cost; and
- b. At the Customer's request, any number of additional 96-gallon Carts for the charge provided on the Rate Schedule.

In addition, FRANCHISEE shall Collect, up to four times each Calendar Year without additional cost, Refuse that a Customer discards in bags at the Set-Out Site on that Customer's next regularly scheduled Collection day after 24 hours advance notice by the Customer or other date agreed to between that Customer and FRANCHISEE.

2. **FRANCHISEE-Designated Solid Waste Facility.** FRANCHISEE shall transport Refuse only to the Solid Waste Facility or Facilities that FRANCHISEE has designated in FRANCHISEE Documentation for Disposal. FRANCHISEE shall use Reasonable Business Efforts to designate a Solid Waste Facility or Facilities that utilizes Conversion Technology or provides feedstock to Conversion facilities. *FRANCHISEE shall pay liquidated damages for Breach under this subsection C2 in accordance with Exhibit 18D2 Liquidated Damages.*

The Director/ reserves the right to direct Refuse to a specific site or facility upon agreement with the FRANCHISEE on the amount of any additional compensation. The County will compensate the FRANCHISEE for any direct costs (such as increased tipping fees) which the FRANCHISEE

incurs following delivery of materials to a County-designated solid waste facility instead of to a FRANCHISEE-selected solid waste facility.

**D. Recyclables Collection, Transportation, Processing, and Diversion.**

1. **Scope of Franchise Services and Specifications.** FRANCHISEE shall arrange to provide for fully automated Collection, transportation, processing, and marketing of Recyclables discarded by any Customer for whom FRANCHISEE provides Collection of Refuse on the same day that FRANCHISEE Collects the Refuse. FRANCHISEE shall provide each of those Customers with any or all of the following for Collection of Recyclables:

- a. One 96-gallon Cart, without charge;
- b. A second 96-gallon Cart upon Customer request, without charge,(for a total of two 96-gallon Carts) without additional charge;
- c. Any number of additional 96-gallon Carts for the charge provided on the Rate Schedule.

FRANCHISEE may not reduce Customer Service Charges for Customers that do not discard Recyclables.

2. **FRANCHISEE-Designated Facility.** FRANCHISEE shall transport Recyclables only to the facility or facilities that FRANCHISEE has designated in FRANCHISEE Documentation for Recycling, Processing, or Diversion (including Solid Waste Facilities, materials brokers and beneficiaries). *FRANCHISEE shall pay liquidated damages for Breach under this subsection D2 in accordance with Exhibit 18D2 Liquidated Damages.*

The Director/Designee reserves the right to direct Recyclable Materials to a specific site or facility upon agreement with the FRANCHISEE on the amount of any additional compensation. The County will compensate the FRANCHISEE for any direct costs (such as increased tipping fees) which the FRANCHISEE incurs following delivery of materials to a County-designated solid waste facility instead of a FRANCHISEE-selected solid waste facility.

3. **Purchase of Recyclables.** FRANCHISEE'S obligation to provide Recyclables services described in this Section D does not preclude FRANCHISEE from purchasing Recyclables from its Customers separate from Franchise Services.
4. **Scavenging - Discouragement.** FRANCHISEE shall use Reasonable Business Efforts to enforce anti-scavenging laws, including the following:



- a. Instituting civil actions against a Person alleged to have violated California Public Resources Code Section 41950 for treble damages, as measured by the value of the material removed, or a civil penalty of not more than \$1,000.00, whichever is greater, for each unauthorized removal, in accordance with California Public Resources Code Section 41953; and
- b. Taking actions under County Code Section 20.72.196 to discourage Scavenging.

5. **Prohibition on Mixing Recyclables and Green Waste with Refuse or Disposing of Recyclables or Green Waste.** Unless FRANCHISEE is obligated under this AGREEMENT to process Refuse for recovery of Recyclables, or unless as otherwise approved by the Director, FRANCHISEE shall not:

- a. Mix Recyclables or Green Waste that it Collects with Refuse; or
- b. Dispose of Recyclables or Green Waste that it Collects in a Disposal site or transfer facility, **except for:**
  - (i) Incidental amounts of Recyclables or Green Waste that a Customer commingles with discarded Refuse;
  - (ii) Green Waste used as alternate daily cover that is considered Diversion; or
  - (iii) Contaminated Recyclables or Green Waste that cannot be Diverted using Reasonable Business Efforts as long as FRANCHISEE has previously exercised Reasonable Business Efforts to provide Customer education with respect to reducing that contamination.

*FRANCHISEE shall pay liquidated damages for Breach under this subsection D5 in accordance with Exhibit 18D2 Liquidated Damages.*

FRANCHISEE may transport residual Solid Waste remaining after processing at Solid Waste Facilities to maximum possible recovery levels and Diversion to facilities other than the Solid Waste Facility or Facilities that FRANCHISEE designates for Disposal in FRANCHISEE Documentation. However, FRANCHISEE shall use Reasonable Business Efforts to Divert or provide for the Diversion of residual Solid Waste remaining after processing at a materials recovery facility at Conversion facilities.

**6. Contamination Audits.**

- a. **Initial.** Within the first six months of commencing Franchise Services, FRANCHISEE shall check all Customers' Recyclables Carts and Green Waste Carts once to ascertain whether Customers are discarding only Recyclables in their Recyclables Carts and only Green Waste in Green Waste Carts. Checking must include, at a minimum, manually opening the lid of Carts or Bins and visually inspecting the contents of the Cart or Bin to identify contamination.
- b. **Annual Spot Checks.** After the first six months of commencing Service, FRANCHISEE shall check Recyclables Carts of 20 percent of its Customers annually on a rotating basis, such that all Customers' Recyclables Carts are spot checked at least once every five years.
- c. **Non-Collection Notices.** If FRANCHISEE observes materials other than Recyclables during an initial or spot check, it shall not Collect that Cart and it shall leave a Non-Collection notice at the Premises.
- d. **Follow-Up.** Within two months, FRANCHISEE shall recheck Carts set out at Premises that received a Non-Collection notice.
- e. **Reports.** In its Monthly Report FRANCHISEE shall summarize the results of its spot checks.
- f. **Additional Spot Checks.** After the first six months of commencing Service, if the Director determines that Customers are discarding a significant amount of Refuse and/or Green Waste in their Recyclables Carts or Refuse and/or Recyclables in their Green Waste Carts, then the Director may direct FRANCHISEE to check additional Carts and leave Non-Collection notices as provided in subsection D6c.

**E. Green Waste Collection, Transportation, Processing, and Diversion.**

- 1. **Scope of Franchise Services and Specifications.** FRANCHISEE shall arrange to provide for fully automated Collection, transportation, processing, and marketing of Green Waste discarded by any Customer for whom FRANCHISEE provides Collection of Refuse on the same day FRANCHISEE Collects the Refuse. FRANCHISEE shall provide to each of those Customers the following for Collection of Green Waste:

- a. One 96-gallon Cart and, at the Customer's request, one additional 96-gallon Cart (for a total of two 96-gallon Carts) without additional cost.
- b. At the Customer's request, any number of additional 96-gallon Carts for the charge provided on the Rate Schedule.

In addition, FRANCHISEE shall Collect, up to eight times each Contract Year without additional cost, Green Waste that a Customer discards in bags at the Set-Out Site on that Customer's next regularly scheduled Collection day after 24 hours advance notice by the Customer or other date agreed to between that Customer and FRANCHISEE.

FRANCHISEE may not reduce Customer Service Charges for Customers that do not discard Green Waste.

2. **FRANCHISEE-Designated Facility.** FRANCHISEE shall transport Green Waste only to the facility or facilities that FRANCHISEE has designated in FRANCHISEE Documentation for Recycling, Processing, or Diversion, including Solid Waste Facilities. *FRANCHISEE shall pay liquidated damages for Breach under this subsection E2 in accordance with Exhibit 18D2 Liquidated Damages.*

The Director/Designee reserves the right to direct Green Waste to a specific site or facility upon agreement with the FRANCHISEE on the amount of any additional compensation. The County will compensate the FRANCHISEE for any direct costs (such as increased tipping fees) which the FRANCHISEE incurs following delivery of materials to a County-designated solid waste facility instead of to a FRANCHISEE-selected solid waste facility.

- F. Special Services.** FRANCHISEE shall provide the services prescribed in this Section F without additional cost to Customers or charge to COUNTY except for subsection F2d Additional On-Call Pickup with Additional Cost.

1. **Holiday Tree Collection.** During the period beginning December 26 and ending January 14, or another period established by COUNTY not to exceed three weeks, and at a Customer's request, FRANCHISEE shall Collect, transport, process, and Divert all holiday trees, such as Christmas trees and Hanukkah bushes stripped of ornaments, garlands, tinsel, flocking, and stands, placed for Collection at the Set-Out Site, on or before the Customer's next regularly scheduled Collection day. All materials collected shall be recycled to the maximum extent feasible.
2. **Bulky Items, CEDs, E-waste, and Excess Solid Waste Collection.**
  - a. ***Annual Curbside Cleanup Event.*** FRANCHISEE shall Collect unlimited amounts of Residential Customers' Bulky Items, CEDs,

E-waste, and excess Solid Waste, discarded at each Set-Out Site once each Calendar Year on a day approved by COUNTY, without additional cost. Prior to the end of each day's event, the FRANCHISEE shall return to each street to ensure that all discarded materials placed at curbside were collected. If any discarded material is found, FRANCHISEE shall collect it that same day. FRANCHISEE may be required, upon oral order of the Director to return to any event route, in order to collect Refuse, Recyclable Materials, or Green Waste left out at the curb. This shall be accomplished on the same day of the oral order. FRANCHISEE shall start the event not earlier than 6 a.m. and end by 6 p.m. on the Saturdays during the event, or as instructed by the Director.

- b. ***Two On-Call Pickups Per Year without Additional Cost for Residential Customers.*** In addition to the annual curbside cleanup event described in subsection F2a, FRANCHISEE shall Collect twice each Calendar Year unlimited amounts of Residential Customers' Bulky Items, E-waste, and/or CEDs discarded at the Set-Out Site of a Residential Customer on that Customer's next regularly scheduled Collection day after 24-hours advance notice by the Customer or other date agreed to between that Customer and FRANCHISEE, without additional cost.
- c. ***Four On-Call Pickups Per Year without Additional Cost for Multifamily Premises.*** For each Multifamily Premises, FRANCHISEE shall Collect four times each Calendar Year a maximum of two items per pickup of Multifamily Customers' Bulky Items, E-waste, and/or CEDs discarded at the Set-Out Site of a Multifamily Customer on that Customer's next regularly scheduled Collection day after 24-hours advance notice by the Customer or other date agreed to between that Customer and FRANCHISEE, without additional cost.
- d. ***Additional On-Call Pickup with Additional cost.*** In addition to Collection described in subsections F2a and b, at the request of a Residential Customer in excess of twice annually, as provided in subsection F2b, or at the request of a Multifamily Customer in excess of four times annually, as provided in subsection F2c, on 24-hours advance notice, FRANCHISEE shall Collect unlimited amounts of that Customer's Bulky Items, E-waste, and CEDs discarded at that Customer's Set-Out Site on that Customer's next regularly scheduled Collection day or other date agreed to between that Customer and FRANCHISEE at charges for additional calls listed on the Attachment 3 and charge for items listed in FRANCHISEE Documentation.

- e. **Semi-Annual E-waste and Clothing Drop-off Events.** Twice each Contract Year FRANCHISEE shall Collect without additional cost unlimited amounts of Residential Customers' E-waste and clothing, respectively, discarded by a Residential Customer at the same or different locations and on the same or different days approved by COUNTY, without additional cost. FRANCHISEE may identify Customers by requiring an individual to submit either of the following documents:
  - (i) His or her bill for Franchise Services, or
  - (ii) A copy of the advance written notice of the drop-off event given by FRANCHISEE to Customers.
- f. **Number of Workers.** FRANCHISEE shall supply at least two workers for each Collection Vehicle during the annual curbside Cleanup event described in subsection F2a. FRANCHISEE shall also supply at least two workers for each Collection Vehicle dispatched for on-call pickup described in subsections F2b, c, and d unless FRANCHISEE determines at the time a Customer orders on-call pickup that the Customer's discarded Bulky Items will not require at least two workers to load them safely onto the Collection Vehicle.
- g. **Required Registrations and Permits.** FRANCHISEE shall secure and maintain valid waste and used tire hauler registration therefore in accordance with California Public Resources Code Section 42950 *et seq.* and any Permit required by Applicable Law for handling CEDs. FRANCHISEE shall transport tires to and Dispose of them at a facility authorized and permitted in accordance with Applicable Law to accept tires. FRANCHISEE shall comply with all applicable regulations governing the recovery of ozone-depleting refrigerants during the Disposal of air conditioning or refrigeration equipment, including 40 C.F.R. Part 82.
- i. **Annual Customer Notice.** At least annually, FRANCHISEE shall provide Customers notice of available Franchise Services for Collection of Bulky Items, CEDs, E-waste, and excess Solid Waste, and FRANCHISEE'S charges for those Franchise Services.
- i. **FRANCHISEE-Designated Facility.** FRANCHISEE shall transport Bulky Items, E-waste, and CEDs only to the facility or facilities that FRANCHISEE has designated in FRANCHISEE Documentation for Recycling, Processing, or Diversion, including Solid Waste Facilities, unless otherwise instructed by the Director/Designee. *FRANCHISEE shall pay liquidated damages for Breach under this*

*subsection F2 in accordance with Exhibit 18D2 Liquidated Damages.*

The Director/Designee reserves the right to direct Bulky Items, E-waste, and CEDs to a specific site or facility upon agreement with the FRANCHISEE on the amount of any additional compensation. The County will compensate the FRANCHISEE for any direct costs (such as increased tipping fees) which the FRANCHISEE incurs following delivery of materials to a County-designated solid waste facility instead of to a FRANCHISEE-selected solid waste facility.

3. **Special Events Cleanup Services.** At the Director's request, FRANCHISEE shall provide Bins or portable Carts in type, number, and capacity (such as up to 80 cubic yards) specified by the Director for discards of Solid Waste (including Bulky Items), E-waste, and CEDs at up to four community cleanup projects or public events located throughout the Service Area during any 12-month period. FRANCHISEE shall collect filled Bins or portable containers immediately and partially full Bins or portable containers no later than the day after the termination of the project or event. Upon request from the Director, FRANCHISEE shall make available promotional items including but not limited to up to 100 reusable bags per event. All promotional items shall be pre-approved by the Director, including artwork and type of item. FRANCHISEE shall provide all the necessary staffing, labor, vehicles, Bins or portable containers, and other equipment, and materials or supplies (such as plastic bags in portable containers).
4. **Vehicle Billboards.** FRANCHISEE shall equip Vehicles on at least one side with frames capable of securing signs measuring 29 3/16 inches by 93 3/16 inches or other dimension approved by the Director. FRANCHISEE shall prepare and install signs promoting Recycling, Diversion and safe handling of Unpermitted Waste, with text, graphics and design approved by the Director.
5. **Sharps Collection.** Within one week after Residential Customer request, FRANCHISEE will provide Customer at that Customer's Residential Premise, without additional cost to that Customer or the COUNTY, with the following:
  - a. An Approved Sharps Container that has at least a 1-gallon capacity (up to four per Contract Year) for discard of Sharps in accordance with Applicable Law; and,
  - b. If further requested, a pre-paid postage container for mailing the Approved Sharps Container in accordance with Applicable Law.

FRANCHISEE shall collect, transport, and dispose of materials in accordance with applicable law and will provide the following:

- Distribution of COUNTY approved Sharps containers (to include Outreach efforts)
- Collection of Sharps containers
- Proper handling and disposal of containers in accordance with applicable law

**G. Roll-Out Services.** FRANCHISEE shall manually provide Cart roll-out, carry-out, or push services for all or a portion of Collection at the request of any Residential or Multifamily Customer for the charge provided in the Rate Schedule. These services include the following:

1. Dismounting from the Collection Vehicle, moving Containers from their storage location to the Collection Vehicle and returning them to their storage location; and
2. Carrying Bulky Items, CEDs, and E-waste from adjacent to a dwelling out to the curb.

FRANCHISEE shall provide these services without additional charge or charge to Residential Customers who are elderly or disabled and who meet both of the following qualifications:

1. The Customer is a head of household as evidenced by his or her name on utility or telephone bills for the involved premises, and
2. The Customer certifies that there is no able-bodied individual in the Customer's household who can roll out Carts to the curb.

As used in this Exhibit and in the Rate Schedule, "**elderly**" means age 62 or older as evidenced by a driver's license or other document issued by a governmental entity, and "**disabled**" means Customers who suffer from a disability as evidenced by a letter from their medical physician.

FRANCHISEE shall describe the Customer's storage location in that Customer's Subscription Order.

Subject to COUNTY review and approval and further subject to FRANCHISEE'S obligations under Section 20C, FRANCHISEE may require those Customers who subscribe to Cart roll-out, carry-out, or push services to sign a Subscription Order containing an indemnification of FRANCHISEE for Customer negligence.

**H. Senior Discount.** FRANCHISEE shall provide 25 percent discounts in Customer Service Charges to elderly Residential Customers meeting all of the following requirements:

1. The Customer is age 62 or older as evidenced by a driver's license or other document issued by a governmental entity;
2. The Customer is a head of household as evidenced by his or her name on utility or telephone bills for the involved premises; and
3. The Customer either (1) qualifies for discounted utility rates based on financial need (such as those referred to as "life-line" rates) as evidenced by water, power, or telephone bill for the involved premises, or (2) generates small amounts of waste and uses a 32-gallon Cart for refuse.

**I. Transition Roll-Out Plan.** Prior to the Execution Date, FRANCHISEE shall provide to the Director for approval a start-up transition and Cart roll-out plan, including both time line and tasks, such as:

1. Ordering Vehicles and/or Containers;
2. Vehicle and/or Cart delivery from manufacturer;
3. Cart assembly;
4. Distributing Carts to Customers;
5. Public outreach and education activities;
6. Determining routes;
7. Training route drivers;
8. Collecting old Carts;
9. Commencement date of Collection.

FRANCHISEE shall implement the approved start-up transition and Cart roll-out plan. FRANCHISEE shall cooperate and work with providers of MSW Management Services before the date that FRANCHISEE commences Collection as provided in Section B1 of this Exhibit in order to ensure a smooth transition. Prior to that commencement date, FRANCHISEE shall use its Reasonable Business Efforts to provide MSW Management Services to Customers who do not receive MSW Management Services from other providers.



- J. Public Education and Outreach.** FRANCHISEE shall develop, disseminate, and conduct a comprehensive public education and outreach regarding services to maximize diversion of Recyclable Materials, Green Waste, bulky items, Sharps, covered electronic devices, and other consumer electronic devices. The public education and outreach components shall include but not be limited to the following:

**1. Community Meetings.**

- a. Introduction of New Franchise Services.** Before beginning Franchise Services FRANCHISEE shall hold at least four community meetings to explain hauler transition if applicable and new Franchise Services to the public residing and working in the Service Area:
- At least two on weekday evenings and
  - At least two on separate Saturdays.
  - Date and time may be modified by the Director.
- i.** FRANCHISEE will inform the Director of the proposed meeting locations, setup, and arrangements at least three weeks prior to the proposed date. FRANCHISEE shall obtain the Director's approval before holding any meeting.
- ii.** FRANCHISEE shall notify all occupants of Residential Premises of the purpose, time, and place of each meeting at least two weeks prior to the scheduled community meetings under subsection J3. FRANCHISEE shall use address list provided by COUNTY.
- b. Upon Director Request.** FRANCHISEE shall attend or conduct up to five community meetings per Contract Year upon Director's request. Examples include local fairs or civic events with individuals, property owners, tenants, occupants, community organizations, city councils, and anyone else named by the Director. FRANCHISEE will take any or all of the following actions at the meetings, approved by the Director:
- Operate recycling information booths and distribute colorful flyers, promotional items, have up to 100 reusable bags available, pamphlets, and other items that encourage Customers to recycle, reduce, reuse and/or divert Solid Waste
  - Other actions requested by the Director.

## 2. **Written Notices and Outreach Materials.**

**Prior to Beginning Franchise Services.** FRANCHISEE shall develop colored promotional and educational materials (such as newsletters) regarding Franchise Services within 20 business days after the Execution Date. FRANCHISEE will consult and cooperate with the Director and get the Director's approval prior to reproducing the materials for distribution. FRANCHISEE shall inform the Director and notify Customers under subsection J3.

- a. **Quarterly.** FRANCHISEE shall develop and distribute the materials described in preceding Section 1 and subject to the same requirements four times each Contract Year.
- b. **Special Events.** FRANCHISEE shall develop and deliver, as set forth in subsection J3, outreach notices to residential Customer, including:
  - a. Household Hazardous Waste and E-Waste Collection
  - b. Annual Curbside Cleanup Event Promotion
  - c. Semi-Annual E-waste and Clothing Drop-off Events
  - d. Holiday Collection Schedule
  - e. Other Notices Upon the Request of the Director

FRANCHISEE shall give between two and three weeks, or other time, as requested by the Director, advance written notice of each event without additional cost. Each notice must be devoted exclusively to that event. For example, FRANCHISEE must send out a flyer devoted to curbside cleanup, but including it in a quarterly newsletter is not considered as an exclusive notice.

Upon Director's request, FRANCHISEE shall use artwork, layout, electronic notices, or printed notices provided by the County.

## 3. **Delivery of Written Materials to Customers.**

FRANCHISEE shall deliver general materials (such as notices and newsletters) to customers by any or all of the following means approved by the Director:

- Written notice through U.S. Postal Service;
- Written notice delivered to Customer's door. FRANCHISEE may use a door-to-door delivery service;
- Written notice inserted into monthly Customer bills, when approved by Director; and
- Other means approved by Director (such as e-delivery).

- K. FRANCHISEE Commitments Made in Its Proposal to COUNTY for Procurement of This AGREEMENT.** FRANCHISEE shall fully and timely satisfy any additional Performance Obligations set forth in item 12 of Section B of Exhibit 3D.

**EXHIBIT 3A2 - ABANDONED WASTE  
ON-CALL COLLECTION SERVICES (TASK 2 – COUNTY SERVICE)**

- A. Provisions Cross-Referenced in the Body of AGREEMENT.** The following provisions are referenced or similarly provided in the body of this AGREEMENT and provided in this Exhibit:
- 1. Section 4E Exceptions to Performance Obligations.** The Parties agree to the following exceptions to Performance Obligations described in Sections 1 through 24 of this AGREEMENT: none.
  - 2. Section 17D, Suspension or Termination of AGREEMENT.**
    - a. Suspension/Termination for Nonappropriation of Funds.** Notwithstanding any other provision of this AGREEMENT, COUNTY shall not be obligated for FRANCHISEE's performance hereunder, with respect to County Services under this Exhibit during any of COUNTY's future Fiscal Years unless and until the Board appropriates funds for this AGREEMENT in COUNTY's budget for each such future Fiscal Year. If funds are not appropriated for this AGREEMENT, then this AGREEMENT may be suspended or terminated as of June 30 of the last Fiscal Year for which funds were appropriated. COUNTY will notify FRANCHISEE in writing of any such nonallocation of funds at the earliest possible date.
    - b. Suspension/Termination for Convenience**
      - (i) COUNTY'S Best Interest.** With respect to County Services under this Exhibit, this AGREEMENT may be suspended or terminated, in whole or in part, from time to time, when such action is deemed by COUNTY, in its sole discretion, to be in its best interest. Suspension or termination of work hereunder shall be effected by Notice of suspension or termination to FRANCHISEE specifying the extent to which performance of work is suspended or terminated and the date upon which such suspension or termination becomes effective. The date upon which such suspension or termination becomes effective shall be no less than 10 days after the Notice is sent.
      - (ii) Stop Suspended/Terminated Work; Complete Non-Suspended/Terminated.** After receipt of a Notice of suspension or termination and except as otherwise directed by COUNTY, FRANCHISEE shall:
        - 1) Stop work under this AGREEMENT on the date and to the extent specified in such Notice; and**

- 2) Complete performance of such part of the work as shall *not* have been suspended or terminated by such notice.
  - (iii) **Records Retention.** All material including books, records, documents, or other evidence bearing on the costs and expenses of FRANCHISEE under this AGREEMENT shall be maintained by FRANCHISEE in accordance with Section 11A.
  - (iv) **Completion of Work.** If this AGREEMENT is suspended or terminated, FRANCHISEE shall complete within the Director's suspension or termination date contained within the Notice of suspension or termination, those items of work which are in various stages of completion, which the Director has advised the FRANCHISEE are necessary to bring the work to a timely, logical, and orderly end. Reports, samples, and other materials prepared by FRANCHISEE under this AGREEMENT shall be delivered to COUNTY upon request and shall become the property of COUNTY.
3. **Section 18D2 Liquidated Damages.** County may seek the following liquidated damages: \$100 per day, per each failure to Collect Abandoned Waste within 48 hours of COUNTY request.

**B. General Specifications.**

1. **Collection Commencement Date and Hours of Collection.** FRANCHISEE will provide County Services in compliance with Section B1 of Exhibit 3A.
2. **Waste Diversion Program.** FRANCHISEE will provide County Services in compliance with Sections B2, C2 and D2 of Exhibit 3A
3. **Subcontractors.** FRANCHISEE shall comply with Section B5 of Exhibit 3A.
4. **Term.** FRANCHISEE shall give COUNTY Notice of upcoming expiration of this AGREEMENT six months prior to the end of the Term.

**C. Abandoned Waste Collection, Transportation, and Disposal.**

1. **Scope of County Services and Specifications; Service Standards.** FRANCHISEE shall provide weekday collection, transportation, and disposal of Abandoned Waste discarded in the Public Right-of-Way within the Service Area upon 48 hours request by a COUNTY representative (weekends excepted). FRANCHISEE shall comply with Section 4, SERVICE STANDARDS. Examples of Solid Waste include furniture,

appliances, car parts, and C&D debris. FRANCHISEE is not obligated to enter any private property.

**"Abandoned Waste"** means Solid Waste, CEDs, and E-Waste discarded at locations in Public Right of Way identified by COUNTY, such as:

- (1) Boxes, bags or bundles, and
- (2) Bulky Items.

**"Public Right-of-Way"** means:

- (1) Unless determined otherwise by COUNTY, all land and improvements on that land between the outer edge of a sidewalk (nearest to a private lot) on one side of the street and the outer edge of the sidewalk (nearest to a private lot) on the opposite side of the street, including sidewalks, land between a sidewalk and street, and median strips in the center of streets,
- (2) Public streets and alleys, and
- (3) Any other land described by COUNTY to FRANCHISEE that is not privately owned.

COUNTY reserves the right to determine if any County Service is or will be needed and/or requested under this AGREEMENT, at the COUNTY's sole and absolute discretion. FRANCHISEE waives all claims against the COUNTY for consequential damages resulting from the COUNTY's failure to request County Services, including, lost profit.

2. **Disposal, Recycling, and Diversion.** FRANCHISEE shall dispose, recycle, or divert all Abandoned Waste that it Collects, as follows:

- a. **Metal Reuse/Recycling.** FRANCHISEE may not mix major appliances or metal discards with Refuse. In accordance with Section 42170(b) of the California Public Resources Code, FRANCHISEE may not discard metallic materials that are economically feasible to process for reuse or recycling. FRANCHISEE shall recycle CEDs and E-waste.
- b. **Chlorofluorocarbons.** FRANCHISEE must not compact (in Collection Vehicles or elsewhere) Solid Waste that may contain chlorofluorocarbons, such as refrigerators and freezers.
- c. **FRANCHISEE-Designated Solid Waste Facilities.** FRANCHISEE shall comply with Section C2 of Exhibit 3A.

**3. Communications**

- a. **Liaison.** FRANCHISEE shall assign a specific individual to serve as liaison between COUNTY and FRANCHISEE's crew. (That individual may be the route supervisor for Franchise Services). FRANCHISEE must provide that individual with a separate Vehicle, not used for Collecting any materials, and a phone to ensure immediate communication between COUNTY and drivers of Collection Vehicles,
- b. **Check-in.** After a driver of a Collection Vehicle completes any requested pickup of solid waste, FRANCHISEE shall require the driver to contact his or her supervisor or the COUNTY to determine if there are any additional pickups in the Service Area.
- c. **Call-in.** FRANCHISEE shall require the drivers of Vehicles used to provide either Franchise Services or County Services for Collecting to inform their supervisor of solid waste apparently abandoned in the Public Right of Way, including approximate amount, general type (such as white goods, tires), and location. FRANCHISEE will record the information and forward it to the COUNTY no later than the next Service Day.
- d. **Removal of Debris.** The FRANCHISEE is advised that due to the nature of Task 2, discarded hazardous waste may be encountered during the performance of Task 2 service. In the event an unknown substance or hazardous material is discovered, the FRANCHISEE shall immediately notify the COUNTY's Authorized Representative and initiate the Unpermitted Waste Screening Protocol that it proposes in accordance with AGREEMENT (Section 6). The FRANCHISEE shall NOT attempt to perform any type of hazardous waste remediation not included under this Task 2, or the Unpermitted Waste Screening Protocol of the AGREEMENT (Section 6), including identifying, containing, cleaning, moving, disposing, etc. The FRANCHISEE shall exercise extreme caution in the event unknown waste is encountered.

**D. County Service Charges and Billing.**

- 1. **Rate and Maximum Contract Sum.** The COUNTY agrees, in consideration of satisfactory performance of Task 2, County Services, in strict accordance with the service specifications set forth herein, to the satisfaction of the Director of Public Works, to pay the FRANCHISEE **\$60 per Ton** of Abandoned Waste that FRANCHISEE Collects, **not to exceed \$10,000** per Contract Year or a greater amount as the Board may

approve. This is referred to as the "Maximum Contract Sum" for Task 2.

- a. If FRANCHISEE does not commingle Abandoned Waste in the same Vehicle with other refuse, and the facility weighs Abandoned Waste that FRANCHISEE delivers, FRANCHISEE shall report that weight to COUNTY in the Monthly Report and keep copies of all weigh receipts. If a facility does *not* weigh those materials, FRANCHISEE shall calculate the weight of allocated Abandoned Waste in accordance with Cal Recycle weight conversion standards <http://www.calrecycle.ca.gov/LGCentral/Library/dsg/Appendix.html>, or other method satisfactory to the Director.
- b. If FRANCHISEE *does* commingle Abandoned Waste in the same Vehicle as other refuse, FRANCHISEE shall allocate the proportion of Abandoned Waste to other refuse in a formula approved by County, and weigh or calculate the weight of the Abandoned Waste as set forth in the preceding paragraph.

The COUNTY will not provide utilities or storage facilities for FRANCHISEE.

2. **Special Fund Obligation.** COUNTY will pay County Service Charges from the COUNTY'S Road Fund. FRANCHISEE acknowledges that it will not be compensated for providing County Service under Task 2 from Customer Service Charges under Task 1. **Customers do not pay County Service Charges.**
3. **Billing.** FRANCHISEE shall bill COUNTY monthly, in arrears, for the County Services performed during the preceding month by invoice (original and two copies) in form satisfactory to COUNTY. COUNTY will pay County Service Charges to the FRANCHISEE within 30 days of receipt and approval of a properly completed and undisputed invoice. If FRANCHISEE is certified by the COUNTY as a Local Small Business Enterprise, COUNTY will pay FRANCHISEE in accordance with Board of Supervisors Policy No. 3.035, Small Business Liaison and Prompt Payment Program.
  - a. FRANCHISEE shall submit invoices to:  
  
County of Los Angeles Department of Public Works  
Attention Fiscal Division, Accounts Payable  
P.O. Box 7508  
Alhambra, CA 91802-7508
  - b. FRANCHISEE shall include evidence of waste removal in the form of before and after photographs of each item or pile of items.



Photos must display a time and date stamp and contain embedded geotagged location information and be transmitted electronically to COUNTY.

4. **Payment Exceeding Maximum Contract Sum.** In no event shall the aggregate total amount of compensation paid to the FRANCHISEE exceed Maximum Contract Sum.
5. **Request Work.** The FRANCHISEE understands and agrees that only the Director or his/her designated representative is authorized to request or order work under this AGREEMENT. The FRANCHISEE acknowledges that the designated authorized representative is not authorized to request or order any work that would result in the FRANCHISEE earning an aggregate compensation in excess of this AGREEMENT's Maximum Contract Sum.
6. **Performing Work to Exceed Maximum Contract Sum.** The FRANCHISEE shall not perform or accept work requests from the designated authorized representative or any other person that will cause the Maximum Contract Sum to be exceeded. FRANCHISEE shall monitor the balance of the Maximum Contract Sum. When the total of the FRANCHISEE's paid invoices, invoices pending payment, invoices yet to be submitted, and ordered services reaches 75 percent of the Maximum Contract Sum, the FRANCHISEE shall immediately notify the authorized representative in writing. The FRANCHISEE shall send written notification to the authorized representative when this AGREEMENT is within six months from expiration of the term as provided for hereinabove.
7. **No Adjustment.** The County Service Charge rate will not be adjusted during the Term, including any extensions of the Term.
8. **Budget Reduction.** If the Board of Supervisors adopts a budget for any Fiscal Year that reduces the salaries or benefits paid to the majority of COUNTY employees and imposes similar reductions with respect to COUNTY Contracts, the COUNTY reserves the right to correspondingly reduce the following:
  - The rate of County Service Charges for that Fiscal Year and any subsequent Fiscal Year during the Term of this AGREEMENT (including any extensions), and
  - The Maximum Contract Sum.

Except as set forth in the preceding sentence, the FRANCHISEE shall continue to provide all of the services set forth in this AGREEMENT. The COUNTY's notice to the FRANCHISEE regarding said reduction in

payment obligation shall be provided within thirty (30) calendar days of the Board's approval of such actions.

9. **Deductions.** COUNTY may deduct from any payment due FRANCHISEE any incurred or anticipated County Reimbursement Costs, including legal fees and staff costs, associated with any investigation or enforcement proceeding brought by Cal/OSHA arising out of the County Service.
10. **No Payment Following Expiration/Suspension/Termination of AGREEMENT.** FRANCHISEE shall make no claim against COUNTY for payment of any money or reimbursement, of any kind whatsoever, for any County Service that FRANCHISEE provides after the expiration, suspension, or other termination of this AGREEMENT. If FRANCHISEE receives any such payment, it shall immediately inform COUNTY and repay all that payment to COUNTY. Payment by COUNTY for County Services rendered after expiration/suspension/termination of this AGREEMENT shall not constitute a waiver of COUNTY's right to recover such payment from FRANCHISEE. This provision shall survive the expiration/suspension/termination of this AGREEMENT.
11. **Most Favored Public Entity.** If the FRANCHISEE's prices decline, or if FRANCHISEE, at any time during the term of this AGREEMENT, provides services substantially the same as County Services to anyone else, including the State of California or any County, municipality, or district of the State at prices below those set forth in this AGREEMENT, then FRANCHISEE will immediately reduce the rate of County Service Charges to match those lower prices.

#### **E. Employment Eligibility Verification**

1. FRANCHISEE warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all of its employees performing work under this AGREEMENT meet the citizenship or alien status requirements set forth in Federal and State statutes and regulations. FRANCHISEE shall obtain, from all covered employees performing services hereunder, all verification and other documentation of employment eligibility status required by Federal and State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986 (P.L. 99-603), or as they currently exist and as they may be hereafter amended. FRANCHISEE shall retain all such documentation for all covered employees for the period prescribed by law.
2. FRANCHISEE shall, defend, and hold harmless, the County of Los Angeles, its Special Districts, Elected Officials, Officers, Agents, Employees, and Volunteers sanctions and any other liability which may be assessed against FRANCHISEE or COUNTY or both in connection with

any alleged violation of Federal or State statutes or regulations pertaining to the eligibility for employment of persons performing services under this AGREEMENT.

**F. Security and Background Investigations.**

Security and background investigations of FRANCHISEE's staff may be required at the discretion of the COUNTY as a condition of beginning and continuing work under any resulting AGREEMENT. The cost of background checks is the responsibility of the FRANCHISEE.

**G. Consideration of Hiring County Employees Targeted for Layoffs or Former County Employee on Reemployment List.**

Should FRANCHISEE require additional or replacement personnel after the effective date of this AGREEMENT to perform the services set forth herein, FRANCHISEE shall give first consideration for such employment openings to qualified permanent COUNTY employees who are targeted for layoff or qualified, former COUNTY employees who are on a reemployment list during the life of this AGREEMENT.

**H. Conflict of Interest.**

No COUNTY employee whose position with COUNTY enables such employee to influence the award of this AGREEMENT or any competing contract, and no spouse or economic dependent of such employee shall be employed in any capacity by FRANCHISEE or have any other direct or indirect financial interest in this AGREEMENT. No officer or employee of FRANCHISEE who may financially benefit from the performance of the work hereunder shall in any way participate in COUNTY's approval, or ongoing evaluation, of such work, or in any way attempt to unlawfully influence COUNTY's approval or ongoing evaluation of such work.

FRANCHISEE represents and warrants that it is aware of, and its authorized officers have read, the provisions of Los Angeles County Code, Section 2.180.010, "Certain Contracts Prohibited," and that execution of this AGREEMENT will not violate those provisions. FRANCHISEE shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this AGREEMENT. FRANCHISEE warrants that it is not now aware of any facts that create a conflict of interest. If FRANCHISEE hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to COUNTY. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this paragraph shall be a material breach of this AGREEMENT subjecting FRANCHISEE to either contract

termination for default or debarment proceedings or both. FRANCHISEE must sign and adhere to the "Conflict of Interest Certification" (Form PW-5).

**I. Fair Labor Standards Act.**

FRANCHISEE shall comply with all applicable provisions of the Federal Fair Labor Standards Act. and shall indemnify, defend, and hold harmless the County of Los Angeles, its Special Districts, Elected Officials, Officers, Agents, Employees, and Volunteers from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law, including the Federal Fair Labor Standards Act, for work performed by FRANCHISEE's employees for which COUNTY may be found jointly or solely liable.

**J. Consideration of GAIN/GROW Participants for Employment**

COUNTY will refer GAIN and GROW participants by category to FRANCHISEE. In the event that if both laid-off COUNTY employees and GAIN and GROW participants in categories identified by COUNTY are available for hiring, FRANCHISEE shall give COUNTY employees first priority.

**K. Record Retention and Inspection/Audit Settlement**

FRANCHISEE shall maintain accurate and complete financial records of its activities and operations relating to this AGREEMENT in accordance with generally accepted accounting principles. FRANCHISEE shall also maintain accurate and complete employment and other records relating to its performance of this AGREEMENT. FRANCHISEE agrees that COUNTY, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or record relating to this AGREEMENT. All such material, including, but not limited to, all financial records, bank statements, cancelled checks, or other proof of payment, timecards, sign-in/sign-out sheets, and other time and employment records, and proprietary data and information, shall be kept and maintained by FRANCHISEE and shall be made available to COUNTY during the term of this AGREEMENT and for a period of five years thereafter unless COUNTY's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by FRANCHISEE at a location in COUNTY, provided that if any such material is located outside COUNTY, then, at COUNTY's option, FRANCHISEE shall pay COUNTY for travel, per diem, and other costs incurred by COUNTY to examine, audit, excerpt, copy, or transcribe such material at such other location.

1. In the event that an audit of FRANCHISEE is conducted specifically regarding this AGREEMENT by any Federal or State auditor, or by any auditor or accountant employed by FRANCHISEE or otherwise, then FRANCHISEE shall file a copy of such audit report with COUNTY's Auditor-Controller within 30 days of FRANCHISEE's receipt thereof, unless

otherwise provided by applicable Federal or State law or under this AGREEMENT. Subject to applicable law, COUNTY shall make a reasonable effort to maintain the confidentiality of such audit report(s).

2. Failure on the part of FRANCHISEE to comply with any of the provisions of this paragraph shall constitute a material breach of this AGREEMENT upon which COUNTY may suspend or terminate for default or suspend this AGREEMENT.
3. If, at any time during the term of this AGREEMENT or within five years after the expiration or termination of this AGREEMENT, representatives of COUNTY conduct an audit of FRANCHISEE regarding the work performed under this AGREEMENT, and if such audit finds that COUNTY's dollar liability for any such work is less than payments made by COUNTY to FRANCHISEE, then the difference shall be either: a) repaid by FRANCHISEE to COUNTY by cash payment upon demand or b) at the sole option of COUNTY's Auditor-Controller, deducted from any amounts due to FRANCHISEE from COUNTY, whether under this AGREEMENT or otherwise. If such audit finds that COUNTY's dollar liability for such work is more than the payments made by COUNTY to FRANCHISEE, then the difference shall be paid to FRANCHISEE by COUNTY by cash payment, provided that in no event shall COUNTY's maximum obligation for this AGREEMENT exceed the funds appropriated by COUNTY for the purpose of this AGREEMENT.

**L. Compliance with County's Jury Service Program**

**1. Jury Service Program**

This AGREEMENT is subject to the provisions of COUNTY's ordinance entitled Contractor Employee Jury Service (Jury Service Program) as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code.

**2. Written Employee Jury Service Policy**

- a. Unless FRANCHISEE has demonstrated to COUNTY's satisfaction either that FRANCHISEE is not a "FRANCHISEE" as defined under the Jury Service Program (Section 2.203.020 of County Code) or that FRANCHISEE qualifies for an exception to the Jury Service Program (Section 2.203.070 of County Code), FRANCHISEE shall have and adhere to a written policy that provides that its Employees shall receive from FRANCHISEE, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that Employee deposit any fees received for such jury service with FRANCHISEE or that FRANCHISEE deduct from the Employee's regular pay the fees received for jury service.

- b. For purposes of this Section, "FRANCHISEE" means a person, partnership, corporation, or other entity which has a contract with COUNTY or a subcontract with a COUNTY contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more COUNTY contracts or subcontracts. "Employee" means any California resident who is a full-time employee of FRANCHISEE. "Full-time" means 40 hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by COUNTY, or 2) FRANCHISEE has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If FRANCHISEE uses any Subcontractor to perform services for COUNTY under this AGREEMENT, the Subcontractor shall also be subject to the provisions of this Section. The provisions of this Section shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the AGREEMENT.
- c. If FRANCHISEE is not required to comply with the Jury Service Program when this AGREEMENT commences, FRANCHISEE shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and FRANCHISEE shall immediately notify COUNTY if FRANCHISEE at any time either comes within the Jury Service Program's definition of "FRANCHISEE" or if FRANCHISEE no longer qualifies for an exception to the Jury Service Program. In either event, FRANCHISEE shall immediately implement a written policy consistent with the Jury Service Program. COUNTY may also require, at any time during this AGREEMENT and at its sole discretion, that FRANCHISEE demonstrate to COUNTY's satisfaction that FRANCHISEE either continues to remain outside of the Jury Service Program's definition of "FRANCHISEE" and/or that FRANCHISEE continues to qualify for an exception to the Jury Service Program.
- d. FRANCHISEE's violation of this Section of this AGREEMENT may constitute a material breach of this AGREEMENT. In the event of such material breach, COUNTY may, in its sole discretion, suspend or terminate this AGREEMENT and/or bar FRANCHISEE from the award of future COUNTY contracts for a period of time consistent with the seriousness of the breach.

**M. Franchisee's Charitable Activities Compliance**

The Supervision of Trustees and Fundraisers for Charitable Purposes Act regulates entities receiving or raising charitable contributions. The "Nonprofit Integrity Act of 2004" (SB 1262, Chapter 919) increased Charitable Purposes Act requirements. By requiring FRANCHISEE's to complete the Charitable Contributions Certification (Form PW-12), COUNTY seeks to ensure that all COUNTY FRANCHISEE's which receive or raise charitable contributions comply with California law in order to protect COUNTY and its taxpayers. A FRANCHISEE which receives or raises charitable contributions without complying with its obligations under California law commits a material breach subjecting it to either contract termination for default or debarment proceedings or both. (Los Angeles County Code Chapter 2.202)

**N. Transitional Job Opportunities Preference Program**

This AGREEMENT is subject to the provisions of the COUNTY's ordinance entitled Transitional Job Opportunities Preference Program, as codified in Chapter 2.205 of the Los Angeles County Code.

FRANCHISEE shall not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining, retaining, or attempting to obtain or retain certification as a Transitional Job Opportunity vendor.

FRANCHISEE shall not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a COUNTY official or employee for the purpose of influencing the certification or denial of certification of any entity as a Transitional Job Opportunities vendor.

If FRANCHISEE has obtained COUNTY certification as a Transitional Job Opportunities vendor by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded this AGREEMENT to which it would not otherwise have been entitled, shall:

- a. Pay to the COUNTY any difference between the contract amount and what the COUNTY's costs would have been if the contract had been properly awarded;
- b. In addition to the amount described in subdivision (1), be assessed a penalty in the amount of not more than ten percent of the amount of this AGREEMENT; and

- c. Be subject to the provisions of Chapter 2.202 of the Los Angeles County Code (Determinations of Contractor Nonresponsibility and Contractor Debarment).

The above penalties shall also apply to any entity that has previously obtained proper certification. However, if there is a change in their status and an entity fails to notify Public Works of this information prior to responding to a solicitation or accepting a contract award, they would no longer be eligible for certification.

**O. Local Small Business Enterprise (SBE) Preference Program**

This AGREEMENT is subject to the provisions of COUNTY's ordinance entitled Local Small Business Enterprise Preference Program, as codified in Chapter 2.204 of the Los Angeles County Code.

FRANCHISEE shall not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining, retaining, or attempting to obtain or retain certification as a Local Small Business Enterprise.

FRANCHISEE shall not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a COUNTY official or employee for the purpose of influencing the certification or denial of certification of any entity as a Local Small Business Enterprise.

If FRANCHISEE has obtained COUNTY certification as a Local Small Business Enterprise by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded this AGREEMENT to which it would not otherwise have been entitled, shall:

- a. Pay to COUNTY any difference between this AGREEMENT amount and what COUNTY's costs would have been if this AGREEMENT had been properly awarded;
- b. In addition to the amount described in subdivision (1), be assessed a penalty in an amount of not more than ten percent of the amount of this AGREEMENT; and
- c. Be subject to the provisions of Chapter 2.202 of the Los Angeles County Code (Determinations of Contractor Nonresponsibility and Contractor Debarment).



The above penalties shall also apply if FRANCHISEE is no longer eligible for certification as a result of a change of its status and FRANCHISEE failed to notify the State and County's Office of Affirmative Action Compliance of this information.

**P. Franchisee Responsibility and Debarment**

**1. Responsible Franchisee**

A responsible FRANCHISEE is a Contractor who has demonstrated the attribute of trustworthiness as well as quality, fitness, capacity, and experience to satisfactorily perform the contract. It is COUNTY's policy to conduct business only with responsible Contractors.

**2. Chapter 2.202 of County Code**

FRANCHISEE is hereby notified that, in accordance with Chapter 2.202 of County Code, if COUNTY acquires information concerning the performance of FRANCHISEE on this or other contracts which indicates that FRANCHISEE is not responsible, COUNTY may, in addition to other remedies provided in this AGREEMENT, debar FRANCHISEE from bidding or proposing on, being awarded, and/or performing work on COUNTY contracts for a specified period of time, which generally will not exceed five years but may exceed five years or be permanent if warranted by the circumstances, and suspend or terminate any or all existing contracts FRANCHISEE may have with COUNTY.

**3. Nonresponsible Franchisee**

COUNTY may debar a FRANCHISEE if the Board finds, in its discretion, that FRANCHISEE has done any of the following: (1) violated any term of a contract with COUNTY or a nonprofit corporation created by COUNTY; (2) committed an act or omission which negatively reflects on FRANCHISEE's quality, fitness, or capacity to perform a contract with COUNTY, any other public entity, or a nonprofit corporation created by COUNTY, or engaged in a pattern or practice which negatively reflects on same; (3) committed an act or offense which indicates a lack of business integrity or business honesty; or (4) made or submitted a false claim against COUNTY or any other public entity.

**4. Contractor Hearing Board**

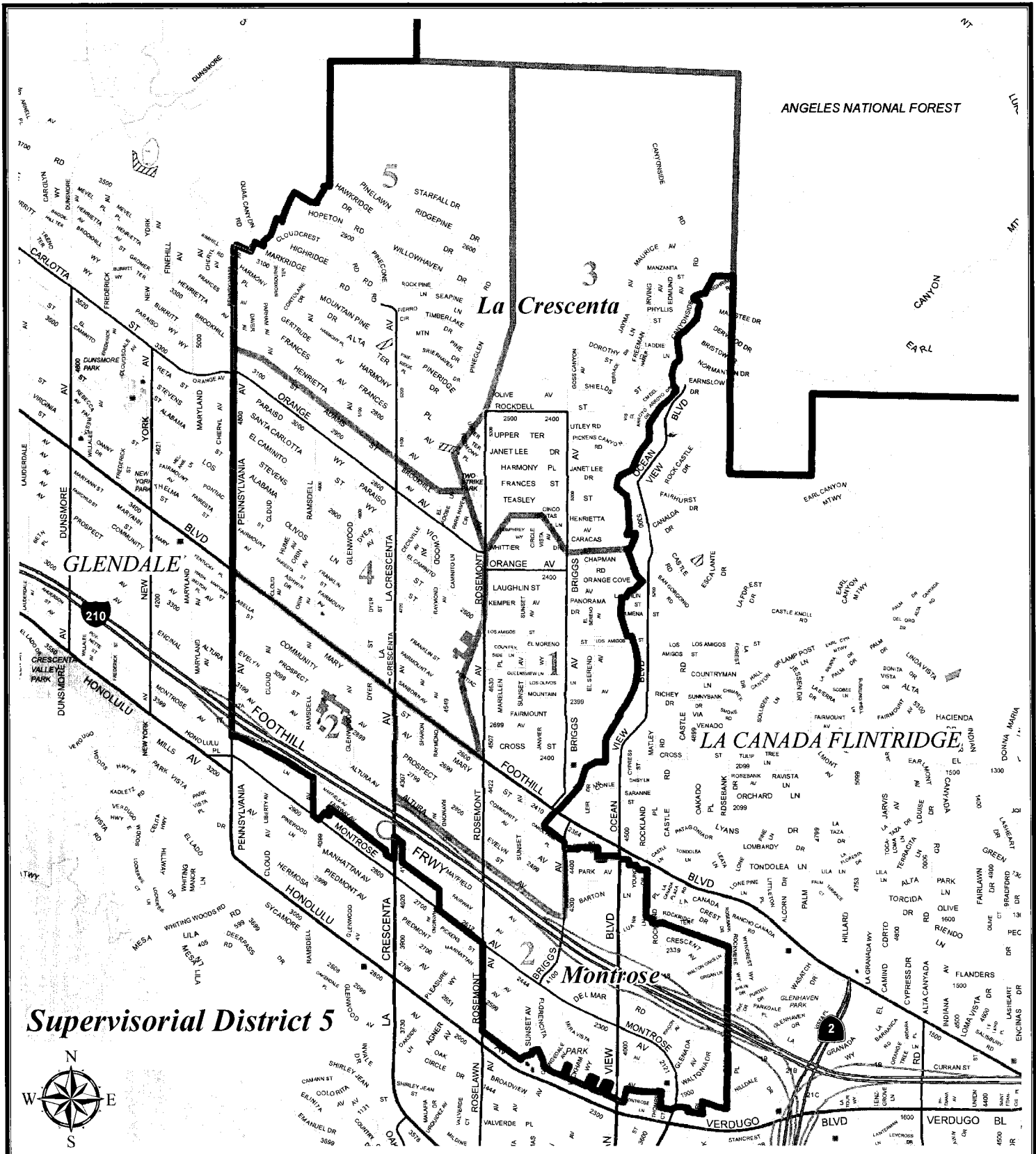
- a. If there is evidence that FRANCHISEE may be subject to debarment, Public Works will notify FRANCHISEE in writing of the evidence which is the basis for the proposed debarment and will advise FRANCHISEE of the scheduled date for a debarment hearing before Contractor Hearing Board.

- b.** Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. FRANCHISEE and/or FRANCHISEE's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, Contractor Hearing Board will prepare a tentative proposed decision, which shall contain a recommendation regarding whether FRANCHISEE should be debarred, and, if so, the appropriate length of time of the debarment. FRANCHISEE and Public Works shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board.
- c.** After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision, and any other recommendation of Contractor Hearing Board shall be presented to the Board. The Board shall have the right to modify, deny, or adopt the proposed decision and recommendation of Contractor Hearing Board.
- d.** If a FRANCHISEE has been debarred for a period longer than five years, that FRANCHISEE may, after the debarment has been in effect for at least five years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. COUNTY may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that FRANCHISEE has adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of COUNTY.
- e.** Contractor Hearing Board will consider a request for review of a debarment determination only where (1) FRANCHISEE has been debarred for a period longer than five years; (2) the debarment has been in effect for at least five years; and (3) the request is in writing, states one or more of the grounds for reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate request, Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by Contractor Hearing Board pursuant to the same procedure as for a debarment hearing.

- f. Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. Contractor Hearing Board shall present its proposed decision and recommendation to the Board. The Board shall have the right to modify, deny, or adopt the proposed decision and recommendation of Contractor Hearing Board.

**5. Subcontractors of Franchisee**

These terms shall also apply to Subcontractors of COUNTY Contractors.



*Supervisory District 5*

**TRASH  
AREA COLLECTION**

- |   |           |
|---|-----------|
| 1 | Monday    |
| 2 | Tuesday   |
| 3 | Wednesday |
| 4 | Thursday  |
| 5 | Friday    |

***La Crescenta / Montrose  
Residential Franchise  
Trash Collection Schedule***

0.25 0 0.25 0.5 Mile



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**EXHIBIT 3D–FRANCHISEE DOCUMENTATION**

**[All documentation listed below to be attached to AGREEMENT as Exhibit 3D]**

**A. Notice to COUNTY Required.**

1. **FRANCHISEE'S PERMIT AND PERMIT APPLICATION**, including all permits required by the County Code (such as a waste collector permit from the Los Angeles County Department of Health Services) or other Applicable Law.

2. **INVENTORY OF SERVICE ASSETS**, including all documents that encumber or limit FRANCHISEE's interest in Service Assets as described in Section 16A3b, which includes identifying serial numbers on Carts promptly upon acquisition.

**CART SPECIFICATIONS**, including Cart capacity options, container color, manufacturer's orders and invoices, label content and placement (Section 6D; Section B3d of Exhibit 3A).

**VEHICLE SPECIFICATIONS**, including vehicle identification number, model, make, year, purchase order (if applicable) and fuel type.

3. **BACKUP SERVICE PLAN** (Section 16C)

4. **ALL FRANCHISEE MANAGERS** (Section 20J5; see definition of "FRANCHISEE Manager" in Exhibit 21)

**AUTHORIZED REPRESENTATIVE OF FRANCHISEE**, with Notice contact information (name, address, phone numbers, fax numbers, e-mail address)

**KEY PERSONNEL** (Section 4L)

**SERVICES SAFETY OFFICIAL** (Section 23E1)

5. **ROUTE MAPS AND SCHEDULES** (Section B6 of Exhibit 3A).

6. **FACILITIES AND SOLID WASTE FACILITIES** designated by FRANCHISEE (Exhibit 3A: Sections C2 Refuse, D2 Recyclables, E2 Green Waste, F2 Bulky Items, CEDs. E-waste, and Excess Solid Waste), including the following information:

- a. Name, location, owner and operator, with telephone contact;
- b. Types of materials accepted and rejected;

- c. If applicable, methodology used by each Processing facility for allocating materials, including Disposed residue, to the Service Area, with sample reports.
- 7. **SUBCONTRACTORS**, including Subcontractors' names, the amount of Goods or Services that each Subcontractor provides to FRANCHISEE, and a description of FRANCHISEE'S relationships to each Subcontractor, including ownership interests; but excluding COUNTY-approved Subcontractors (Section B5 of Exhibit 3A).

**B. COUNTY Consent Required.**

- 1. **FORM OF NON-COLLECTION NOTICE** including any Green Waste exclusions (Section 4C).
- 2. **FORM OF SUBSCRIPTION ORDER** (Section 4D), including form of any waiver of liability (Section 4B) and form of any indemnification (Section G of Exhibit 3A)  
**SUBSCRIPTION ORDER SUMMARY** (Section 4D)
- 3. **UNPERMITTED WASTE SCREENING PROTOCOL** (Section 6; Section F4 of Exhibit 3A).
- 4. **OFFICE ADDRESS** (Section 7A) and FRANCHISEE Office Hours.
- 5. **ACKNOWLEDGMENT** of receipt of fact sheets relating to form of Nonemployee Injury Report (Section 14B6) and Safely Surrendered Baby Law (Section 23B2).
- 6. **INSURANCE AND PERFORMANCE ASSURANCE** (Sections 14 and 15).
- 7. **INTERNAL REVENUE SERVICE NOTICE 1015** (Section 23B1).
- 8. **FRANCHISEE'S EEO CERTIFICATION (FORM PW-7)** (Section 23D3).
- 9. **WASTE DIVERSION PROGRAM, including Customer Recyclables Diversion Education Program** (Sections B2 and J2 of Exhibit 3A).
- 10. **ALTERNATIVES TO FULLY AUTOMATED OR 96-GALLON CARTS** (Sections B3h, B3i and B3j of Exhibit 3A).
- 11. **COUNTY-APPROVED SUBCONTRACTORS**, including Subcontractors' names, the amount of Goods or Services that each Subcontractor provides to FRANCHISEE, and a description of FRANCHISEE'S relationships to each Subcontractor, including ownership interests (Section B5 of Exhibit 3A).

- 12. ADDITIONAL FRANCHISEE COMMITMENTS MADE IN ITS PROPOSAL FOR PROCUREMENT OF THIS AGREEMENT** (Section J of Exhibit 3A).
- 13. SHARPS COLLECTION** (Section F6 of Exhibit 3A).

## EXHIBIT 10–RATES

### A. Rates.

1. **Rate Schedule and Rate Adjustments.** FRANCHISEE shall charge Customer Service Charges in amounts less than or equal to the Rates set forth in the Rate Schedule. These Rates will be adjusted at FRANCHISEE'S request, submitted at least 60 days in advance of July 1, or at the Director's option, as the case may be, in any of the following events:
  - a. Annual changes in the CPI, DOE CNG, EIA LNG, or DOE Diesel in accordance with the Rate adjustment protocol in subsection A2 and examples in Tables 1, 2, and 3 of Attachment 1 of this Exhibit 10;
  - b. Change in FRANCHISEE'S costs of Disposal of Refuse at the Solid Waste Facility it has designated in FRANCHISEE Documentation as provided in the Rate adjustment protocol in subsection A3 and example in Section B of Attachment 1 of this Exhibit 10; or
  - c. Change in FRANCHISEE'S Direct Costs of providing Franchise Services due to Changes in Law or changes in Franchise Services or Franchise Standards as agreed to between FRANCHISEE and the Director.

All calculations are rounded to the nearest 1/100<sup>th</sup> decimal place (for example, 101.9656% to 101.97%, or 101.9637% to 101.96). The decimal 5 is rounded down (for example, 101.965% to 101.96%).

Adjustments in Customer Service Charges are rounded to the nearest penny (for example, \$25.34).

If any adjustments are made to Net Rates, then the amount of the Franchise Fee in effect at the time of adjustment will be re-calculated and added to the adjusted Net Rates. Cumulative adjustments to the Net Rates cannot exceed:

30 percent during the period commencing on date FRANCHISEE begins providing Franchise Services to Customers and ending on the initial Termination Date.

32, 34, and 36 percent respectively, during the period or periods commencing on the initial Termination Date and ending one, two or three years thereafter on any or all of three possible extended Termination Dates.



No adjustment will be effective until notice thereof has been provided to the Board of Supervisors. Net Rates will be adjusted only if there are no Breaches that have not been cured after Notice from the Director in accordance with Section 17A and no FRANCHISEE Defaults.

FRANCHISEE shall provide all Customers a minimum of 30-days' advance written notice of the implementation of changes in any Customer Service Charges or other notices directed by COUNTY.

Rates will not otherwise be adjusted, including for actual changes in the price of fuel or increases in Disposal tipping fees other than as described in the preceding items a and b, respectively, of this subsection A1. If FRANCHISEE and the Director fail to reach agreement to adjust the Rates as a result of Changes in Law or changes in Franchise Services or Franchise Standards as described in preceding item c of this subsection A1, COUNTY will have the option to terminate this AGREEMENT in accordance with Section 17D.

2. **Rate Adjustment for Annual Increase or Decrease in CPI, DOE CNG, EIA LNG or DOE Diesel.**

- a. ***Adjustment Due to Change in CPI.*** Beginning on July 1 in the second Calendar Year after commencement of Collection and thereafter on each succeeding July 1, the Service Component will be adjusted by 75 percent of the percent change, if any, between the following:
- the CPI during the 12-month period commencing April 1 of the previous year to March 31 of the current year, and
  - the CPI during the 12-month period commencing April 1 of the next previous year to March 31 of the previous year,
  - no greater than 5 percent, as confirmed by COUNTY'S Auditor-Controller.
- b. ***Adjustment Due to Change in DOE CNG, EIA LNG or DOE Diesel***

The DOE CNG rate adjustment will apply only to the percentage of Vehicles in a fleet that use compressed natural gas. The DOE LNG rate adjustment will apply only to the percentage of Vehicles in a fleet that use compressed liquefied natural gas. The DOE Diesel rate adjustment will apply only to the percentage of Vehicles in a fleet that use diesel.

- i. ***Adjustment Due to Change in DOE CNG.*** Beginning on July 1 in the second Calendar Year after commencement of Collection and thereafter on each succeeding July 1, the CNG Fuel Component will be adjusted by the percent change, if any, between the following:
  - the DOE CNG commencing April 1 of the previous year to March 31 of the current year , and
  - the DOE CNG published during the four quarter-period commencing in April of the next previous year and ending in January of the previous year as confirmed by COUNTY'S Auditor-Controller. (Table 2 in Attachment 1 of Exhibit 10).
- ii. ***Adjustment Due to Change in Energy Information Administration (EIA) LNG.*** Beginning on July 1 in the second Calendar Year after commencement of Collection and thereafter on each succeeding July 1, the EIA LNG Fuel Component will be adjusted by the percent change, if any, between the following:
  - The EIA LNG commencing April 1 of the previous year to March 31 of the current year , and
  - The EIA LNG published during the four quarter-period commencing in April of the next previous year and ending in January of the previous year as confirmed by COUNTY'S Auditor-Controller.
- iii. ***Adjustment Due to Change in DOE Diesel.*** Beginning on July 1 in the second Calendar Year after commencement of Collection and thereafter on each succeeding July 1, the Diesel Fuel Component will be adjusted by the percent change, if any, between the following:
  - the DOE Diesel during the 12-month period commencing April 1 of the previous year to March 31 of the current year, and
  - the DOE Diesel during the 12-month period commencing April 1 of the next previous year to March 31 of the previous year,

**c. Rate Adjustment Definitions.**

**"CNG Fuel Component"** means 5 percent of the Net Rate shown on the Rate Schedule times the percentage of Vehicles that use compressed natural gas.

**"CPI"** means the Consumer Price Index for all Urban Consumers (Los Angeles-Riverside-Orange County) (Not Seasonally Adjusted) All items, Series ID CWURA421SA0, Base Period 1982-84=100, published by the United States Department of Labor, Bureau of Labor Statistics at <http://data.bls.gov/cgi-bin/surveymost>.

**"Diesel Fuel Component"** means 5 percent of the Net Rate shown on the Rate Schedule times the percentage of Vehicles that use diesel.

**"Disposal Component"** means 30 percent of the Net Rate shown on the Rate Schedule.

**"DOE CNG"** means the Nationwide Average Price for Fuel – Compressed Natural Gas Average Prices by Region from Clean Cities Sources, published quarterly in Energy Efficiency and Renewable Energy/Clean Cities Alternative Fuel Price Report from the United States Department of Energy website, [http://www.eere.energy.gov/afdc/price\\_report.html](http://www.eere.energy.gov/afdc/price_report.html) or if that is permanently discontinued, another CNG price published by a State or the Federal government selected by the Director.

**"DOE DIESEL"** means the Diesel (On Highway) – Product / All Types for Area / California (Period: Annual) price published monthly in the Official Energy Statistics from the United States Department of Energy website, [http://tonto.eia.doe.gov/dnav/pet/pet\\_pri\\_gnd\\_dcus\\_sca\\_m.htm](http://tonto.eia.doe.gov/dnav/pet/pet_pri_gnd_dcus_sca_m.htm), or if that is permanently discontinued, Producers Price Index- Commodities Fuels and related products and power/No.2 diesel fuel Series Id: WPU057303 published by the United States Bureau of Labor Statistics at <http://data.bls.gov/cgi-bin/surveymost>.

**"EIA LNG"** means the average for fuel – Product / All Types for Area / California (Period: Annual) price published monthly in the Official Energy Statistics from the United States Energy Information Administration website, [http://tonto.eia.doe.gov/dnav/ng/ng\\_pri\\_sum\\_dcu\\_SCA\\_m.htm](http://tonto.eia.doe.gov/dnav/ng/ng_pri_sum_dcu_SCA_m.htm), or if that is permanently discontinued, another CNG price published by a State or the Federal government selected by the Director.

**"LNG Fuel Component"** means 5 percent of the Net Rate shown on the Rate Schedule times the percentage of Vehicles that use liquid natural gas.

**"Net Rate"** means Rate minus Franchise Fee.

**"Service Component"** means 65 percent of the Net Rate shown on the Rate Schedule.

**"Weighted Rate Adjustment Percentage"** means sum of the adjustments due to changes in the CPI, DOE CNG, EIA LNG, and DOE Diesel and disposal tipping fees calculated as provided in subsections A2a, A2b and 3, respectively.

- d. ***Net Rate Adjustment Calculation.*** The Weighted Rate Adjustment Percentage, times the prior Net Rate, is added to the prior Net Rate to yield the adjusted Net Rate. A sample calculation is included in Section C of Attachment 1 of this Exhibit 10.
- e. ***Temporarily Discontinued Indices.*** If a price or index is temporarily discontinued on the date of adjustment, the last available price or index for the required period of time (such as calendar year or other 12-month period) will be used.

- 3. **Rate Adjustment for Changes in Disposal Facility Fees.** Beginning on the first July 1 occurring at least 24 months after the commencement of Collection and thereafter on each succeeding July 1, the Disposal Component of Net Rates will be adjusted for any change in Disposal tipping fees charged FRANCHISEE by the Solid Waste Facility designated by FRANCHISEE in FRANCHISEE Documentation during the period commencing on April 1 of the prior year, as applicable, and ending on March 31 of the current year. FRANCHISEE must substantiate to the satisfaction of the Director that FRANCHISEE is experiencing that change in Disposal tipping fees. For example, FRANCHISEE may have independently contracted for Disposal at a cost lower than posted tipping fees at the Solid Waste Facility designated by FRANCHISEE in FRANCHISEE Documentation, or FRANCHISEE may own the Solid Waste Facility it designated for Disposal and consequently internalize Disposal costs lower than posted tipping fees at the Solid Waste Facility designated by FRANCHISEE in FRANCHISEE Documentation. If FRANCHISEE does not substantiate to the satisfaction of the Director that FRANCHISEE is experiencing that change in Disposal tipping fees, the Disposal Component will not be adjusted.

A sample calculation is attached in Section B of Attachment 1 of this Exhibit 10.

**ATTACHMENT 1–RATE ADJUSTMENT EXAMPLES****A. Section A2 of Exhibit 10: Annual increase or decrease in CPI, DOE CNG, EIA LNG or DOE Diesel.****Table 1–Adjustment Due to Change in CPI (Section A2a of Exhibit 10).**

Calculate percent change in CPI (12-month average, not month-to-month)	April 1, 2011-March 31, 2012	221.64
	April 1, 2007-March 31, 2013	228.59
	Percent Change	3.14% (not more than 5%)
Adjustment to Service Fee Component	75% of percent change in CPI	<b>2.28%</b>

**Table 1A - Adjustment Due to Change in EIA LNG (Section A2b of Exhibit 10).**

Calculate percent change in EIA LNG (12-month average, not month-to-month)	April 1, 2011 - March 31, 2012	121.63
	April 1, 2012 - March 31, 2013	153.01
	Percent Change	2.58% (not more than 5%)
Adjustment to Service Fee Component	75% of percent change in CPI	<b>1.93%</b>

**Table 2–Adjustment Due to Change in DOE CNG (Section A2b of Exhibit 10).**

Calculate percent change in DOE CNG (average of quarters in year – which may vary, not quarter-to-quarter)	June and October 2011 quarters and March 2012 quarter	$(2.30+1.99+2.06)/3=6.35/3=$ <b>2.12</b>
	July and October 2012 quarters and January 2013 quarter	$(2.29+2.33+2.44)/3=7.06/3=$ <b>2.35</b>
	Percent Change	$(2.35-2.12)/2.12=0.23/2.12=0.1085$ <b>10.85%</b>
Adjustment to CNG Fuel Component	30% of percent change in DOE CNG *3/10 Vehicles)*	$0.30 \times 10.85\%=$ <b>3.25%</b>

**Table 3–Adjustment Due to Change in DOE Diesel (Section A2b of Exhibit 10).**

Calculate percent change in DOE Diesel (12-month average, not month-to-month)	April 1, 2011 - March 31, 2012	271.66
	April 1, 2012 - March 31, 2013	317.55
	Percent Change	16.89%
Adjustment to Diesel Fuel Component	70% of percent change in DOE Diesel (7/10 Vehicles)*	<b>11.82 %</b>

\*In this above example, the FRANCHISEE owns a total of 10 Vehicles, and 3 Vehicles use compressed natural gas and 7 Vehicles use diesel.

**B. Section A1/A3 of Exhibit 10: Changes in Disposal tipping fees.**

**Table 4–Adjustment Due to Change in Disposal Tipping Fees**

Disposal tipping fee charges on April 1, 2012	\$24.00
Disposal tipping fee charges on March 31, 2013	\$35.00
Percent change	45.83%

**C. Weighted Rate Adjustment Percentage (Section A2a, b and c of Exhibit 10).**

**Table 5–Sum of Adjustments**

Rate Component	Relative weight of Net Rate	Adjustment due to change in indices/change in disposal tipping fees	Weighted Rate Adjustment Percentage
Service Component (CPI)	65% of Net Rate	2.35% (CPI)	1.53%
Fuel Component	5% of Net Rate	3.25%	0.16%
CNG Fuel Component		11.82%	0.59%
Diesel Fuel Component			
Disposal Component	30% of Net Rate	45.83%	13.75%
Weighted Rate Adjustment Percentage			16.03%

**D. Adjusted Net Rate / Rate: Section A1, 2 and 3 (Annual increase or decrease in CPI /DOE Diesel/DOE CNG), (Changes in Disposal tipping fees).**

If the Weighted Rate Adjustment Percentage is 16.03% percent, then a hypothetical Net Rate of \$17.00 would be adjusted as follows:

$$\begin{aligned} \$17.00 + [16.03\% \times \$17.00] &= \$17.00 + \$2.72 = \\ \mathbf{\$19.72} &= \text{adjusted Net Rate} \end{aligned}$$

The Franchise Fee is 10 percent; the adjusted (gross) Rate and the Franchise Fee would be calculated as follows:

{Adjusted Net Rate / [100% - Franchise Fee %] = adjusted (gross) Rate

{ $\$19.72 / [100\% - 10\%]$ } = \$21.91

**\$ 21.91 = adjusted Rate**

Adjusted Rate – adjusted Net Rate = Franchise Fee

$\$21.91 - \$19.72 = \$2.19$

**ATTACHMENT 2–  
RATE SCHEDULE  
(CUSTOMER SERVICES CHARGES)**

**INTENTIONALLY OMITTED**

**THE INFORMATION PROVIDED ON  
FORM PW- 18, RATE SCHEDULE,  
WILL BE TRANSFERRED ONTO THIS  
ATTACHMENT 2 – RATE SCHEDULE  
(CUSTOMER SERVICE CHARGES), PRIOR  
TO EXECUTION OF THE AGREEMENT**



## **ATTACHMENT 3– BULKY ITEM COLLECTION RATES**

**INTENTIONALLY OMITTED**

**THE INFORMATION PROVIDED ON  
FORM PW- 19, BULKY ITEM COLLECTION  
RATES,  
WILL BE TRANSFERRED ONTO THIS  
ATTACHMENT 3–BULKY ITEM  
COLLECTION RATES, PRIOR TO  
EXECUTION OF THE AGREEMENT**

**EXHIBIT 18D2–LIQUIDATED DAMAGES**

Reference to "failure" refers to each occurrence of specified Breach (such as for each Customer and each Customer's Collection site, Record entry, or complaint) and not for aggregate occurrences of those Breaches (such as for all Customers on a given route or day).

1	For each failure over five during any Contract Year (1) to clean up litter in accordance with Section 4A1 or (2) comply with Section 4A2 (spills) or A3 (liquid leaks), respectively.	\$150
2	For each occurrence over 12 occurrences during any Contract Year of excessive noise in contravention of Section 4A4.	\$300
3	Failure to maintain an emergency number or make staff available thereat in accordance with Section 4A5.	\$75/day
4	Failure to provide documentation for review or comment by COUNTY or obtain any approval, consent or other permission of COUNTY required under this AGREEMENT, including any failure to timely submit, <ul style="list-style-type: none"> <li>• Customer correspondence under Section 4H</li> <li>• Publicity materials under section 4I1;</li> <li>• News releases and trade journal articles related to Franchise Services, under Section 4I2</li> <li>• Customer outreach materials under Section 6E and Exhibit 3A, Section B2b.</li> </ul>	\$300 for each failure per occurrence or each day before retraction or correction of misinformation identified by COUNTY
5	Each failure over one during any calendar month to return COUNTY calls in accordance with Section 4J.	\$500
6	Each failure over one during any Contract Year to timely meet with COUNTY in accordance with Section 4J.	\$500
7	Commingling materials from outside the Service Area with Solid Waste that FRANCHISEE Collects inside the Service Area, in contravention of Section 4K.	\$400/ Vehicle-Occurrence
8	Marketing or distributing mailing lists with the names and addresses of Customers, in contravention of Section 5B	\$10 per customer per occurrence
9	For each failure to follow its Unpermitted Waste Screening Protocol in accordance with Section 6A.	\$500
10	For each failure to mark any Cart with discard prohibitions in accordance with Section 6D.	\$50
11	Failure to maintain telephone service in accordance with Section 7B.	\$75/day
12	For each failure to timely address Customer complaints in accordance with Section 7D1.	\$100

13	For each failure over five occurrences during any Contract Year to timely Collect from missed Carts in accordance with Section 7D1.	\$300
14	For each failure to enter log of and maintain and supply Records of complaints in accordance with Section 7D2.	\$100
15	For each failure over 5 occurrences during any Contract Year to E-mail complaint information to COUNTY in accordance with Section 7D2.	\$100
16	For each occurrence of charging any Customer more than the Customer owes for Franchise Services (such as for the wrong level of Franchise Services) or charging any Customer in excess of scheduled Rates (such as the incorrect dollars/Cart), in Breach of Section 10.	\$100
17	Failure to timely allow COUNTY to inspect, audit or copy Records in accordance with Section 11C.	\$150
18	Failure to timely submit AB 939 Records in format required by COUNTY in accordance with Section 12B.	\$150
19	For each occurrence over five occurrences during any Contract Year of damage to private property in contravention of Section 20C.	\$150
20	If FRANCHISEE violates the nondiscrimination provisions of this AGREEMENT, including Section 23D.	\$500
21	Failure of any Vehicle to deliver Solid Waste to the Solid Waste Facilities designated by FRANCHISEE in accordance with Exhibit 3A and FRANCHISEE Documentation C2, D2, E2, .	\$300/ Vehicle-day
22	For each occurrence over five occurrences during any Contract Year of Collecting any Solid Waste during unauthorized hours prohibited under Section B1 of Exhibit 3A.	\$250
23	For each failure over 5 occurrences during any Contract Year to timely respond to Cart service requests (including delivery and exchanges, removal, repair and replacement) in accordance with Section B3a, b, and c of Exhibit 3A.	\$300
24	For each failure over 12 occurrences during any Contract Year to equip Carts with operable lids or return Carts upright in breach of Section B3c and e of Exhibit 3A.	\$150
25	For each failure to timely remove graffiti in accordance with Section B3g of Exhibit 3A.	\$150
26	For each failure to timely repair or replace carts in accordance with Section B3c of Exhibit 3A.	\$35
27	For each occurrence over 10 during any Contract Year of failing to return emptied Carts to their Set-Out Sites, or placing Carts in site that impedes pedestrian or vehicular traffic in contravention of Section B6 of Exhibit 3A.	\$150

28	For each failure over 3 during any Contract Year to provide Recyclables or Green Waste services to any Customer in accordance with Sections D and E of Exhibit 3A.	\$100
29	For each occurrence of disposing of Recyclables or mixing Recyclables with Refuse in Breach of Section D5 in Exhibit 3A.	\$100
30	For each failure to maintain any Vehicle in accordance with Applicable Law	\$150 per Vehicle per day
31	Any other liquidated damage in Exhibit 3A and Exhibit 3A2.	As scheduled in Exhibit 3A and Exhibit 3A2

**Reporting.** If FRANCHISEE does not timely submit the applicable information, documentation or complete report or incorporate comments, additions and corrections made by COUNTY within five days of receipt of those comments, additions and corrections, it shall pay the following liquidated damages. COUNTY may assess the following amounts of liquidated damages for each late day.

1	Monthly reports in accordance with Section 13A1, B, D, and E.	\$100/day
2	Quarterly reports in accordance with Section 13A2, B, D, and E.	\$200/day
3	Annual reports in accordance with Section 13A3, B, D, and E	\$300/day
4	Failure to report adverse information in accordance with Section 13C, B, D, and E.	\$300/ occurrence
5	Failure to deliver Route maps and schedules in accordance with Section B6 of Exhibit 3A.	\$100/ day

By placing initials below at the places provided, each Party specifically confirms the accuracy of the statements made above and the fact that each Party has had ample opportunity to consult with legal counsel and obtain an explanation of liquidated damage provisions of the time that this AGREEMENT was made.

FRANCHISEE  
Initial Here: \_\_\_\_\_

COUNTY  
Initial Here: \_\_\_\_\_

**EXHIBIT 20G-AUTHORIZED REPRESENTATIVE OF  
COUNTY'S DIRECTOR**

Name: Steven Milewski

Telephone Number: (626) 458-3573

Facsimile Number: (626) 458-3593

E-mail Address: smilewski@dpw.lacounty.gov

Address for Notices by Mail:

County of Los Angeles Department of Public Works  
Environmental Programs Division  
900 South Fremont Avenue  
Alhambra, California 91803  
Facsimile Number: (626) 458-3593  
E-mail:

County Office Hours: 7 a.m. to 5:30 p.m. Monday - Thursday

Established by Director:

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

Acknowledged by FRANCHISEE:

Signature: \_\_\_\_\_

Printed Name and Title: \_\_\_\_\_

Date: \_\_\_\_\_

## EXHIBIT 20H–FRANCHISEE'S REPRESENTATIONS AND WARRANTIES

1. **Status.** FRANCHISEE is [INSERT DESCRIPTION OF FRANCHISEE ENTITY, E.G. CORPORATION] duly organized, validly existing and in good standing under the laws of and is qualified to do business in the State of California with full power and authority to execute and deliver this AGREEMENT and to perform the its Performance Obligations. This AGREEMENT has been duly executed and delivered by FRANCHISEE and constitutes a legal, valid and binding obligation of FRANCHISEE enforceable against FRANCHISEE in accordance with its terms.
2. **Statements and Information.** All information and documentation compiled, drafted, made or otherwise delivered to COUNTY by or on behalf of FRANCHISEE in connection with this AGREEMENT, including its procurement, is correct and complete in all material respects as of the Execution Date and at the time originally submitted by FRANCHISEE to COUNTY.
3. **No Conflicts.** Neither the execution or delivery by FRANCHISEE of this AGREEMENT, the performance by FRANCHISEE of Franchise Services, nor the fulfillment by FRANCHISEE of the terms and conditions of this AGREEMENT: (1) conflicts with, violates or results in a breach of any Applicable Law; (2) conflicts with, violates or results in a breach of any term or condition of any judgment, order or decree of any court, administrative agency or other governmental authority, or any agreement or instrument to which FRANCHISEE is a party or by which FRANCHISEE properties or assets are bound, or constitutes a default .
4. **No Approvals Required.** FRANCHISEE has obtained and maintains all Permits in full force and effect during the Term. No other approval, authorization, license, permit, order, or consent of, or declaration, registration, or filing with any governmental or administrative authority, commission, board, agency or instrumentality is required for the valid execution and delivery of this AGREEMENT by FRANCHISEE, except those as have been duly obtained from its governing body, FRANCHISEE shall immediately provide Notice to the Director of any notice of violation, revocation or suspension of any permit.
5. **No Litigation.** As of the Execution Date, there is no action, suit, proceeding or investigation, at law or in equity, before or by any court or governmental authority, commission, board, agency or instrumentality pending or, to the best of FRANCHISEE'S knowledge, threatened, against FRANCHISEE wherein an unfavorable decision, ruling or finding, in any single case or in the aggregate, would materially adversely affect the performance by FRANCHISEE of its obligations under this AGREEMENT or in connection with the transactions contemplated by this AGREEMENT, or which, in any way, would adversely affect the validity or enforce ability of this AGREEMENT or any other agreement or instrument entered into by FRANCHISEE in connection with the transactions contemplated by this AGREEMENT.

6. **Due Diligence.** As of the Execution Date, FRANCHISEE has made an independent investigation, examination and research satisfactory to it of the conditions and circumstances surrounding this AGREEMENT and best and proper method of providing Franchise Services (including Franchise Services types) and labor, equipment, and materials for the volume of Franchise Services to be provided. FRANCHISEE agrees that it shall make no claim against COUNTY based on any estimates, statements or interpretations made by any officer, employee, agent, or consultant of COUNTY in connection with the procurement of this AGREEMENT, which proves to be in any respect erroneous.
7. **Compliance with Applicable Law.** As of the Execution Date, FRANCHISEE has fully complied with all Applicable Law, including (1) law relating to conflicts of interest and County Lobbyist Ordinance, in the course of procuring this AGREEMENT, and (2) the County Defaulted Property Tax Reduction Program.
8. **Ability to Perform.** FRANCHISEE possesses the business, professional and technical capabilities to provide Franchise Services; and possesses the equipment, facility and employee resources required to fully and timely perform Franchise Services.
9. **Contingent Fees.** No Person, including a selling agency, has been employed or retained to solicit or secure this AGREEMENT upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by FRANCHISEE for the purpose of securing business.
10. **Opportunity to Comment.** FRANCHISEE had the opportunity to submit comments and recommended changes during the procurement process, during meetings convoked by COUNTY with the denominated "Working Group" whose members received copies of the drafts of the form of agreement or during the procurement of this AGREEMENT.
11. **Solid Waste Facilities.**
  - a. The Solid Waste Facility or Facilities that FRANCHISEE designates in FRANCHISEE Documentation for Disposal is a disposal facility that is permitted to accept and process Refuse in accordance with Applicable Law.
  - b. The facility or facilities that FRANCHISEE designates in FRANCHISEE Documentation for delivery of Recyclables is a materials recovery facility that is permitted to accept and process Recyclables in accordance with Applicable Law.

- c. The facility or facilities that FRANCHISEE designates in FRANCHISEE Documentation for delivery of Green Waste is a facility that is permitted to accept and process Green Waste in accordance with Applicable Law.
- 12. **FRANCHISEE Documentation.** As of the Execution Date, the Franchisee has submitted all FRANCHISEE Documentation in accordance with Exhibit 3D.
- 13. **Personnel.** FRANCHISEE fully complies with all Federal and State statutes and regulations regarding employment of aliens and others, and all of its employees performing Franchise Services meet the citizenship or alien status requirements set forth in Federal and State statutes and regulations.



## EXHIBIT 21–DEFINITIONS

**Abandoned Waste** means "Abandoned Waste" defined in Section C1 of Exhibit 3A2

**AB 939** means the California Integrated Waste Management Act of 1989, California Public Resources Code Section 40000 *et seq.*

**Affiliate** means a Person that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with FRANCHISEE. For the purpose of this definition, the meaning of the term "control" will be governed by Rule 144 of the Securities Act of 1993.

**AGREEMENT** means this agreement, including all exhibits and other attachments, which exhibits and other attachments are incorporated in this agreement by reference.

**Annual Report** is described in Section 13A3.

**Applicable Law** means all laws, statutes, rules, regulations, guidelines, Permits, actions, determinations, orders, or requirements of the United States, State of California, COUNTY (including its County Code together with rules and regulations promulgated there under and COUNTY'S Integrated Waste Management Plan), the Local Enforcement Agency, California Highway Patrol, South Coast Air Quality Management District, and other regional or local government authorities, agencies, boards, commissions, courts, or other bodies having applicable jurisdiction, that from time to time apply to or govern Franchise Services or the performance of the Parties' respective obligations under this AGREEMENT, including those that concern health, safety, fire, mitigation monitoring plans, building codes, and zoning, and further including the following:

**1. Vehicles:**

- a. California Health and Safety Code Section 43000 *et seq.*, with respect to air emissions (smog checks);
- b. California Vehicle Code Section 27456b, with respect to tires;
- c. California Vehicle Code Section 34500 *et seq.*, with respect to documentation through its maintenance log or otherwise of a safety compliance report issued under Division 14.8 of the California Vehicle Code as applicable to each Vehicle, including bi-annual "BIT" inspections conducted by the California Highway Patrol;
- d. Rules and regulations promulgated under the California Vehicle Code with respect to Vehicle highway lighting, flashing and warning lights, clearance lights, and warning flags;

- e. Rules and regulations of the California Department of Motor Vehicles with respect to Vehicle registration;
- f. Vehicle weight limits;
- g. The appropriate class of drivers' licenses issued by the California Department of Motor Vehicles;
- h. Control Measure for Diesel Particulate Matter from On-road Heavy- Duty Residential and Commercial Solid Waste Collection Vehicles, 13 CCR 2020 *et seq.*; and
- i. 14 CCR 17341, 17342, 17343 and 17344, with respect to equipment construction, safety, and parking and identification of operating equipment;

**2. Carts:**

- a. 14 CCR 17314, with respect to maintenance and placement of Carts; and
- b. 14 CCR 17317, with respect to placing identifying name and telephone number on Carts;

**3. Labor:**

- a. Drug and alcohol testing;
- b. Occupational Safety and Health Act (29 U.S.C. Section 651 *et seq.*), including the Solid Waste Disposal Facility Criteria promulgated by the U.S. EPA on October 9, 1991 (40 C.F.R., Parts 257 and 258); and California Occupational Safety and Health Act (California Labor Code, Division 5, Parts 1-10, Section 6300 *et seq.*), and rules and regulations of California Division of Occupational Safety and Health; and
- c. Immigration Reform and Control Act of 1986 (PL.99-603);

**4. Environmental Protection:**

- a. CERCLA;
- b. RCRA;
- c. Clean Air Act (42 U.S.C. Section 1351 *et seq.*, 42 U.S.C. SectionSection 7401-7642); and California Clean Air Act (California Health and Safety Code Section 39000 *et seq.*);

- d. California Hazardous Waste Control Act (California Health & Safety Code Section 25100 *et seq.*);
- e. California Hazardous Materials Release Response Plan and Inventory Act (California Health & Safety Code, Division 20, Chapter 6.95, Section 25500 *et seq.*);
- f. Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health & Safety Code Section 25300 *et seq.*); and
- g. Emergency Planning and Community Right to Know Act (42 U.S.C. Section 11001 *et seq.*); and

**5. Miscellaneous:**

- a. County Lobbyist Ordinance;
- b. County Defaulted Property Tax Reduction Ordinance.
- b. Civil Rights Act of 1964 (Subchapter VI of Chapter 21 of Title 42); and
- c. AB 939.

Reference to Applicable Law includes future amendments and supplements to or replacement, restatement, or recodification thereof.

**Approved Sharps Containers** means receptacles approved by COUNTY for discard of Sharps at Residential Premises.

**Bin** means a container for storage of solid waste that is usually collected with front end loading vehicles, such as those having a 1- to 8-cubic yard capacity, commonly referred to as a dumpster.

**Board of Supervisors** means the Board of Supervisors of the County of Los Angeles.

**Breach** means FRANCHISEE'S failure to fully and timely meet one or more Performance Obligations.

**Bulky Item** means any large item of Solid Waste that can be safely lifted by two individuals using a dolly, including the following:

1. Discarded furniture (such as chairs, sofas, mattresses, and rugs);
2. Appliances (such as refrigerators, ranges, washers, dryers, water heaters, dishwashers, plumbing, and other similar items commonly known as "white goods"); and

3. Up to two tires per Set-Out Site from passenger cars or pickup trucks.

**Calendar Year** means a year of 12 consecutive months beginning January 1 and ending December 31.

Notwithstanding the foregoing, **Bulky Item** does not include tires from semi-trucks or Universal Waste.

**Cart** means a wheeled container provided by FRANCHISEE for storage of solid waste that is collected (semi) automatically. Examples include 32, 64, and 96 gallon plastic Containers.

**CED** means a covered electronic device as defined in California Public Resources Code Section 42463 and includes the following:

- Cathode ray tube (CRT) device (including television and computer monitor);
- LCD desktop monitor;
- Laptop computer with LCD display;
- LCD television;
- Plasma television;
- Any other covered electronic devices listed in the regulations adopted by the California Department of Toxic Substances Control pursuant to California Health and Safety Code Section 25214.10.1(b).

**CERCLA** means the Comprehensive Environmental Response, Compensation and Liability Act of 1982 (42 U.S.C. Section 9601 et seq.).

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

1. The adoption, promulgation, modification, or change in Applicable Law or in judicial or administrative interpretation thereof occurring after the Execution Date other than laws with respect to taxes based on or measured by net income, or any unincorporated business, payroll, franchise taxes levied by any tax board (other than Franchise Fees levied by COUNTY) or employment taxes;
2. Any order or judgment of any federal, state, or local court or Regulatory Agency issued after the Execution Date hereof if:
  - a. That order or judgment is not also the result of the willful misconduct or negligent action or inaction of the Party relying thereon or of any third party for whom the Party relying thereon is directly responsible; and
  - b. The Party relying thereon, unless excused in writing from so doing by the other Party, will make or have made, or will cause or have caused to be

made, Reasonable Business Efforts to contest that order or judgment (it being understood that the contesting in good faith of that an order or judgment will not constitute or be construed as a willful misconduct or negligent action of that Party);

3. The imposition by a Regulatory Agency of any new or different material conditions in connection with the issuance, renewal, or modification of any Permit after the Execution Date; or
4. The failure of a Regulatory Agency to issue or renew, or delay in the issuance or renewal of, or the suspension, interruption or termination of, any Permit after the Execution Date; provided that the failure to issue or the suspension or termination of any Permit is not the result of the willful misconduct or negligent action or inaction of the Party relying thereon or any third party for whom the Party relying thereon is directly responsible.

**Collect, Collection, or Collecting** means Solid Waste pickup(s) made by FRANCHISEE required by and in accordance with this AGREEMENT, including Abandoned Waste.

**Commercial** means Person or thing that is not Residential or Multifamily.

**Commercial Customer** means Customer who owns or occupies Commercial Premises.

**Commercial Premises** means Premises that are not Residential Premises or Multifamily Premises, including stores; offices; industrial plants; private schools; restaurants; rooming houses; hotels; motels; manufacturing, processing, or assembly shops or plants; and hospitals, clinics, convalescent centers and nursing homes (with respect to nonmedical waste only).

**Container** means any Bin, Cart, compactor or other receptacle used to provide Collection.

**Contract Year** means each 12-month period commencing on the first day FRANCHISEE Collects solid waste from any Customer, unless provided otherwise in Exhibit 3A.

**Conversion** means an array of emerging technologies capable of converting the organic or carbon-containing materials portion of post-recycling residual solid waste and turning it into useful products, including renewable and environmentally benign fuels, chemicals, and other sources of clean energy.

**COUNTY** means the County of Los Angeles.

**County Business Day** means any day on which COUNTY'S Department of Public Works is open to do business with the public.

**County Code** means the Los Angeles County Code.

**County Defaulted Property Tax Reduction Program** or **County Defaulted Property Tax Reduction Ordinance** means County Code Chapter 2.206.

**County Lobbyist Ordinance** means County Code Chapter 2.160.

**County Office Hours** means hours that COUNTY is open to do business as indicated in Exhibit 20G.

**County Service** means all Performance Obligations prescribed in Exhibit 3A2 and Section 4E.

**County Service Charges** means FRANCHISEE's compensation for providing County Services/Task 2, expressed in dollars/Ton.

**County's Reimbursement Costs** means Direct Costs of COUNTY plus 35 percent thereof.

**County's Related Parties** means political subdivisions, agencies, entities, or organizations for which the Board of Supervisors is the governing body, their agents, officers, and employees, elected officials, assigns, volunteers, and special districts (including Garbage Disposal Districts) and each and every one of them. County's Related Parties are third party beneficiaries of provisions in this AGREEMENT that reference them.

**Criminal Activity** means any of the following:

1. Fraud or criminal felony offenses in connection with obtaining, attempting to obtain, procuring, or performing a public or private agreement related to recyclables, green waste or MSW Management Services of any kind (including collection, hauling, transfer, processing, composting, or disposal), including this AGREEMENT;
2. Bribery or attempting to bribe a public officer or employee of a local, state, or federal agency;
3. Embezzlement, extortion, racketeering, false claims, false statements, forgery, falsification or destruction of records, obstruction of justice, knowingly receiving stolen property, theft, or misprision (failure to disclose) of a felony;
4. Unlawful disposal of hazardous, designated or other waste; or

5. Violation of securities laws or antitrust laws, including laws relating to price-fixing, bid rigging and sales and market allocation, and of unfair and anticompetitive trade practice laws, including with respect to inflation of waste collection, hauling or disposal fees.

**Customer** means a Person who subscribes for Franchise Services from FRANCHISEE.

**Customer Service Charge** means the rates, fees, charges, and other compensation that FRANCHISEE bills a Customer for providing Collection with respect to Franchise Services (Task 1).

**day** means calendar day.

**Debarment** or **Debar** has the meaning assigned in County Code Section 2.202.020.

**Direct Costs** means the sum of the following:

1. Payroll costs directly related to the performance, management or supervision of any obligation under this AGREEMENT, comprised of compensation and fringe benefits, including vacation, sick leave, holidays, retirement, workers compensation insurance, federal and state unemployment taxes and all medical and health insurance benefits, plus;
2. The costs of materials, services, direct rental costs and supplies, plus;
3. Travel and subsistence costs, plus;
4. The reasonable costs of any payments to Subcontractors (with respect to FRANCHISEE) or contractors (with respect to COUNTY) or third parties necessary to and in connection with Performance Obligations, plus;
5. Any other cost or expense which is directly or normally associated with the task performed; which Direct Costs are substantiated by (i) a certificate signed by the principal financial officer of FRANCHISEE or the authorized representative of COUNTY, as the case may be, setting forth the amount of that cost and the reason why that cost is properly chargeable to COUNTY or FRANCHISEE, as the case may be, and stating that the cost is a competitive price, if there are competitive prices, secured in an arm's length transaction for the service or materials supplied; and (ii) if COUNTY or FRANCHISEE, as the case may be, requests that additional backup documentation as may be available to reasonably substantiate any Direct Costs, including invoices from suppliers, Subcontractors and contractors.

**Direct Costs** excludes profit or return on investment.

**Director** means the County of Los Angeles Director of Public Works or his or her authorized representative, including the authorized representative named in Exhibit 20G.

**Disposal** or **Dispose** means disposal, as defined in California Public Resources Code Section 40192, at a Solid Waste Facility of Refuse that FRANCHISEE has Collected.

**District** means Los Angeles County Flood Control District, or Los Angeles County Waterworks Districts, or Los Angeles County Consolidated Sewer Maintenance District, or Garbage Disposal District.

**diversion** or **divert** means activities that reduce or eliminate the amount of solid waste from disposal for the purposes of Division 13 of the California Public Resources Code, including Article 1 (commencing with Section 41780).

**Diversion** or **Divert** means activities that reduce or eliminate the amount of Solid Waste from Disposal for the purposes of Division 13 of the California Public Resources Code, including Article 1 (commencing with Section 41780).

**E-waste** means waste that is powered by batteries or electricity, such as computers, telephones, answering machines, radios, stereo equipment, tape players/recorders, phonographs, videocassette players/recorders, compact disc players/recorders, and calculators.

**Execution Date** means the date this AGREEMENT is signed by both the COUNTY and FRANCHISEE.

**Fiscal Year** means the 12 month period beginning July 1st and ending the following June 30th.

**Franchise** means the right and privilege granted by this AGREEMENT in Section 1.

**FRANCHISEE** means the Person executing this AGREEMENT and any assignee of FRANCHISEE consented to by COUNTY in accordance with Section 19. FRANCHISEE includes FRANCHISEE'S Subcontractors unless explicitly provided otherwise. References to all FRANCHISEE'S actions and Performance Obligations under this AGREEMENT include reference to Subcontractors' actions under this AGREEMENT, as applicable, without specifying in each instance that FRANCHISEE shall directly take those actions itself, or cause its Subcontractors to take those actions on FRANCHISEE'S behalf.

**FRANCHISEE Default** is described in Section 17.

**FRANCHISEE Documentation** means Exhibit 3D.



**FRANCHISEE Manager** means any of the following:

1. FRANCHISEE'S officers and directors;
2. The officers and directors of FRANCHISEE'S parent corporation and of each successive parent corporation's parent corporation;
3. The authorized representative of FRANCHISEE named in FRANCHISEE Documentation; and
4. Any other Persons, including Affiliates and FRANCHISEE'S or Affiliates' employees, officers or directors, in a Position of Influence.

**FRANCHISEE Office Hours** means 8:00 a.m. to 5:00 p.m. Monday through Friday, and 8:00 a.m. to 12:00 noon on Saturdays, Holidays excepted.

**Franchise Fee** means the fee described in Section 1D.

**Franchise/County Services** means Franchise Services and County Services, together.

**Franchise Services** means all Performance Obligations prescribed in Exhibit 3A, Section 4D, E, and F, and Section 7.

**FRANCHISEE's Related Parties** means FRANCHISEE'S partners, officers, directors, agents, employees, Subcontractors, consultants, licensees, invitees, and Affiliates.

**Garbage Disposal District** means a district created under County Code Chapter 20.90.

**Goods or Services** means goods or services used in providing Franchise Services, including labor; leases; subleases; equipment; supplies; capital; insurance, bonds or other performance security if the insurer, surety or other provider is an Affiliate or a captive of FRANCHISEE or any Affiliate; and legal, risk management, general, and administrative services.

**Green Waste** means Solid Waste comprised of leaves, grass clippings, brush, branches, and other forms of organic matter generated from landscapes and gardens and separated from other forms of Solid Waste, including holiday trees and bushes, but excluding:

1. Stumps or branches exceeding 4 inches in diameter or 4 feet in length;
2. Yucca or palm fronds, unless FRANCHISEE is able to Divert those excluded materials that may not be suitable for composting; and
3. Other County-approved items listed in the Subscription Order.

**Gross Receipts** means fees, charges, and other compensation that FRANCHISEE or FRANCHISEE's Related Parties receive directly or indirectly from Customers in connection with Franchise Services before any deduction for costs or expenses such as the Franchise Fee. **Gross Receipts** does not mean fees, charges, and other compensation that FRANCHISEE or FRANCHISEE's Related Parties receive in connection with the sale of Recyclables.

**Holidays** means January 1, Memorial Day, 4th of July, Labor Day, Thanksgiving, and December 25 and any other holidays designated by COUNTY in Notice to FRANCHISEE.

**Including** or **include** or variations thereof, when used in this AGREEMENT, means "including without limitation", "including, but not limited to," and "including, at a minimum."

**Indemnities** or **Indemnification** means all defenses, indemnities, and releases under this AGREEMENT, including under Section 14A (generally, and with respect to the Immigration Reform and Control Act and Cal/OSHA).

**Liabilities** mean any of the following:

1. Liabilities;
2. Lawsuits;
3. Claims;
4. Complaints;
5. Cause of actions;
6. Citations;
7. Investigations;
8. Judgments;
9. Demands;
10. Cleanup orders;
11. Damages (whether in contract or tort, including:
  - a. Personal injury to or death of, at any time, FRANCHISEE'S employees, Subcontractors, COUNTY employees or third parties; and
  - b. Property damage of FRANCHISEE, Subcontractors, COUNTY employees or third parties);
12. Costs and expenses, (including all costs and expenses of litigation, mediation or arbitration, attorneys' fees, whether COUNTY'S or FRANCHISEE'S staff attorneys or outside attorneys, and court costs);
13. Losses;
14. Fines;
15. Penalties; and

16. Other detriments of every nature and description whatsoever, whether under State of California or federal law.

**Local Enforcement Agency** means the enforcement agency defined in County Code Section 20.56.030.

**Manure** means Solid Waste comprised of animal dung or excrement, and may include straw or other absorbent.

**Monthly Report** is described in Section 13A1.

**MSW Management Services** means any of the following:

1. Collection, transportation, storage, transfer, or processing of:
  - a. solid waste; or
  - b. Unpermitted Waste that is collected as part of a Collection program for Bulky Items, CEDs, and E-waste described in Exhibit 3A and handled in accordance with Applicable Law (such as tires in excess of load limits, CEDs and certain E-waste); or
2. Arranging for disposal of that solid waste or Unpermitted Waste.

**Multifamily** means related to (1) dwellings with three or more attached dwelling units (such as apartments), each with separate cooking and bathing facilities, (2) townhouses, and (3) condominiums, whether attached or detached.

**Multifamily Customer** means Customer who owns or occupies Multifamily Premises.

**Multifamily Premises** means Premises containing a Multifamily building.

**Non-Collection notice** means the notice in the form included in FRANCHISEE Documentation in accordance with Section 4C.

**Notice** means notice given in accordance with Section 20F.

**Office** means FRANCHISEE'S offices required by Section 7A to be identified in FRANCHISEE Documentation.

**Party** or **Parties** means COUNTY and FRANCHISEE, individually and together, respectively.

**Performance Obligations** means each and every obligation and liability of FRANCHISEE under this AGREEMENT.

**Permit** means any federal, state, county, other local, and any other governmental unit permit, order, license, approval, authorization, consent, or entitlement of whatever kind and however described that Applicable Law requires to be obtained or maintained with respect to the satisfaction of Performance Obligations, as renewed or amended from time to time, including the waste collector permit issued by the Los Angeles County Department of Health Services.

**Person** means any individual, firm, association, organization, partnership, corporation, trust, joint venture, state, county, municipality, special purpose district, the United States or any other entity.

**Position of Influence** means a position of authority or responsibility to directly or indirectly administer, manage, direct, supervise or oversee the Franchise Services or this AGREEMENT, including the following: (1) serving as director of the board of directors of FRANCHISEE or an Affiliate, (2) serving as an officer of FRANCHISEE or an Affiliate, (3) reviewing or negotiating FRANCHISEE'S contracts (including this AGREEMENT), (4) providing in-house legal services, and (5) providing insurance or other performance security if the provider is an Affiliate or is a captive of FRANCHISEE or an Affiliate; but excluding the following: (1) monitoring FRANCHISEE'S performance, (2) supervising FRANCHISEE'S finance and capital budget decisions, and (3) articulating general policies and procedures not related to a Criminal Activity.

**Premises** means a tract of land located in the Service Area and which is safely accessible by Vehicles.

**processing** means the reduction, separation, recovery, conversion or recycling of solid waste, including creating "compost" as defined in California Public Resources Code Section 40116.

**Processing** means the reduction, separation, recovery, conversion or Recycling of Solid Waste, including creating "compost" as defined in California Public Resources Code Section 40116.

**prompt** or **promptly** means as soon as practicable, but in no event more than two days.

**Public Right-of-Way** means "Public Right-of-Way" defined in Section C1 of Exhibit 3A2.

**Quarterly Report** is described in Section 13A2.

**Rates** means the amounts listed on the Rate Schedule.

**Rate Schedule** means Attachment 2 to Exhibit 10.

**RCRA** means the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 *et seq.*).

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

**Records** means documentation relating to Franchise Services and other Performance Obligations, including ledgers, books of account, invoices, vouchers, canceled checks, logs, correspondence, computations, files, plans, correspondence, reports, drawings, designs (other than those respecting facilities or facility operations not involving Collection), data and photographs prepared by or possessed by FRANCHISEE, including the following:

1. Customer Subscription Order and Franchise Services information (including Customers' names and addresses), billing records, complaint logs, route maps, schedules, and correspondence with Customers;
2. Weight tickets, invoices, bills of lading, and receipts from Solid Waste Facilities for types and amounts of Solid Waste that FRANCHISEE Collects, transports and delivers to those Solid Waste Facilities;
3. AB 939 records, including documentation from Recyclables and Green Waste transporters, shippers, brokers, beneficiators, remanufacturers, and purchasers or other users of Recyclables and Green Waste; any reports on Processing of Recyclables or Green Waste residual that Solid Waste Facilities may make to the California Integrated Waste Management Board;
4. Vehicle maintenance, driver Permits and driver testing records;
5. Gross revenues and receipts, including Gross Receipts;
6. Franchise Fees paid to COUNTY; and
7. Records that may be relevant in the event of an action under CERCLA or similar claims.

**Recyclables** means Solid Waste that may potentially be diverted for disposal, including but not limited to any of the following materials:

1. Aluminum and metal cans;
2. Newspaper;
3. Glass jars and bottles;
4. Tin cans;

5. Plastic soda bottles;
6. Plastic milk and water jugs;
7. Plastic bags (e.g., bread, frozen food, grocery bags);
8. Type No. 1 plastic containers (PET-polyethylene terephthalate);
9. Type No. 2 plastic containers (HDPE-high density polyethylene);
10. All types of paper (e.g., office paper, junk mail, magazines, telephone books);
11. Corrugated cardboard;
12. White goods (such as those listed in the definition of **Bulky Items**); or
13. Additional (or deleted) items that COUNTY directs after Notice to FRANCHISEE, without adjustment of Rates unless the modification requires Franchise Services at the Set-Out Sites separate and distinct from previously Collected Recyclables.

**Recycle or Recycling** means the process of collecting, sorting, cleansing, treating, and reconstituting materials (including Recyclables and Green Waste) that would otherwise become Solid Waste and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products that meet the quality standards necessary to be used in the market place. **Recycling** does not include transformation, as defined in California Public Resources Code Section 40201.

**Refuse** means Solid Waste that FRANCHISEE does not divert.

**Regulatory Agency** means any federal, state or local governmental agency that regulates Collection and transportation of Solid Waste (including California Department of Transportation, California Department of Motor Vehicles, EDD, U.S. Immigration and Naturalization Services, or other health and safety department thereof; COUNTY; and Local Enforcement Agency applicable to Franchise Services).

**Report** means Monthly Report, Quarterly Report, Annual Report and any AB 939 or other report FRANCHISEE is required to submit in accordance with this AGREEMENT.

**Residential** means related to detached, single family homes or duplexes, other than condominiums or townhouses.

**Residential Customer** means Customer who owns or occupies a detached, single family home or a unit in a duplex.

**Residential Premises** means Premises containing a Residential building.

**Service Area** means the area described on Attachment 1 of Exhibit 3A.

**Service Assets** means all property of FRANCHISEE used directly or indirectly in performing Franchise Services, including Vehicles, Containers, maintenance equipment and facilities, and administrative equipment and software, both tangible and intangible (such as facility leases or equipment installment purchase agreements).

**Service Day** means any day Monday through Friday, excluding Holidays.

**Service Specifications** means Performance Obligations prescribed in Exhibit 3A and Exhibit 3A2.

**Service Standards** means each and every obligation of FRANCHISEE prescribed in Section 4.

**Set-Out Site** means the place designated in the Subscription Order in accordance with Section 4D and County Code Section 20.72.100, where Customers must place their Solid Waste for Collection.

**Sharps** means any item generated by a Residential Customer at his or her Residential Premise having corners, edges, or projections capable of cutting or piercing the skin to deliver injections or for medical purposes, such as needles (hypodermic, pen or intravenous), needles with syringes, needles from vacutainers, needles with attached tubing, and lancets.

**Solid Waste** means solid waste as defined in California Public Resources Code Section 40191 that is Collected in the Service Area, including Green Waste, Recyclables, Refuse and Abandoned Waste (except for any CEDs or E-waste in Abandoned Waste), but excluding Unpermitted Waste.

**Solid Waste Facility** means solid waste facility as defined in California Public Resources Code Section 40194 (and any other types of facilities named by COUNTY) and designated by FRANCHISEE in FRANCHISEE Documentation.

**Subscription Order** is described in Section 4D.

**Subcontractor** means any Person that provides Goods or Services related to Collection, transportation or storage of Solid Waste or related to Service Assets, including their operation, maintenance and repair, to or on behalf of FRANCHISEE whether pursuant to any arrangement, formal or informal, written or merely in practice.

**Subcontractor** does not include a Person that provides Goods or Services related to Processing, Diversion or Disposal.

**Task 1** means Franchise Services.

**Task 2** means County Services.

**Term** means the period determined under Section 2 of this AGREEMENT.

**Termination Date** means the date this AGREEMENT expires as provided in Exhibit 3A in accordance with Section 2A or as earlier terminated in accordance with Section 17D.

**Ton or Tonnage** means a short ton of 2,000 pounds avoirdupois.

**Transfer** means an action (or inaction), including assignment, transfer, exchange, divestment, conveyance, subcontract, sublease, licensing, hypothecation, encumbrance and disposal) that has any of the following direct (or indirect) effects:

(1) **Control or Ownership Interest:** changing either of the following:

- the control; or more than 10% ownership interest (actual or constructive) of FRANCHISEE (including buyout, merger, acquisition, consolidation, recapitalization, reorganization, stock (re)issuance, voting trust, pooling agreement, escrow arrangement, dissolution or liquidation) except to the following:
- parents, grandparents, siblings, children, and grandchildren of individuals having a shareholder or other equity interest in FRANCHISEE as of the date of this Agreement ("**Immediate Family**") or
- trust created primarily to benefit members of the Immediate Family, subject to FRANCHISEE proving to satisfaction of COUNTY that 10 percent or less ownership interest has *not* changed.

(2) **Value of assets:** changing the control or ownership (actual or constructive) of more than 50 percent of the value of assets used to provide Franchise/County Services, except for sales or transfers to the following:

- the Immediate Family or
- trust created primarily to benefit the Immediate Family,

*subject* to FRANCHISEE proving to satisfaction of COUNTY that ownership or control of 50 percent or less value of the assets has *not* changed.

(3) **Substitute for FRANCHISEE:** resulting in someone other than FRANCHISEE performing Franchise/County Services or assuming the obligation to provide Franchise/County Services (including substitution of someone else by a surety company providing a performance bond; subcontract; or delegation).

For purposes of this definition, an action (or inaction) includes assignment by operation of law, such as insolvency or bankruptcy, making assignment for the benefit of creditors, writ of attachment of an execution, or appointment of a



receiver taking possession of any of FRANCHISEE'S tangible or intangible property.

**Transfer Costs** means County's Reimbursement Costs of considering and reviewing FRANCHISEE'S request for Transfer, investigating the suitability of the transferee, and determining whether or not to give consent to the Transfer, including fees of consultants and attorneys necessary to analyze the application and to prepare documents to effectuate the Transfer as well as COUNTY staff costs.

**Transfer Deposit** means the amount equal to COUNTY'S anticipated Transfer Costs.

**Uncontrollable Circumstances** means any of the following events:

1. Riots, war, or emergency affecting the Country declared by the President of the United States or Congress of the United States, the Governor of California, or the Board of Supervisors;
2. Sabotage, civil disturbance, insurrection, explosion;
3. Natural disasters such as floods, earthquakes, landslides and fires;
4. Strikes, lockouts and other labor disturbances; or
5. Other catastrophic events that are beyond the reasonable control of FRANCHISEE despite FRANCHISEE'S exercise of due diligence, excluding (i) the financial inability of FRANCHISEE to satisfy its Performance Obligations, or (ii) failure of FRANCHISEE to obtain any necessary Permits or the right to use the facilities of any public entity.

**Universal Waste** means hazardous waste that the California Department of Toxic Substances Control considers universal waste, including materials listed in 22 CCR 66261.9, such as batteries, thermostats, lamps, cathode ray tubes, computers, telephones, answering machines, radios, stereo equipment, tape players/recorders, phonographs, video cassette players/recorders, compact disc players/recorders, calculators, some appliances, aerosol cans and certain mercury-containing devices.

**Unpermitted Waste** means

1. Materials that are not Solid Waste, including Universal Waste, household hazardous waste and other hazardous waste, unauthorized medical waste, radioactive waste;
2. Waste tires in excess of the limitations prescribed in 14 CCR 17355(b) or reduced in volume as required in 14 CCR 17355(A);
3. Any other materials that cannot be disposed of in class II sanitary landfills described in 27 CCR 20250.

**Unpermitted Waste Screening Protocol** means the protocol prescribed in Section 6 and included in FRANCHISEE Documentation.

**Vehicle** means any truck used by FRANCHISEE to provide Franchise Services.

**Violation of Applicable Law** means any noncompliance with Applicable Law as evidenced by notice, assessment or determination of any Regulatory Agency to FRANCHISEE, whether or not a fine or penalty is included, assessed, levied or attached.

**Waste Diversion Program** means that program required by Section B2 of Exhibit 3A and included in FRANCHISEE Documentation.

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