



GAIL FARBER, Director

COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

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<http://dpw.lacounty.gov>

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

IN REPLY PLEASE

REFER TO FILE: **AS-0**

July 15, 2009

NOTICE OF REQUEST FOR PROPOSALS FOR THE EXCLUSIVE FRANCHISE AGREEMENT FOR THE AREA OF HACIENDA HEIGHTS (2009-FA040)

PLEASE TAKE NOTICE that Public Works requests proposals for the Exclusive Franchise Agreement for the Area of Hacienda Heights (2009-FA040).

If not enclosed with this letter, 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 Ms. Jeanette Arismendez at (626) 458-4050, jarismen@dpw.lacounty.gov, or from Mr. Benjamin Sandoval at (626) 458-7334, bsandoval@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 AND INFORMATIONAL UPDATES WILL BE POSTED AT <http://dpw.lacounty.gov/asd/contracts>.

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

- Proposer must have three years' experience collecting and managing refuse, recyclable materials, and green waste from single-family and multifamily residences.
- 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.
- The Proposer must also submit a Bid Guaranty as outlined in Part I, Section 3.A.16. Bid Guaranty.

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

A Proposers' Conference will be held on **Wednesday, July 29, 2009, at 2 p.m.** at Public Works Headquarters, 900 South Fremont Avenue, Alhambra, California 91803, in the **Alhambra Room.** **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, it may be impossible to respond to further requests for information.

The deadline to submit proposals is Wednesday, August 19, 2009, at 5:30 p.m.

Please direct your questions to Ms. Arismendez or Mr. Sandoval at the numbers listed above. **Vendors are instructed not to contact any County personnel other than the Contract Analysts listed above regarding this solicitation.**



The conference facility complies with the Americans with Disabilities Act (ADA). With four business days' notice, Public Works will make all reasonable efforts to provide information in alternate formats and other accommodations for people with disabilities. For the ADA Coordinator, please call (626) 458-4081 or TDD at (626) 282-7829, Monday through Thursday, 7 a.m. to 5:30 p.m.

Very truly yours,

GAIL FARBER
Director of Public Works

A handwritten signature in black ink, appearing to read 'Massood Eftekhar'.

MASSOOD EFTEKHARI
Deputy Director

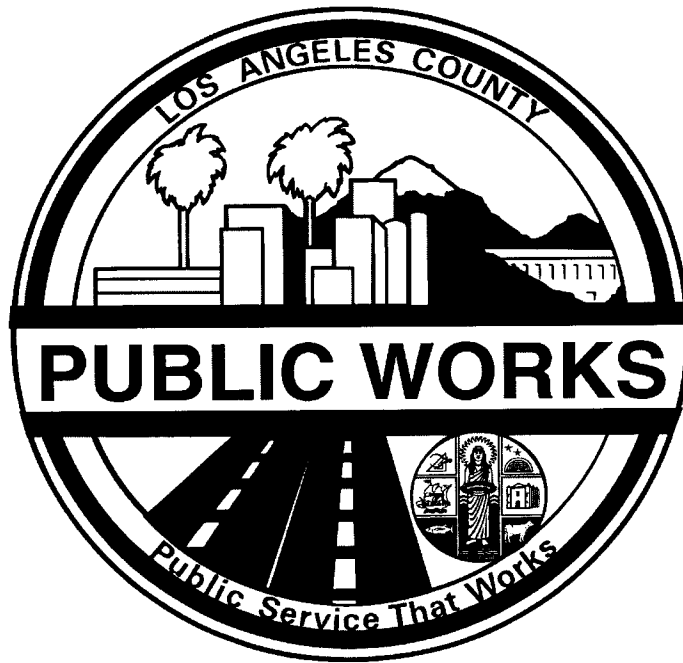
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Enc.

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

FOR

**EXCLUSIVE FRANCHISE AGREEMENT FOR THE
AREA OF HACIENDA HEIGHTS (2009-FA040)**



Approved July 26, 2009
Gail Farber
Director of Public Works

By: M. E. Thompson
Deputy Director

REQUESTS FOR PROPOSALS
FOR
EXCLUSIVE FRANCHISE AGREEMENT FOR THE AREA OF
HACIENDA HEIGHTS (2009-FA040)

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PART I

REQUEST FOR PROPOSALS

SECTION 1

SUMMARY SCOPE OF SERVICES FOR HACIENDA HEIGHTS
FRANCHISE AREA

A. Service Areas, Term, and Rates

The County requests proposals for an exclusive Franchise Agreement for the Hacienda Heights Franchise Area. Collection pickups may commence as early as March 1, 2010, or thereafter as directed by the Director of Public Works (Director).

Section numbers in this summary refer to the Franchise Agreement attached to this RFP as Part II. 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), and all performance obligations prescribed in the Franchise Agreement attached as Part II. Proposers must take into account full and timely satisfaction of those performance obligations.

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

The County is requesting proposals to provide basic franchise services comprised of weekly, fully automated collection, processing, and disposal 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, and
- d. One 64-gallon cart/bin for manure

at residential premises in the franchise area. The Franchisee (also referred to as "Contractor") must also provide cart collection service (including franchise services such as, bulky item, e-waste, and CED collection) to multifamily/commercial premises that request that scope of cart service. The number of parcels with single-family homes and duplexes shown on the records of the County for Hacienda Heights is

approximately 14,409 parcels to be covered by the Agreement (also referred to as "Contract").

2. Term

The term of each exclusive franchise is seven years with three 1-year extensions at the County's option, not to exceed a total contract period of ten years.

3. Net Rate (Form PW-2, and Form PW-17, Rate Schedule)

Proposers must propose net rate (without franchise fee) for this basic service on Form PW-2, Proposed 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 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, beginning on July 1st of the second full calendar year of the Term (Exhibit 10, Rates).

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

1. For all customers: holiday tree collection without surcharge (F1).
2. 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).
3. 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).

4. 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).
5. For all customers: four on-call pickup of Green Waste in bags per year without surcharge (E1).
6. For all customers: four special cleanup events per year without surcharge (F3).
7. 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).
8. 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).
9. 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 32-gallon containers) (H).
10. For all customers: four pickups per year of Excess Trash in bags set out on the regular collection day without surcharge (C1).
11. For all customers: one cart/bin for manure collection without surcharge upon customer request and additional carts/bins with surcharge (F5).
12. For residential customers: approved containers for storing and mailing sharps upon customer request without surcharge (F6).
13. Upon request by County or residents of the area: collect, transport, dispose and manage all illegally dumped materials within public road rights-of-ways, including, but not limited to streets and alleys, within 24 hours of the request without surcharge to the resident or County (F7).

C. Proposer-Developed Programs and Plans

Proposers must include with their proposal detailed descriptions of the following programs and plans:

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

2. Customer Recyclables Diversion Education Program (Part II, Exhibit 3A, Item B.2.a).
3. 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).
4. 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).

Charges for second or more carts/bins for manure (Part II, Exhibit 3A, Item F.5).

5. 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.

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 Exhibit H, 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.5. 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). 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. Customer Service and Communications

Franchisee must provide customer service in English, Spanish, Mandarin, 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, Spanish, and Chinese editions of white and yellow pages (Part II, Section 7B).

H. 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.

I. Franchise Fee

Franchisee must pay a franchise fee on its gross receipts (excluding recyclable material revenues). 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 their proposal, Proposers shall not include the franchise fee in their proposed net rates.

J. Service Area Information

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

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 Ms. Jeanette Arismendez
E-mail: jarismen@dpw.lacounty.gov
Telephone: (626) 458-4050

or

Attention Mr. Benjamin Sandoval
E-mail: bsandoval@dpw.lacounty.gov
Telephone: (626) 458-7334

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. Addendums 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. 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.

G. 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.

H. 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.

I. 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. Failure of the Proposer to provide this information may eliminate its proposal from any further consideration.

J. 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 and Exhibit 3A (Franchise Services and Service Specifications) of the Agreement. Proposers are also requested to review Attachment 1, Debarred Vendors Report; and Attachment 2, 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.

K. 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).

L. 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 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

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

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 how the Proposer measures up to the minimum qualifications of key personnel as required in the evaluation criteria (Part I, Section 5.E, Evaluation Criteria):

- 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 meeting minimum qualifications required by the evaluation criteria (Part I, Section 5.E) and 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. (Part I, Section 5.E).
- 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; and
 - iv. Collection services for similar demographic populations.

7. Work Plan

Describe comprehensively and in detail how the service will be performed to meet or exceed performance obligations in the Franchise Agreement. 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).

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-19).

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:

- 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. Collection of manure as described in Part II, Exhibit 3A, Item F.5.
- iii. 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.
- iv. Illegal Dumping Street and Alley Cleanup Program as described in Part II, Exhibit 3A, Item F.7.

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.

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.
- 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 provide information on any outcomes, 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

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. All the 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, if audited financial statements are not available, 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 from Form PW-2, Proposed Net Rate, multiplied by the number of residential parcels as listed in Exhibit C, 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 from Form PW-2, Proposed Net Rate, multiplied by the number of residential parcels as listed in Exhibit C. 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 of 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-16, 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-16, 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. Provide insurance/bond or other financial protection Proposer commits to offer County in excess of insurance and bonding requirements contained in the Franchise Agreement and indicate whether it is provided by an unrelated third party, through self-insurance or through a captive insurer.

14. Forms List

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

PW-1 Verification of Proposal;

PW-2 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-17, 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 CED's.

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;

- PW-3.1 Net Rate Proposal
(<http://dpw.lacounty.gov/asd/contracts/>);
- PW-3.2 Cost Substantiation of Net Rate
(<http://dpw.lacounty.gov/asd/contracts/>);
- PW-4 Franchisee'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 – **but no later than 10 business days of issuance of this RFP** to the listed Contract Analysts;
- PW-12 Charitable Contributions Certifications;
- PW-13 Representation and Warranty of Chief Administration Officer/Chief Executive Officer *or other knowledgeable person* for References; Disputes, Actions, Contests, and Debarments; and Environmental History;
- PW-14 Representation and Warranty of Chief Financial Officer or other knowledgeable person; and
- PW-15 Proposer's List of Terminated Contracts
- PW-16 Proposer's Insurance Compliance Affirmation
- PW-17 Rate Schedule (Customer Service Charges)
- PW-18 Bulky Item Collection Rates
- PW-19 Equipment Specification/Productivity Assumptions

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 Franchisee'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;
- PW-13 Representation and Warranty of Chief Administration Officer/Chief Executive Officer for References, Disputes, Actions, Contests, and Debarments; and Environmental History; and
- PW-14 Representation and Warranty of Chief Financial Officer

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 rate per customer from Form PW-2, Proposed Net Rate, multiplied by the number of residential parcels as listed in Exhibit C. 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). 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 five complete sets (one original, three hard copies, and one electronic copy on a CD in PDF format) of the proposal and any related information. 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.

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, 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 Attachment 2 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. Attachment 1 is a listing 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, Franchisee'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 II, Exhibit B of this solicitation document and is also available on the Internet at 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 360 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.

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.

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, Public Works may recommend the award of a contract to one or more of those submitting proposals. 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.

D. Pass/Fail Review

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-16.
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.
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-17 (Rate Schedule), and Form PW-18 (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-17 (Rate Schedule), and Form PW-18 (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-19, 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.

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 from Form PW-2, Proposed Net Rate, multiplied by the number of residential parcels as listed in Exhibit C.

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 County's Evaluation Committee will evaluate proposals 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 number of, or zero point. 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)

The Evaluation Committee will compare the Proposer's proposed monthly net rate (Item 1) proposed in Form PW-2 with other Proposers' proposed monthly net rates (Item 1). It will award the maximum number of points (65 points) to the lowest proposed monthly net rate. It will award prorated points to all other proposed monthly net rates, based on the following calculation:

- a. Divide the lowest net rate by each other proposed net rate, 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 Evaluation Committee will not necessarily award the Franchise Agreement to the proposal with the lowest monthly net rate.

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, but not limited to the following:

- (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. 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-15, 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 not 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 I, Section 3.A.9)

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.

F. Negotiation

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 Paragraphs E and F, Disqualification Review and Proposed Contractor Selection Review, respectively, below. Additionally, any Proposer may obtain copies of proposals and Public Works evaluation documents as provided in Part I, Section 4, 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:

1. Review of the Solicitation Requirements
2. Review of a Disqualified Bid/Proposal
3. 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 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; and
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 5, 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; and
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 Review Panel, Paragraph H, below.

H. County Review Panel

1. Any Proposer that is not satisfied with the results of the Proposed Contractor Selection Review may submit a written request for review by a County Review Panel in the manner and timeframe specified by Public Works in Public Works' written decision regarding the Proposed Contractor Selection Review.
2. A request for review by a County Review Panel 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 Review Panel is a Proposer;
 - b. The request for a review by a County Review Panel is submitted timely (i.e., by the date and time specified by Public Works); and
 - c. The person or entity requesting review by a County Review Panel 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 on of the appropriate grounds for requesting a Proposed Contractor Selection Review as listed in Paragraph G above.
3. Upon completion of the County Review Panel's review, the Panel will forward its report to Public Works, which will provide a copy to the Proposer.

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TABLE OF FORMS

PW-1	VERIFICATION OF PROPOSAL
PW-2	PROPOSED NET RATE
PW-3.1	NET RATE PROPOSAL
PW-3.2	COST SUBSTANTIATION OF NET RATE
PW-4	FRANCHISEE'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 (Submit only if requesting a review.)
PW-12	CHARITABLE CONTRIBUTIONS CERTIFICATION
PW-13	REPRESENTATION AND WARRANTY OF CHIEF ADMINISTRATION OFFICER/CHIEF EXECUTIVE OFFICER OR OTHER KNOWLEDGEABLE PERSON FOR REFERENCES; DISPUTES, ACTIONS, CONTESTS, AND DEBARMENTS; AND ENVIRONMENTAL HISTORY
PW-14	REPRESENTATION AND WARRANTY OF CHIEF FINANCIAL OFFICER OR OTHER KNOWLEDGEABLE PERSON
PW-15	STATEMENT OF TERMINATED CONTRACTS
PW-16	PROPOSER'S INSURANCE COMPLIANCE AFFIRMATION
PW-17	RATE SCHEDULE (CUSTOMER SERVICE CHARGES)
PW-18	BULKY ITEM COLLECTION RATES
PW-19	EQUIPMENT SPECIFICATION/PRODUCTIVITY ASSUMPTIONS

ATTACHMENTS

1. DEBARRED VENDORS REPORT
2. COUNTY OF LOS ANGELES LOBBYIST ORDINANCE

VERIFICATION OF PROPOSAL

DATE: _____, 2009		THE UNDERSIGNED HEREBY DECLARES AS FOLLOWS:	
1. THIS DECLARATION IS GIVEN IN SUPPORT OF A PROPOSAL FOR A CONTRACT WITH THE COUNTY OF LOS ANGELES.			
2. NAME OF SERVICE: _____			
DECLARANT INFORMATION			
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: _____			
PROPOSER INFORMATION			
6. Proposer's full legal name: _____		Telephone No.: _____	
Address: _____		Fax No.: _____	
e-mail: _____	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. CHECK ONE:	<input type="checkbox"/> (a) I am making these representations and all representation contained in this proposal on my personal knowledge;		
	<input type="checkbox"/> (b) I am making these representations all representation contained in this proposal based on information and belief that they are true.		
I declare under penalty of perjury under the laws of California that is true and correct.			
Signature of Proposer or Authorized Agent: _____			Date: _____
Type name and title: _____			
County of Los Angeles Vendor Identification Number: _____			

**PROPOSED NET RATE
FOR
EXCLUSIVE FRANCHISE AGREEMENT FOR THE AREA OF
HACIENDA HEIGHTS (2009-FA040)**

Proposer proposes the following monthly net rate (as defined and in accordance with Section A2c 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
- (4) One 64-gallon cart/bin for **manure** upon customer request

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:

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.

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. 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.

FRANCHISEE'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

	2004	2005	2006	2007	2008	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: **EXCLUSIVE FRANCHISE AGREEMENT FOR HACIENDA HEIGHTS**

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.

I. LOCAL SMALL BUSINESS ENTERPRISE PREFERENCE PROGRAM:

FIRM NAME:
My County (WebVen) Vendor Number:

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.

Business Structure:	<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):						
Total Number of Employees (including owners):						
Race/Ethnic Composition of Firm. 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	Disadvan- taged	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:
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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.)

Request submitted by:

(Name)

(Title)

For County use only

Date Transmittal Received by County: _____ Date Solicitation Released: _____

Reviewed by: _____

Results of Review - Comments:

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 3A.5 and Section 3A.6 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**

Complete ONE of the following representations and warranties or alternative warranties:

(1) 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 3A7, "**Financial Strength/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 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: _____

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 rated per customer from Form PW-2, Schedule of Prices.
- (2) The written statement presently able to secure a letter of credit of 30% of the Proposer's proposed annual rate utilizing the monthly rates per customer Form PW-2, Schedule of Prices. The statement must be issued by a financial institution with one of 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
- (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 Strength/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) _____

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.

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: _____

EXCLUSIVE FRANCHISE AGREEMENT FOR THE AREA OF HACIENDA HEIGHTS
(2009-FA040)

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.

Proposer's Printed Name

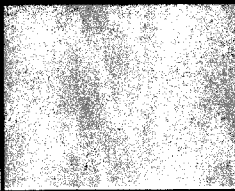
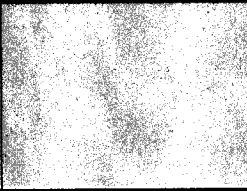
Proposer's Signature

Date

**EXCLUSIVE FRANCHISE AGREEMENT FOR THE
AREA OF HACIENDA HEIGHTS (2009-FA040)**

**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.

	Monthly Rate Per Customer	Senior-Small Generator 25% Discounted Rate (Deduct 25% from Monthly Rate Per Customer)
MONTHLY RATE FOR BASIC SERVICE PER CUSTOMER FOR RESIDENTIAL PREMISES¹ AND MULTIFAMILY PREMISES INCLUDES: <ul style="list-style-type: none"> One 96-gallon Refuse Cart, and Up to two (2) 96-gallon Recyclables Carts, and Up to two (2) 96-gallon Green Waste Carts One 64-gallon Cart/Bin for Manure Collection, upon customer request List Item 2, Monthly Rate Per Customer from Form PW-2, Schedule of Prices:	\$ _____	\$ _____
BASIC SERVICE DESCRIPTION FOR MANURE: <ul style="list-style-type: none"> Cart/Bin Sizes: _____ Collection Frequency (at least weekly): _____ 		
SURCHARGES: <ol style="list-style-type: none"> Additional 96-gallon Carts in excess of Basic Service Alternatives to fully automated Carts for difficult-to-service Premises (B3h of Exhibit 3A): 25 percent of Customer's monthly Rate (25% Surcharge) Roll-out Services (other than Elderly or Disabled) (Section G of Exhibit 3A): not greater than 50 percent of Customer's monthly Rate Additional 64-gallon Carts/Bins for Manure Collection 	\$ <u>5.00</u> \$ _____ \$ _____ \$ _____	\$ <u>3.75</u> \$ _____ \$ _____ \$ _____

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

**EXCLUSIVE FRANCHISE AGREEMENT FOR THE
AREA OF HACIENDA HEIGHTS (2009-FA040)**

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.

BULKY ITEM COLLECTION RATES	Bulky Item Collection Rate	Senior-Small Generator 25% Discounted Rate (Deduct 25% from Bulky Item Collection Rate)
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

(This form may be reproduced in order to list all equipment)

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

Listing of Contractors Debarred in Los Angeles County

Vendor Name: G COAST CONSTRUCTION INC.
Alias:
Debarment Start Date: 9/11/2007 **Debarment End Date:** 9/10/2012
Principal Owners and/or Affiliates: Ezra Levi

Vendor Name: INSPECTION ENGINEERING CONSTR
Alias: Inspection Engineering Construction
Debarment Start Date: 6/13/2006 **Debarment End Date:** 6/12/2016
Principal Owners and/or Affiliates: Jamal Deaifi

Vendor Name: ARROWHEAD EMANCIPATION PROGRAM, INC.,
Alias:
Debarment Start Date: 7/08/2008 **Debarment End Date:** PERMANENT DEBARMENT
Principal Owners and/or Affiliates: Irma F. Reed and Charlene Williams

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.

Part II
Sample Agreement



BY AND BETWEEN

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

AND

[NAME OF CONTRACTOR]

FOR

**EXCLUSIVE FRANCHISE AGREEMENT FOR
THE AREA OF HACIENDA HEIGHTS (2009-FA040)**

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SAMPLE EXCLUSIVE
FRANCHISE AGREEMENT

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

FOR
PROVISION
OF
REFUSE, RECYCLABLES, GREEN WASTE AND MANURE

AUTOMATED CART SERVICES
AT
RESIDENTIAL PREMISES
AND CERTAIN MULTIFAMILY AND COMMERCIAL PREMISES

FOR THE SERVICE AREA OF
HACIENDA HEIGHTS

[INSERT DATE]

SAMPLE EXCLUSIVE FRANCHISE AGREEMENT

THIS AGREEMENT is made and entered into on _____, 2010, 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, and open-market, 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, § 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.

WHEREAS, California Public Resources Code § 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.

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.

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.

WHEREAS, the COUNTY'S Director has determined to require franchises for Franchise Services. 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 gave the FRANCHISEE a 5-year notice under California Public Resources Code § 49520 of the COUNTY'S intent to authorize, among other options, the exclusive franchising of MSW Management Services in portions of the COUNTY.

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.

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 § 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.

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.

WHEREAS, the FRANCHISEE has set its compensation (the Customer Service Charges) through competitive procurement. The COUNTY issued a Request for Proposals (RFP) to provide 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. Under this AGREEMENT, the FRANCHISEE cannot charge more than the Customer Service Charges, which it bills and collects from its customers.

WHEREAS, the FRANCHISEE is awarded this AGREEMENT. The Board of Supervisors determines and finds pursuant to California Public Resources Code § 40059, that the public health, safety, and welfare require that FRANCHISEE be awarded this AGREEMENT for Franchise Services pursuant to Chapter 20.70 of the County Code.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

SECTION 1—GRANT OF RIGHT AND PRIVILEGE TO PROVIDE FRANCHISE SERVICES

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.

1. Grant of Exclusive Franchise for Collection in Carts. COUNTY grants to FRANCHISEE the exclusive right and privilege together with the obligation to make and enter into independent arrangements with Customers for the provision of Franchise Services to Residential Premises, subject to the exclusions in subsection B.

2. Grant of Nonexclusive Franchise.

- a. ***Recyclables.*** COUNTY grants to FRANCHISEE the nonexclusive right and privilege together with the obligation to arrange to provide Franchise Services with respect to Recyclables discarded by Customers if prescribed in Exhibit 3A. Notwithstanding the foregoing, however, Customers may donate or sell any or all of their Recyclables to Persons other than FRANCHISEE.
- b. ***Collection in Carts at Commercial Premises and Multifamily Premises.*** COUNTY grants to FRANCHISEE the nonexclusive right and privilege together with the obligation to arrange to provide Franchise Services to Commercial Premises or Multifamily Premises for any Person who requests FRANCHISEE to provide Franchise Services at those Premises in Carts. However, that Person may arrange with any provider of MSW Management Services, including FRANCHISEE, to provide MSW Management Services in carts, subject to any applicable commercial franchise requirements.

B. Exclusions from Franchise.

1. **Customer Self-Haul.** This Franchise excludes the right and privilege to Collect self-hauled Solid Waste. Owners and occupants of Residential Premises and other Persons performing services other than MSW Management Services (such as roofers and gardeners) at those Premises may collect in receptacles other than Containers 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 at Residential Premises.** This Franchise excludes the right and privilege to provide Collection of Solid Waste in Carts for any Residential Customer requesting Bins instead of Carts, or any other exclusions provided in Exhibit 3A. That Customer may arrange with FRANCHISEE or any other person to provide MSW Management Services in Bins.
4. **Collection of Solid Waste in Carts at Commercial Premises and Multifamily Premises.** As provided in Section 1.A.2.b, this Franchise excludes the exclusive right and privilege to provide Collection of Solid Waste in Carts at Commercial Premises and Multifamily Premises.
5. **Rights Under California Public Resources Code § 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 § 49520 *et seq.* This Franchise does not prohibit FRANCHISEE from executing separate agreements with those Persons to provide Franchise Services.

- C. **Definition of Rights.** FRANCHISEE acknowledges having received a timely notice from COUNTY under California Public Resources Code § 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 § 49520 and that FRANCHISEE does not have the right to make any claim under California Public Resources Code § 49520 but only under the terms of this AGREEMENT. Notwithstanding the foregoing, in accordance with California Public Resources Code § 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 § 49520. FRANCHISEE'S agreement and acknowledgments in this AGREEMENT do not foreclose COUNTY from reprocurring 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. FRANCHISEE'S fees, charges, and other compensation from providing MSW Management Services to Residential Premises in Bin, as authorized but not required in Exhibit 3A, will not be included in the calculation of the Franchise Fee.

SECTION 2--TERM

- A. **Term.** This AGREEMENT commences on the date both parties have executed this AGREEMENT and expires on the 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. All acknowledgments, including those in the following Sections:
 - Section 1C with respect to inapplicability of cited California Public Resources Code provisions
 - Section 3A with respect to COUNTY responsibility
 - Section 11A with respect to COUNTY'S need for Record maintenance
 - Section 12A with respect to AB 939 compliance
 - Section 21F with respect to FRANCHISEE choice and initiative
 - Section 23C3 with respect to child support
 - Section 23A with respect to a legal day's work
2. 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. All Indemnities
4. 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 defined in Section 19C
 - Damages under Section 18D

5. 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 and
 - Records of Disposal
 - Notice of destruction of Records of Disposal
 - Inspection and audit
6. Any other provisions of this AGREEMENT and rights and obligations of the Parties stated to survive the Termination Date, including this subsection B with respect to removal of Containers.

If FRANCHISEE is not awarded an agreement to allow FRANCHISEE to continue to provide MSW Management Services substantially similar to Franchise 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. FRANCHISEE shall not remove a Container from any Premises until the earlier of: (1) the date any replacement Containers 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.** FRANCHISEE shall arrange to provide Franchise Services to Premises in the Service Area with any Person who requests them. Notwithstanding the foregoing, subject to meeting the minimum required scope of Franchise Services and 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 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.

- B. County Notice.** 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 Services Standards, 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 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, or E-waste, FRANCHISEE shall also clean up all litter within a 10-foot radius of the site from which FRANCHISEE Collected the Bulky Item, CED, or E-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 § 12.08.520-Refuse Collection Vehicles. FRANCHISEE shall perform Franchise Services so as to cause the least possible obstruction and inconvenience to public traffic or disruption to the peace and quiet of the area within which it performs Franchise Services.
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. 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. 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 is not placed in a Container, *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. Containers, Bulky Items, E-waste or CEDs are not placed at the Set-Out Site;
5. A Container 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 Container or the presence of Refuse or Recyclables in a Green Waste Container;
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 Container, 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 surcharge 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. 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 Containers, 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 Exhibit 3A;
5. Delivery, pick up, exchange and replacement of Containers;
6. Any weight limitations of Containers;
7. Customers' 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 and toll-free Customer service telephone number;
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 16 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 A2 of EXHIBIT 3A.
- F. **Nondiscrimination.** FRANCHISEE shall comply with Subchapter VII of the Civil Rights Act of 1964, 42 U.S.C. § 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 Contract or under any project, program, or activity supported by this Contract.

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 Services and maintaining Records. All recycled-content paper that is distributed to Customers must be labeled to indicate recycled content.

H. Customer Correspondence and Other Materials. 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 Services or indicate in its proposals and sales materials that it has been awarded this AGREEMENT to provide Franchise 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 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 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 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 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.** 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 container 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.

SECTION 5—PRIVACY

- 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 Containers 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.** FRANCHISEE shall conspicuously label Containers with stickers, embossing, or other secure means, prohibiting Customers from discarding Unpermitted Waste and including illustrative examples.
- E. Safe Disposal Customer Education Program.** 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.** 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 § 20.72.160 and any additional provisions in Exhibit 3A.

C. Bilingual. 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.

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 Container that it should have Collected, Franchisee shall Collect from that Container:

- 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 § 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, and 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. The right to possession or ownership of Solid Waste placed at the Set-Out Site for Collection, including Green Waste and Recyclables, 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

- 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 Containers as required by the County Code and other County Code requirements as may be requested by County; and

2. Franchisee's telephone number and 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 during the Term and for an additional period of not less than three 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, 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), and copy all Records at FRANCHISEE'S Office during Franchisee Office Hours. FRANCHISEE may maintain Records outside of the COUNTY if it promptly provides copies thereof to COUNTY at COUNTY'S offices. 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 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
 3. Any representation or Report that FRANCHISEE made to COUNTY; Franchise Fee or other money paid to COUNTY; or information that FRANCHISEE submitted to COUNTY.

The Director may give Notice to FRANCHISEE identifying any shortfall, and if FRANCHISEE does not pay that shortfall within 30 days, including fees and charges for the late payment of Franchise Fees, that failure to pay will constitute a Franchisee Default in accordance with Section 17.

- D. Copies.** Franchise shall provide copies of Customers' names, addresses, and Franchise Services subscription levels to COUNTY upon request.

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 surcharge 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.

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) Collected by FRANCHISEE,
 - ii. Materials recovered from those Recyclables 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.
- g. The estimated number and **Tons of Solid Waste** (such as refuse, debris, furniture, major appliances/white goods and metallic discards, used tires and other Solid Waste) Collected by FRANCHISEE within public road rights-of-ways, due to the Illegal Dumping – Street and Alley Cleanup Program, and final destination thereof.
- h. Number of households and customers served and/or invoiced for payment.

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 Containers, respectively, together with Tonnage of Recyclables and Green Waste or other measurement of participation requested by COUNTY concerning these items; and
 - 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.
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 member 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 Containers 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.

4. **Reports of Violators.** 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:

- a. The United States or California Environmental Protection Agency;
- b. The California Integrated Waste Management Board;
- c. The Securities and Exchange Commission;

- d. Any other Regulatory Agency;
- e. 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) 544-6861 or 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 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 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. The presence, Collection, 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. § 9607(e) and California Health and Safety Code § 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. Non-compliance.** Neither the COUNTY'S failure to obtain, nor the COUNTY'S receipt of, or failure to object to a non-complying 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 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 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 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 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 of the Indemnification or insurance requirements of this AGREEMENT 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**"). During the first Contract Year, the amount of the Performance Assurance must be in the sum established by COUNTY in Section A of Exhibit 3A to secure full and timely satisfaction of Performance Obligations, including payment of Franchise Fees, and any liquidated damages. In all subsequent Contract Years, that amount must be not less than the sum of:

- 15 percent of FRANCHISEE'S Gross Receipts 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.

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 Services but must provide for payment of moneys to COUNTY to secure substitute Franchise Services, remedy damages incurred, and ensure satisfaction of all Performance Obligations, including payment of Franchise Fees or liquidated damages to COUNTY, if 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 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 Services, it will consider contracting with other COUNTY franchisees. COUNTY has no obligation to continue providing Franchise Services and

may at any time, in its sole discretion, cease to provide Franchise Services. However COUNTY'S right to provide Franchise Services will continue until FRANCHISEE can demonstrate to COUNTY'S satisfaction that FRANCHISEE is ready, willing, and able to resume timely and full Franchise Services or until COUNTY can make alternative arrangements for providing MSW Management Services comparable to Franchise 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 Services, which notice is effective immediately, but must confirm oral notice with a Notice within 24 hours thereafter.
3. **Service Assets.**
 - a. ***COUNTY Possession.*** Upon giving FRANCHISEE oral notice, COUNTY may take possession of any or all Service Assets necessary or convenient in providing Services and FRANCHISEE shall fully cooperate with COUNTY to transfer possession of Service Assets to COUNTY. Customers' possession of Containers 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 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 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 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 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 make Reasonable Business Efforts to assist 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, storm, riot, or civil disturbance, by providing vehicles and drivers to collect any solid waste as requested by COUNTY, at Customer Service Charges no greater than the Rates, unless the Director 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 and implement that plan upon COUNTY request if Customers' Solid Waste is not Collected at Customer's Set-Out Site, including due to an event described in Section 16A1 or Section 16B. FRANCHISEE shall include in the plan at a minimum, the following provisions:

1. Provide conveniently located Bins or roll-off containers 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 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; or
6. Failure to timely implement the start-up transition and Cart roll-out plan described in Section I of Exhibit 3A.

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. Seven consecutive days; or

b. Seven days in the aggregate from the Execution Date.

6. **Failure to Collect for More Than Seven Days.** 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):

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 as described in Section 17A);

- b. Section 23D1 Compliance with ILO Convention Concerning Minimum Age for Employment;
 - c. Section 23E Nondiscrimination; or
 - d. Section 23G County Lobbyist Ordinance.
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 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 Director 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 Director 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);
 - d. A Franchisee Default described in subsection B10 (improper consideration).
2. **Effective 30 days.** The Director may terminate this AGREEMENT effective 30 days after Notice by COUNTY to FRANCHISEE of any Franchisee Defaults other than the Franchisee Defaults listed in subsection C1 or termination events listed in subsection D.
3. **Effective 15 days.** The Director 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.

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; or
 - b. COUNTY exercise of its right to suspend this AGREEMENT under Section 20J in the event of Criminal Activity of FRANCHISEE.

During that 45-day period FRANCHISEE shall have the opportunity to demonstrate to COUNTY that FRANCHISEE can once again fully perform Franchise 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 Director 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 Director 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 d 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 Director 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.

E. **FRANCHISEE Responsibility and Debarment.** 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 § 2.200.020 of the County Code.

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 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 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 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 Services in excess of Customer 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. The Parties acknowledge that 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 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. The Parties further recognize that 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. 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. 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 of the amount of 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 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. Director 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 the Director's prior written consent, the exercise of which is in the Director'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 the Director's consent, at COUNTY'S option, will be null and void. The Director 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.

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 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. Amendments and Changes.**
- 1. Director's Changes.** 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 Services and Service Specifications and minimum Service Standards that do not result in a Rate adjustment in accordance with Section 3C;
 - b. Changes to Exhibit 3D Franchisee Documentation;

- c. Changes to Exhibit 20G Authorized Representative of Director;
- d. Immaterial changes to immaterial Performance Obligations.

2. Board's 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 Services and Service Standards that result in a Rate adjustment in accordance with Section 3C; 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. 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. 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 Containers, 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 subsection 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 is inconsistent or conflicts with Sections 1 through 24 of this AGREEMENT or any other any Exhibits or Attachments to this AGREEMENT, then the provisions of Exhibit 3A 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), including Franchisee Documentation, then the provision of Sections 1 through 24 of this AGREEMENT will govern unless the Director determines that is contrary to the interest of the Parties.

- 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 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 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 securing and maintaining all Permits. 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 A1d 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. § 653(a) and California Unemployment Insurance Code § 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 § 706.031 and California Family Code § 5246(b).

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 § 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.

B. 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.

C. Notices to Employees.

1. **Regarding the Federal Earned Income Credit.** FRANCHISEE shall notify its employees, and shall require each Subcontractor performing Franchise 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 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.

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.

D. 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 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.

E. 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 auditor's 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.

F. 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 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 Franchise to cease providing Franchise 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 Services. FRANCHISEE is

G. COUNTY Lobbyists. FRANCHISEE and each COUNTY lobbyist or County lobbying firm as defined in County Code § 2.160.010, retained by Franchisee shall fully comply with the County Lobbyist Ordinance.

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.

[illegible]

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

APPROVED AS TO FORM:

ROBERT E. KALUNIAN
Acting 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

- 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 **[INSERT DATE]**. 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 90 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 Containers if FRANCHISEE observes Manure in the Green Waste Cart, *unless* after the Execution Date, FRANCHISEE develops a program approved by the Director for Diverting Manure commingled with Green Waste.
 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. 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, Spanish, and Mandarin, as the Customer requests.
6. **Section 15 Amount of Performance Assurance.** During the first Contract Year, FRANCHISEE shall provide performance assurance in the following amount: \$1,007,000.
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 **March 1, 2010**, 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 § 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, 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 (defined in Section B2a of Exhibit 3A), 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, including efforts to increase participation of Customer food retailers;
- (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 newsletters;
- (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.

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 containers, if requested by the Director, and distribute flyers, promotional items, pamphlets, and other materials approved by the County to encourage area residents to recycle, reduce, reuse and/or divert Solid Waste.

- b. ***Distribution of Promotional Materials.*** At least once each Calendar Year, FRANCHISEE shall distribute flyers, pamphlets, brochures, or other written information describing FRANCHISEE'S Recyclables services and other opportunities for Customers to reduce, reuse, recycle, and divert Solid Waste. FRANCHISEE shall submit the materials to COUNTY at least one month before mailing them for COUNTY review and approval. FRANCHISEE may combine this distribution with its Customer outreach for the Unpermitted Waste Screening Protocol as provided in Section 6E.
- c. ***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. **Containers.** *FRANCHISEE shall pay liquidated damages for Breach under this subsection B3 in accordance with Exhibit 18D2 Liquidated Damages.*
 - a. ***Delivery and Exchanges.*** Within seven days after receiving a Customer's request for commencement or changes in Collection of Refuse, Recyclables, Manure, or Green Waste, FRANCHISEE shall deliver Containers of the Customer's requested capacity or replace existing Containers with substitute Containers of the Customer's requested capacity.

- b. **Removal.** 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 Containers from the Customer's Premises.
- c. **Repair and Replacement.** FRANCHISEE shall repair or replace Containers on or before the next Service Day after COUNTY'S or a Customer's request for repair or replacement, including providing and maintaining operable lids. FRANCHISEE shall repair or replace Containers, including Containers that are stolen, without surcharge, except that if the Customer does not report the theft of a Container 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 surcharge 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.
- e. **Upright.** FRANCHISEE shall return Carts upright.
- f. **Inventory.** FRANCHISEE shall maintain a Cart inventory of at least 10% of the total number of Carts of each type and capacity provided to all Customers.
- g. **Graffiti.** FRANCHISEE shall remove graffiti from Containers within 5 days (weekends excepted) 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 Containers 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 Containers having the same aggregate capacity as FRANCHISEE would have provided to that Customer in Carts for the Rate surcharge provided in the Rate Schedule.

- i. **Alternatives to 96-Gallon Carts due to Space Restrictions.** If a Customer requests Containers other than 96-gallon Carts due to space restrictions for Cart storage or at the Set-Out Site, FRANCHISEE shall provide the type of Containers and method of Collection described in Franchisee Documentation. FRANCHISEE shall provide alternative Containers having the same aggregate capacity as FRANCHISEE would have provided to that Customer in Carts, without Rate discount or surcharge, 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 Rate surcharge.
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 Container Placement.** FRANCHISEE shall provide to the Director route maps and schedules indicating the day of Collection as Franchisee Documentation and, upon County request, a list of Customers' names and addresses. FRANCHISEE shall schedule Collection one to two Service Days before streets are swept as provided in COUNTY'S schedule for street sweeping in the Service Area unless otherwise approved by the Director. For the convenience of the Parties, COUNTY'S current street sweeping schedule is attached as Attachment 1 of Exhibit 3A, and the schedule may be amended by COUNTY after the Execution Date. Franchise shall use Reasonable Business Efforts to implement the Director's requests for route and schedule changes. FRANCHISEE shall return empty Containers 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 § 20.72.100.
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.

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 surcharge; and
 - b. At the Customer's request, any number of additional 96-gallon Carts for the surcharge provided on the Rate Schedule.
 - c. One 64-gallon cart/bin for manure without surcharge, as applicable.

In addition, FRANCHISEE shall Collect, up to four times each Calendar Year without surcharge, 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.*

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 to each of those Customers the following for Collection of Recyclables:
 - 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 surcharge; and
 - b. At the Customer's request, any number of additional 96-gallon Carts for the surcharge 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 beneficiators. *FRANCHISEE shall pay liquidated damages for Breach under this subsection D2 in accordance with Exhibit 18D2 Liquidated Damages.*
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 § 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 § 41953; and
 - b. Taking actions under County Code § 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 transformation 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, Franchise shall check all Customers' Recyclables Containers and Green Waste Containers once to ascertain whether Customers are discarding only Recyclables in their Recyclables Containers and only Green Waste in Green Waste Containers. 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, Franchise shall check Recyclables Containers of 20 percent of its Customers annually on a rotating basis, such that all Customers' Recyclables Containers 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 Container and it shall leave a Non-Collection notice at the Premises.
- d. **Follow-Up.** Within two months, FRANCHISEE shall recheck Containers 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 Containers or Refuse and/or Recyclables in their Green Waste Containers, then the Director may direct FRANCHISEE to check additional Containers 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 surcharge; and
- b. At the Customer's request, any number of additional 96-gallon Carts for the surcharge provided on the Rate Schedule.
- c. One 64-gallon cart/bin for manure without surcharge, as applicable.

In addition, FRANCHISEE shall Collect, up to four times each year without surcharge, 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.*

F. Special Services. FRANCHISEE shall provide the services prescribed in this Section F without surcharge to Customers or charge to COUNTY except for subsection F2d Additional On-Call Pickup with Surcharge and subsection F5 Manure Collection.

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.

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, after no

- less than two weeks advance written notice to Residential Customers, without surcharge.
- b. **Two On-Call Pickups Per Year without Surcharge 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 surcharge.
- c. **Four On-Call Pickups Per Year without Surcharge 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 surcharge.
- d. **Additional On-Call Pickup with Surcharge.** 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 surcharges for additional calls listed on the Attachment 3 and surcharge for items listed in Franchisee Documentation.
- e. **Semi-Annual E-waste and Clothing Drop-off Events.** Twice each calendar year FRANCHISEE shall Collect without surcharge 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. FRANCHISEE shall give all Residential Customers no less than two weeks advance written notice of each drop-off event. FRANCHISEE may identify Residential Customers by requiring an individual to submit either of the following documents:

1. His or her bill for Franchise Services, or
 2. A copy of the advance written notice of the drop-off event given by FRANCHISEE to Residential 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 § 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.
- h. **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. *FRANCHISEE shall pay liquidated damages for Breach under this subsection F2 in accordance with Exhibit 18D2 Liquidated Damages.*

3. **Special Events Cleanup Services.** At the Director's request, FRANCHISEE shall provide Bins or portable containers 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 each of 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. FRANCHISEE shall provide all the necessary 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. **Manure Collection.** FRANCHISEE shall arrange to provide for Collection, transportation and Disposal of Manure discarded by a Customer for whom FRANCHISEE provides Collection of Refuse, on the day or days agreed to with Customer, at least weekly, if the Customer requests manure collection.

For the charges listed in the rate schedule, FRANCHISEE shall provide to that Customer a 64-gallon Cart (or other capacity Cart approved by the Director) for Collection of Manure upon Customer request at no cost to the customer or the County. Additional 64-gallon Cart or Carts will be provided at the surcharges for Collection of Manure listed on the Rate Schedule.

FRANCHISEE'S fees, charges, and other compensation from providing Franchise Services to Premises with respect to Manure are included in the calculation of the Franchise Fee under Section 1D.

FRANCHISEE–Designated Facility. FRANCHISEE shall transport Manure only to the facility or facilities that FRANCHISEE has designated in Franchisee Documentation for Disposal, 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.*

6. **Sharps Collection.** Within one week after Residential Customer request, FRANCHISEE will provide Customer at that Customer's Residential Premise, without surcharge to that Customer or the County, with the following:

- a. An Approved Container for discard of Sharps in accordance with Applicable Law; and,
- b. If further requested, a container for mailing the Approved Container for discard of Sharps 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

7. **Illegal Dumping–Street and Alley Cleanup Program.** Upon request from the County or residents within the Service area, the FRANCHISEE shall collect, transport, dispose and manage all illegally dumped materials within public road rights-of-ways, including but not limited to, refuse, debris, furniture, major appliances, white goods, metallic discards, covered electronic devices, and other materials within 24 hours of the request (except weekends), without surcharge to that resident or County.

- 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 surcharge 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 surcharge 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 Attachment 2 to Exhibit 10, "**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 32-gallon containers.

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 Container delivery from manufacturer;

3. Container (such as Cart) assembly;
4. Distributing Containers to Customers;
5. Public outreach and education activities;
6. Determining routes;
7. Training route drivers;
8. Collecting old Containers;
9. Commencement date of Collection.

FRANCHISEE shall use its best efforts to implement the approved start-up transition and Cart roll-out plan. FRANCHISEE shall use its best efforts to 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 best efforts to provide MSW Management Services to Customers who do not receive MSW Management Services from other providers.

- J. 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.

**ATTACHMENT 1–SERVICE AREA AND STREET SWEEPING SCHEDULE
(Section B6)**

[INSERT APPROVED MAP OF SERVICE AREA AND SCHEDULE HERE]

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 23F1)

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, F5 Manure), 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 23C2).
- 6. **INSURANCE AND PERFORMANCE ASSURANCE** (Sections 14 and 15).
- 7. **INTERNAL REVENUE SERVICE NOTICE 1015** (Section 23C1).
- 8. **FRANCHISEE'S EEO CERTIFICATION (FORM PW-7)** (Section 23E3).
- 9. **WASTE DIVERSION PROGRAM, including Customer Recyclables Diversion Education Program** (Sections B2 and F4 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, 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 1/100th 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.

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 of the second Calendar Year of the Term 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 of the second Calendar Year of the Term 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 of the second Calendar Year of the Term 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 of the second Calendar Year of the Term 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 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, 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, 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 July 1 in the second full Calendar Year of the Term 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 the Execution Date or 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, 2006-March 31, 2007	221.64
	April 1, 2007-March 31, 2008	228.59
	Percent Change	3.04% (not more than 5%)
Adjustment to Service Fee Component	75% of percent change in CPI	2.28%

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, 2006 - March 31, 2007	121.63
	April 1, 2007 - March 31, 2008	153.01
	Percent Change	2.58% (not more than 5%)
Adjustment to Service Fee Component	75% of percent change in CPI	1.93%

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 2006 quarters and March 2007 quarter	$(2.30+1.99+2.06)/3=6.35/3=$ 2.12
	July and October 2007 quarters and January 2008 quarter	$(2.29+2.33+2.44)/3=7.06/3=$ 2.35
	Percent Change	$(2.35-2.12)/2.12=0.23/2.12=0.1085$ 10.85%
Adjustment to CNG Fuel Component	30% of percent change in DOE CNG *3/10 Vehicles)*	$0.30 \times 10.85\%=$ 3.25%

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, 2006 - March 31, 2007	271.66
	April 1, 2007 - March 31, 2008	317.55
	Percent Change	16.89%
Adjustment to Diesel Fuel Component	70% of percent change in DOE Diesel (7/10 Vehicles)*	11.82 %

*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, 2007	\$24.00
Disposal tipping fee charges on March 31, 2008	\$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:

$$\begin{aligned} \$17.00 + [15.89\% \times \$17.00] &= \$17.00 + \$2.72 = \\ \mathbf{\$19.72} &= \mathbf{adjusted\ Net\ Rate} \end{aligned}$$

The Franchise Fee is 10 percent; the adjusted (gross) Rate and the Franchise Fee would be calculated as follows:

$$\begin{aligned} \{Adjusted\ Net\ Rate / [100\% - Franchise\ Fee\ \%] &= \text{adjusted (gross) Rate} \\ \{\$19.72 / [100\% - 10\%]\} &= \$21.91 \\ \mathbf{\$ 21.91} &= \mathbf{adjusted\ Rate} \end{aligned}$$

$$\begin{aligned} \text{Adjusted Rate} - \text{adjusted Net Rate} &= \text{Franchise Fee} \\ \$21.91 - \$19.72 &= \$2.19 \end{aligned}$$

**ATTACHMENT 2–
RATE SCHEDULE
(CUSTOMER SERVICES CHARGES)**

INTENTIONALLY OMITTED

**THE INFORMATION PROVIDED ON
FORM PW-17, 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-18, 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"> • Customer correspondence under Section 4H • Publicity materials under section 4I1; • News releases and trade journal articles related to Franchise Services, under Section 4I2 • Customer outreach materials under Section 6E and Exhibit 3A, Section B2b. 	\$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 Container 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 Containers 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/Container), 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 23E.	\$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.	\$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 Container 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 Containers to their Set-Out Sites, or placing Containers 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 D6 in Exhibit 3A.	\$100
30	Any other liquidated damage in Exhibit 3A.	As scheduled in Exhibit 3A

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 OF PUBLIC WORKS**

Name: Martins Aiyetiwa

Telephone Number: (626) 458-3553

Facsimile Number: (626) 458-3593

E-mail Address: maiyet@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 complied, 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 thereunder.
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 enforceability 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 law relating to conflicts of interest and County Lobbyist Ordinance, in the course of procuring this AGREEMENT.
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 Franchise 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

AB 939 means the California Integrated Waste Management Act of 1989, California Public Resources Code § 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 § 43000 *et seq.*, with respect to air emissions (smog checks);
- b. California Vehicle Code § 27456b, with respect to tires;
- c. California Vehicle Code § 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. Containers:

- a. 14 CCR 17314, with respect to maintenance and placement of containers; and
- b. 14 CCR 17317, with respect to placing identifying name and telephone number on containers;

3. Labor:

- a. Drug and alcohol testing;
- b. Occupational Safety and Health Act (29 U.S.C. § 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, § 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. § 1351 *et seq.*, 42 U.S.C. §§ 7401-7642); and California Clean Air Act (California Health and Safety Code § 39000 *et seq.*);

- d. California Hazardous Waste Control Act (California Health & Safety Code § 25100 *et seq.*);
- e. California Hazardous Materials Release Response Plan and Inventory Act (California Health & Safety Code, Division 20, Chapter 6.95, § 25500 *et seq.*);
- f. Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health & Safety Code § 25300 *et seq.*); and
- g. Emergency Planning and Community Right to Know Act (42 U.S.C. § 11001 *et seq.*); and

5. Miscellaneous:

- a. County Lobbyist 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.

Assign or Assignment means any of the following:

- 1. Selling, exchanging, or otherwise transferring Ownership or control of FRANCHISEE (through sale, exchange, or other transfer of outstanding stock, equity interest, or otherwise);
- 2. Issuing new stock or selling, exchanging, or otherwise transferring 20 percent or more of the then outstanding common stock of or equity interest in FRANCHISEE;
- 3. Any dissolution, reorganization, consolidation, merger, recapitalization, stock issuance, or reissuance, voting trust, pooling agreement, escrow arrangement, liquidation, or other transaction, which results in a change of Ownership or control of FRANCHISEE;
- 4. Any assignment by operation of law, including 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;

5. Any sale or other transfer of 50 percent or more of the value of assets of FRANCHISEE except for sales or transfers to parents, grandparents, siblings, children, and grandchildren of individuals having a shareholder or other equity interest in Franchise as of the date of this AGREEMENT ("Immediate Family") or trust created primarily to benefit members of the Immediate Family;
6. Substitution by a surety company providing any performance bond in accordance with Section 15 of another Person for FRANCHISEE to perform Franchise Services; or
7. Any combination of the foregoing (whether or not in related or contemporaneous transactions) which has the effect of any transfer or change of Ownership or control of FRANCHISEE or the assumption, assignment, delegation, takeover or performance of any of FRANCHISEE'S Performance Obligations, duties, or responsibilities by any Person other than FRANCHISEE, whether through assignment, subcontract (except as provided in Exhibit 3A), delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever.

Approved Sharps Containers means receptacles approved by COUNTY for discard of Sharps at Residential Premises

Bin means any container capable of Collection with front end loading vehicles, such as those having a 3- to 8-yard capacity.

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 any wheeled container capable of Collection by either semi or fully automated vehicles.

CED means a covered electronic device as defined in California Public Resources Code Section 42463 and includes the following:

1. Cathode ray tube (CRT) device (including television and computer monitor);
2. LCD desktop monitor;
3. Laptop computer with LCD display;
4. LCD television;
5. Plasma television;
6. 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. § 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.

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 year or portion of a year during the Term commencing July 1 and ending June 30.

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 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'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 Collection from FRANCHISEE.

Customer Service Charge means the rates, fees, charges, and other compensation that FRANCHISEE bills a Customer for providing Collection.

day means calendar day.

Debarment or **Debar** has the meaning assigned in County Code § 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 § 40192, of refuse at a solid waste facility.

Disposal or **Dispose** means disposal, as defined in California Public Resources Code § 40192, at a Solid Waste Facility of Refuse that FRANCHISEE has Collected.

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 § 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 § 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 FRANCHISEE.

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 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 § 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.

Ownership has the meaning provided in the constructive ownership provisions of the Internal Revenue Code of 1986 § 318(a) as in effect on the Execution Date, except that (1) 10 percent is substituted for 50 percent in § 318(a)(2)(C) and in § 318(a)(3)(C) thereof; (2) § 318(a)(5)(C) is disregarded, and (3) ownership interest of less than 10 percent is disregarded and percentage interests is determined on the basis of the percentage of voting interest or value which the ownership interest represents, whichever is greater.

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 § 40116.

Processing means the reduction, separation, recovery, conversion or Recycling of Solid Waste, including creating "compost" as defined in California Public Resources Code § 40116.

prompt or **promptly** means as soon as practicable, but in no event more than two days.

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. § 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 § 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, Holidays excepted.

Service Specifications means Performance Obligations prescribed in Exhibit 3A.

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 § 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 § 40191 that is Collected in the Service Area, including Green Waste, Recyclables and Refuse, but excluding Unpermitted Waste.

Solid Waste Facility means solid waste facility as defined in California Public Resources Code § 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.

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 Assign, transfer, convey, sublet, license, hypothecate, encumber, or otherwise transfer or dispose of.

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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Department of the Treasury
Internal Revenue Service

EXHIBIT A

Notice 1015

(Rev. December 2008)

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

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 2008 are less than \$41,646 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 9, 2009.

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 the IRS website at www.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 the 2008 instructions for Form 1040, 1040A, 1040EZ, or Pub. 596, Earned Income Credit (EIC).

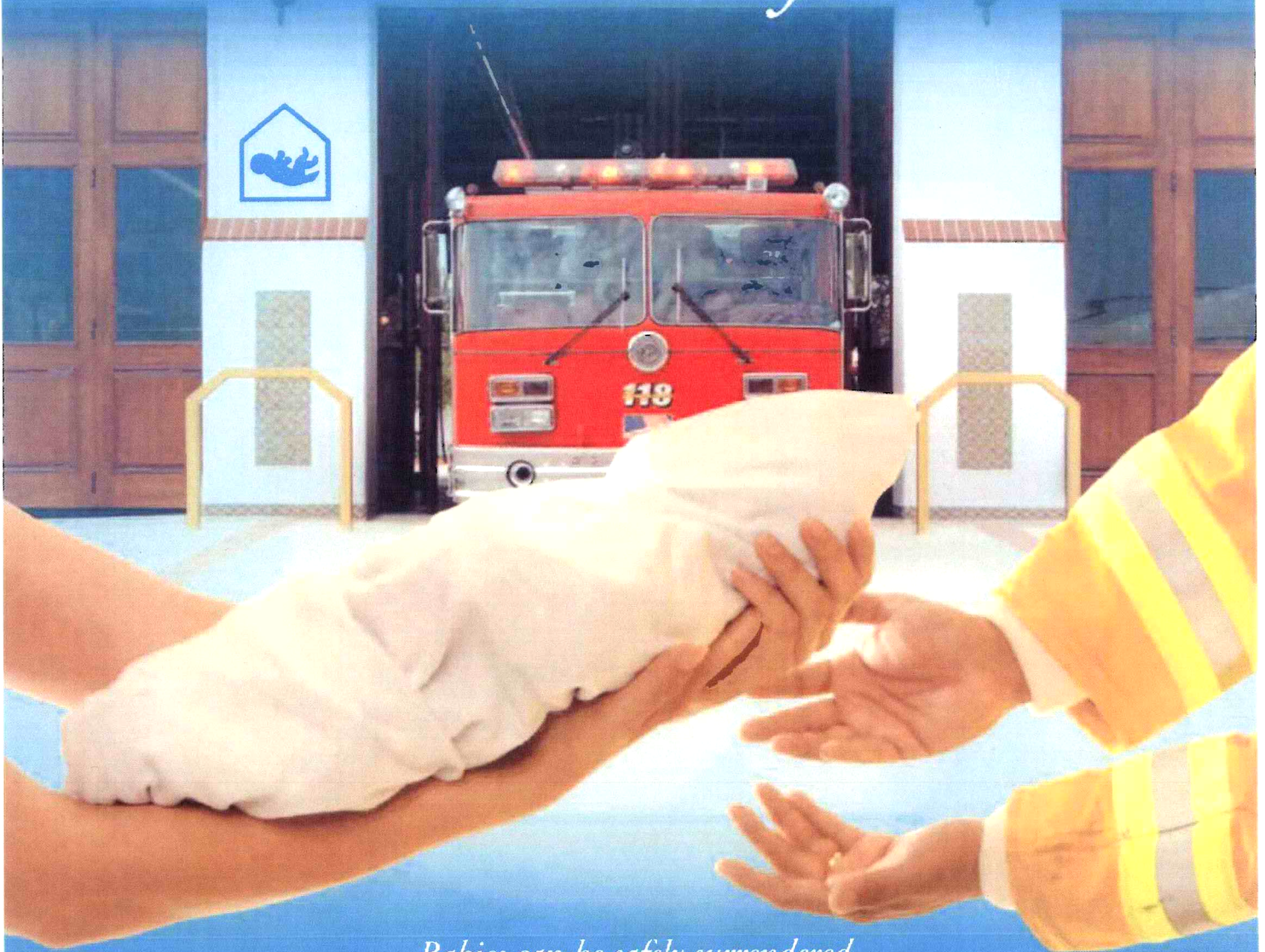
How Do My Employees Claim the EIC?

Eligible employees claim the EIC on their 2008 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 2008 and owes no tax but is eligible for a credit of \$825, he or she must file a 2008 tax return to get the \$825 refund.

**How Do My Employees Get Advance EIC
Payments?**

Eligible employees who expect to have a qualifying child for 2009 can get part of the credit with their pay during the year by giving you a completed Form W-5, Earned Income Credit Advance Payment Certificate. You must include advance EIC payments with wages paid to these employees, but the payments are not wages and are not subject to payroll taxes. Generally, the payments are made from withheld income, social security, and Medicare taxes. For details, see Pub. 15 (Circular E), Employer's Tax Guide.

Safely Surrendered *Baby Law*



*Babies can be safely surrendered
to staff at any hospital or fire station in Los Angeles County*

No shame. No blame. No names.

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

www.babysafela.org



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 to 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 arrest or prosecution.

Every baby deserves a chance for a healthy life. If someone you know is considering abandoning a baby, let her know there are other options. For three days (72 hours) after birth, a baby can be surrendered to staff at any hospital or fire station in Los Angeles County.

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?

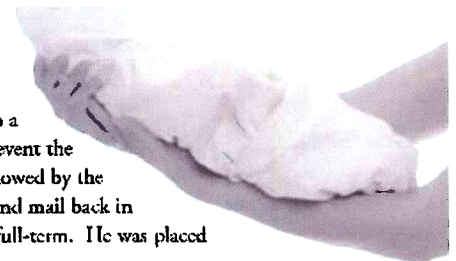
Once the parent or surrendering adult surrenders the baby to hospital or fire station personnel, they may leave at any time.

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.babysafela.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 de California permite la entrega confidencial de un recién nacido por parte de sus padres u otras personas con custodia legal, es decir cualquier persona a quien los padres le hayan dado permiso. Siempre que el bebé tenga tres días (72 horas) de vida o menos, y no haya sufrido abuso ni negligencia, pueden entregar al recién nacido sin temor de ser arrestados o procesados.

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.

¿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 temprano 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.



**SERVICE AREA INFORMATION
HACIENDA HEIGHTS**

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

Residential customer information

The service area for the Hacienda Heights unincorporated community contains approximately 14,409 (single-family or two-unit dwellings) residential parcels. Less than 50 residential parcels need manure collection service.

Residential refuse, recyclables, and green waste tons collected

Estimated at 34,200 tons per year (2008), based on information provided by waste haulers doing business in the area and reporting to the County of Los Angeles Solid Waste Information Management System website

<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>

Illegal Dumping – Street and Alley Cleanup Program

Estimated at less than 50 tons per year

**Estimated Breakdown of Residential Parcels
for the area of Hacienda Heights**

Land Classification	Parcel Count	Dwelling Count
Single Family	14,325	14,325
2 Units	42	84
Condominiums	1,819	
3 Units	7	
4 Units	4	
5 + Units	9	
Mobile Homes	1	
Total	16,207	14,409

**EXHIBIT E – EQUIPMENT
SPECIFICATION/PRODUCTIVITY
ASSUMPTIONS**

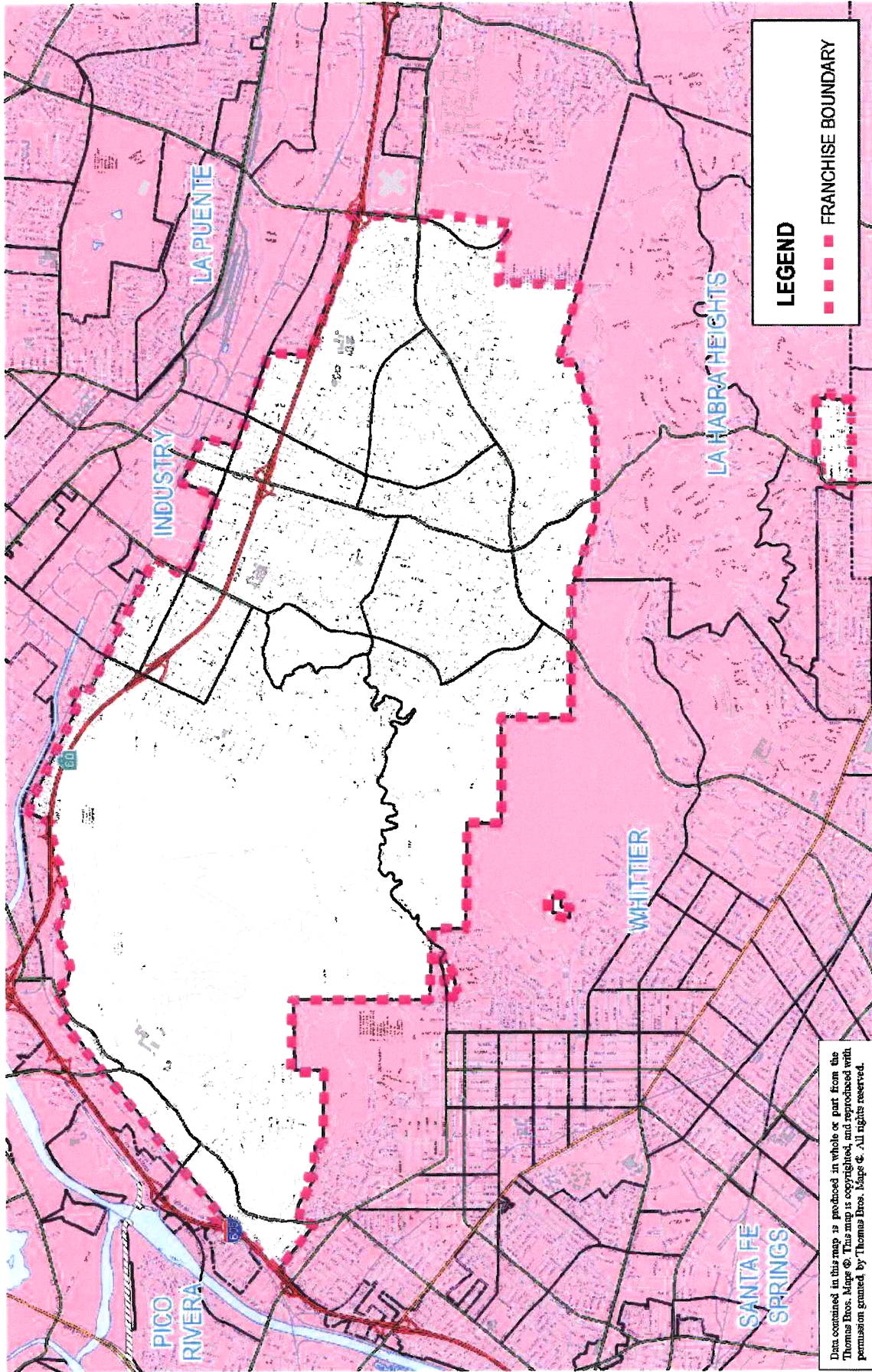
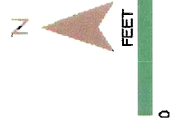
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**THE INFORMATION PROVIDED ON
FORM PW-19, EQUIPMENT
SPECIFICATION/PRODUCTIVITY
ASSUMPTIONS,
WILL BE TRANSFERRED ONTO THIS
EXHIBIT E – EQUIPMENT
SPECIFICATION/PRODUCTIVITY
ASSUMPTIONS, PRIOR TO EXECUTION OF
THE AGREEMENT**

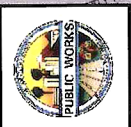
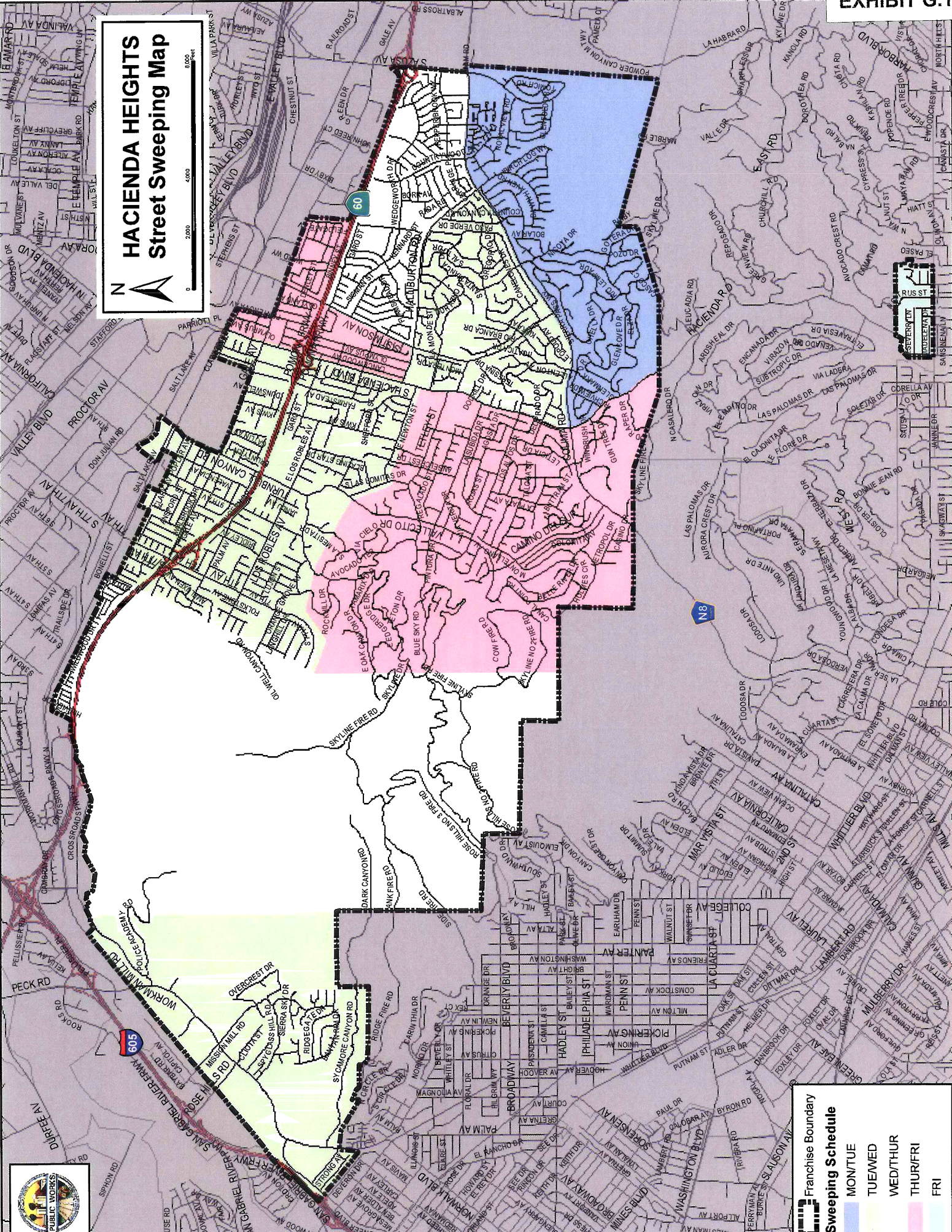


FRANCHISE AREA MAP HACIENDA HEIGHTS

EXHIBIT F



HACIENDA HEIGHTS
Street Sweeping Map

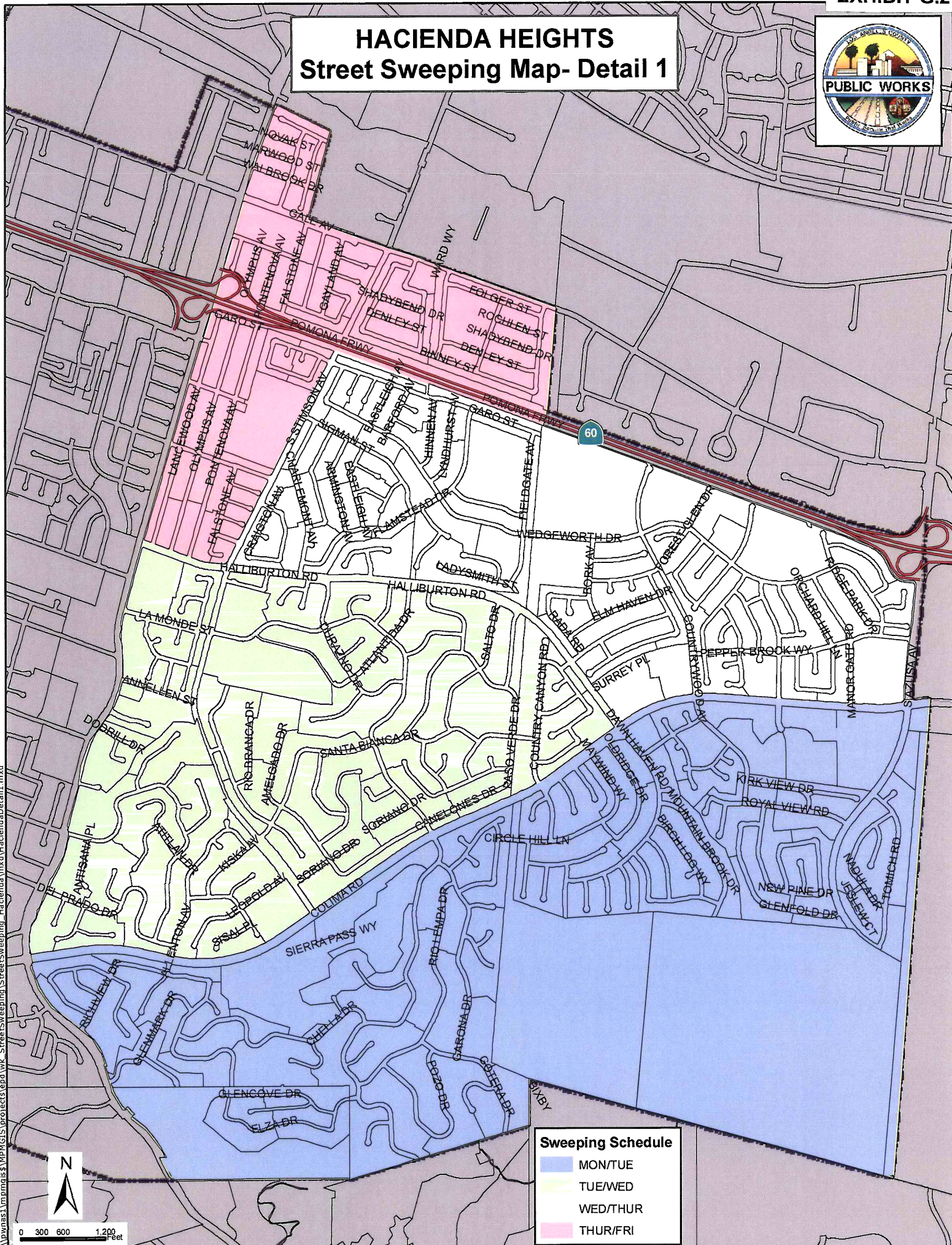
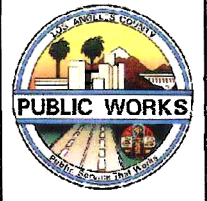


Franchise Boundary

Sweeping Schedule

- MON/TUE
- TUE/WED
- WED/THUR
- THUR/FRI
- FRI

HACIENDA HEIGHTS Street Sweeping Map- Detail 1



Sweeping Schedule	
	MON/TUE
	TUE/WED
	WED/THUR
	THUR/FRI

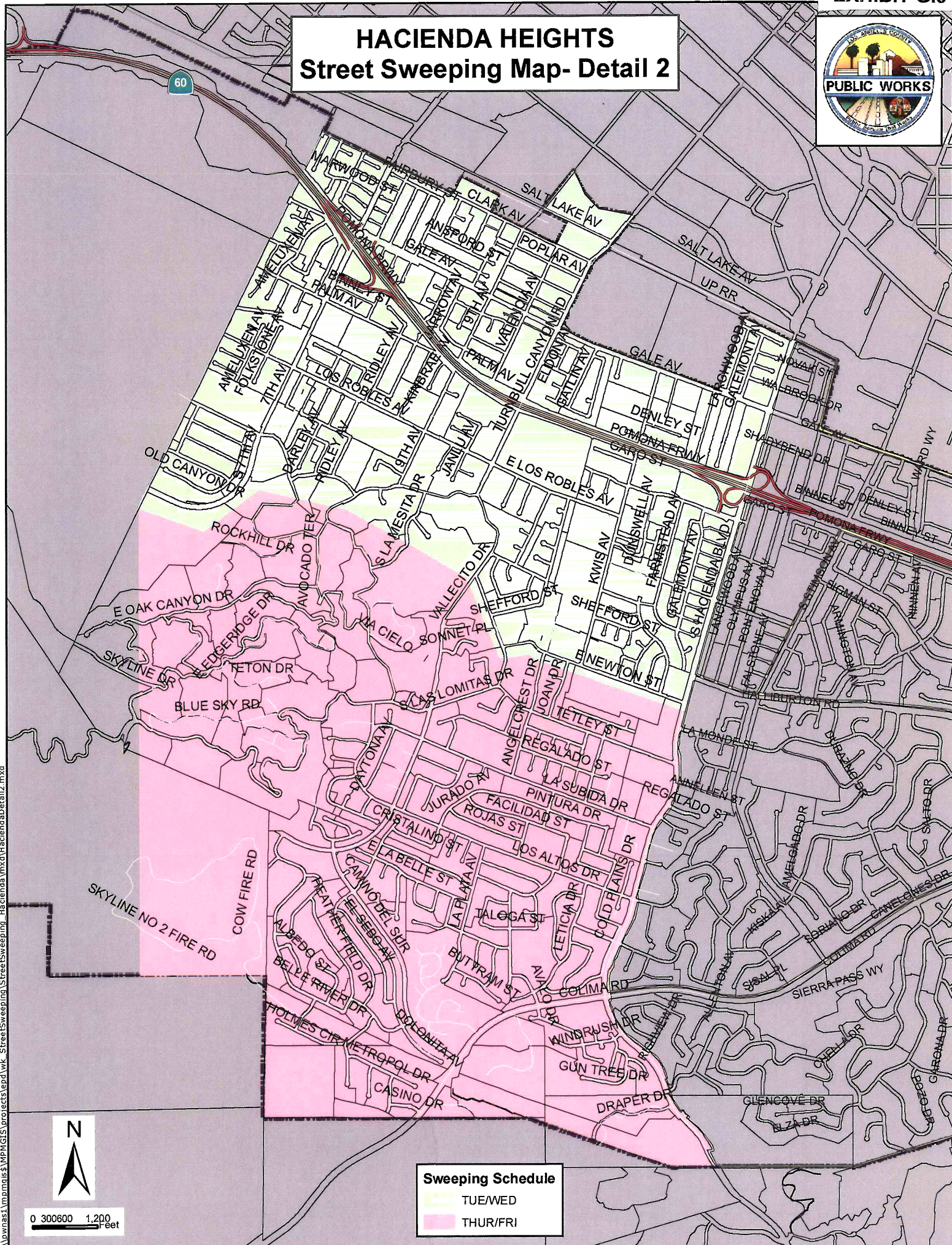


0 300 600 1,200 Feet

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HACIENDA HEIGHTS Street Sweeping Map- Detail 2

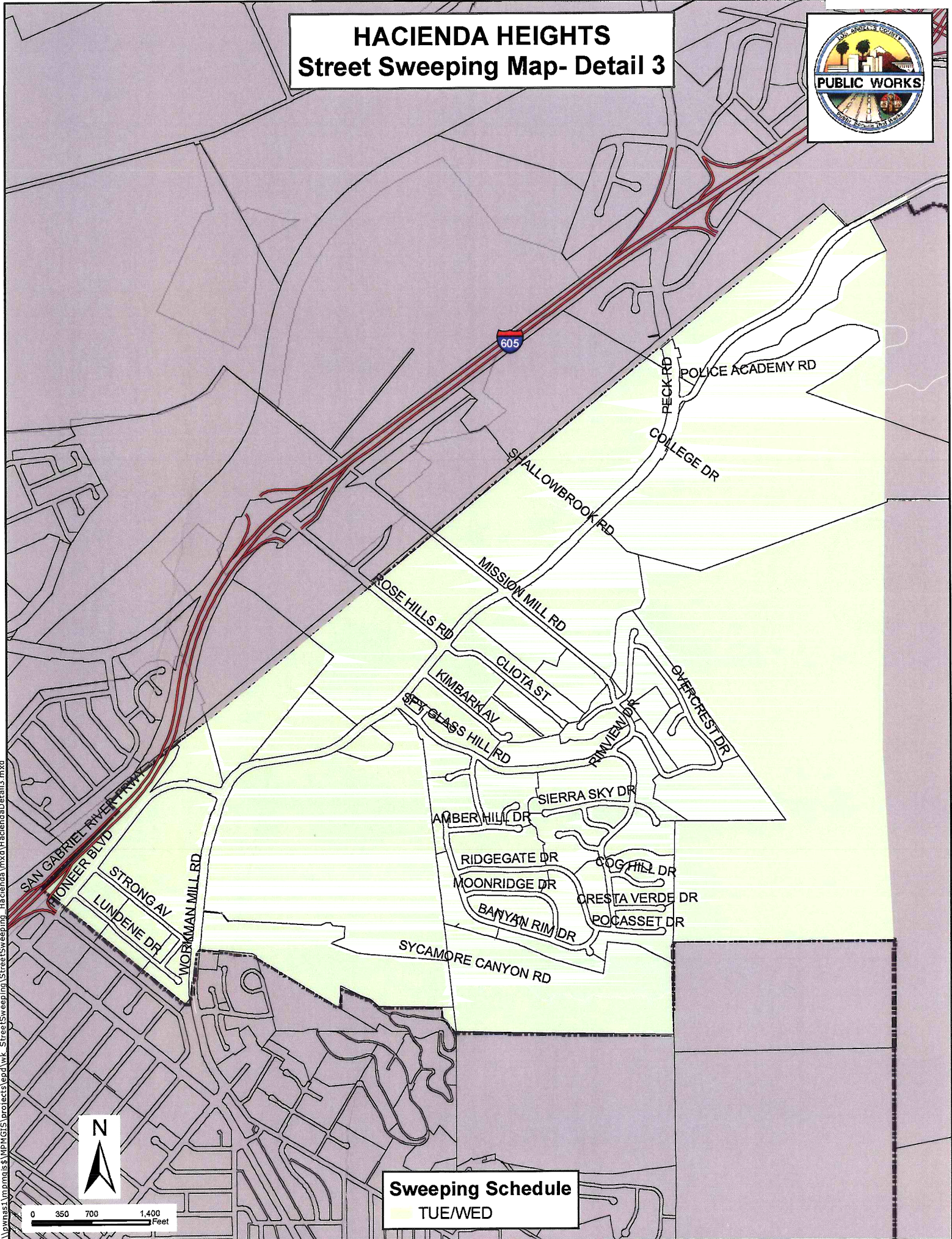
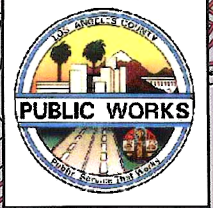


Sweeping Schedule

- TUE/WED
- THUR/FRI

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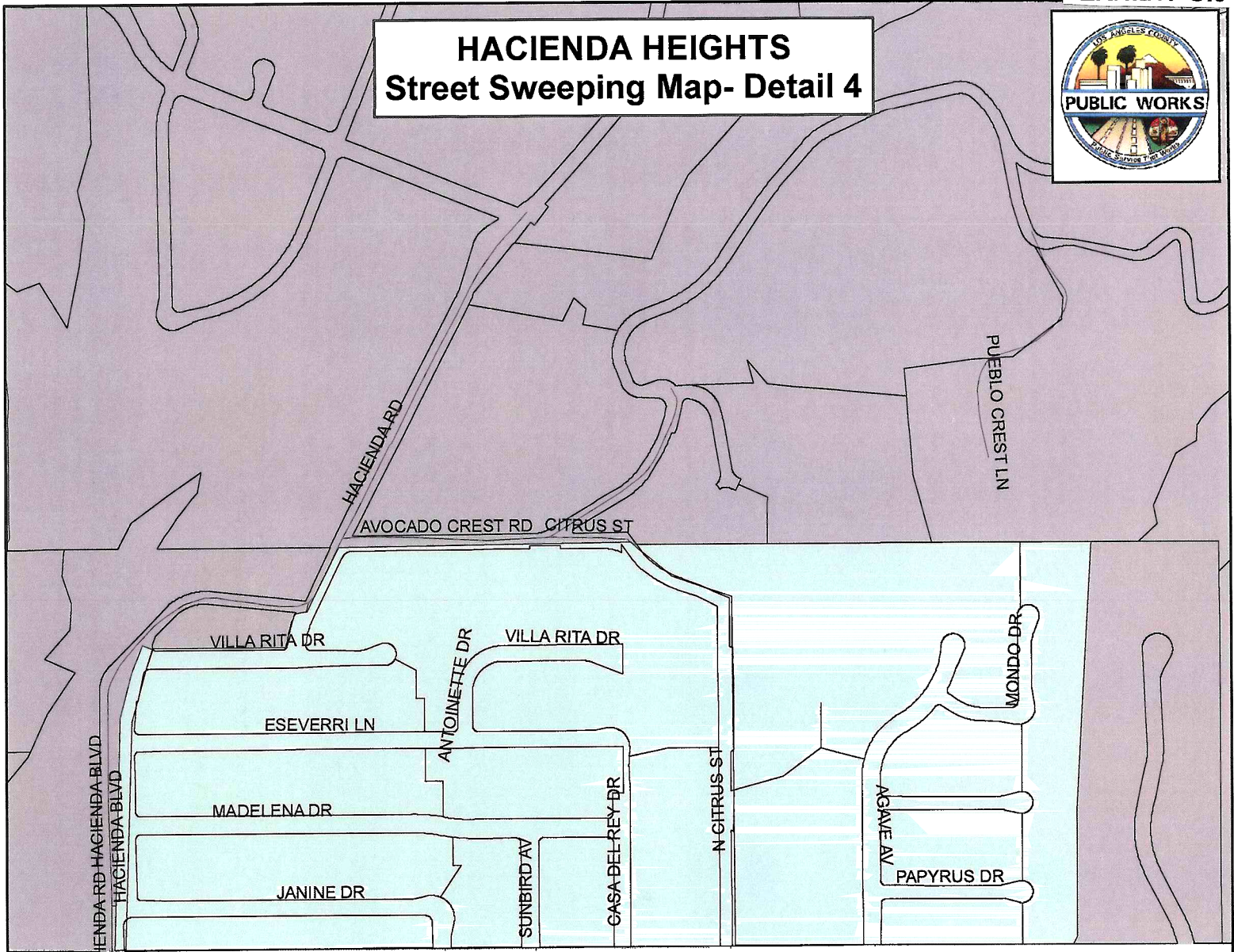
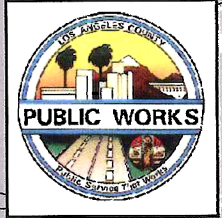
HACIENDA HEIGHTS Street Sweeping Map- Detail 3



Sweeping Schedule
TUE/WED

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HACIENDA HEIGHTS Street Sweeping Map- Detail 4



HACIENDA RD HACIENDA BLVD
HACIENDA BLVD

VILLA RITA DR

ESEVERRI LN

MADELENA DR

JANINE DR

ANTOINETTE DR

VILLA RITA DR

SUNBIRD AV

CASA DEL REY DR

N CITRUS ST

AGAVE AV

PAPYRUS DR

MONDO DR

PUEBLO CREST LN

HACIENDA RD

AVOCADO CREST RD CITRUS ST



Sweeping Schedule
☐ FRI

0 125 250 500
feet

SAMPLE BOND FOR FAITHFUL PERFORMANCE

KNOW ALL MEN BY THESE PRESENTS:

That we, _____
(Franchisee/Principal)

as principal, and _____
(Surety)

as surety, are held and firmly bound unto the COUNTY OF LOS ANGELES DEPARTMENT OF PUBLIC WORKS, State of California (hereinafter "County"), in the sum of :

_____ Dollars (\$ _____)

lawful money of the United States, for the payment of which sum, well and truly to be made, we bind ourselves, jointly and severally, firmly by these presents.

The condition of the above obligation is such that, whereas said principal has been awarded and is about to enter into a written contract with the County for the [DESCRIPTION OF SERVICE] and is required by said County to give this bond in connection with the execution of said contract:

NOW, THEREFORE, if said principal shall well and truly do and perform all of the covenants and obligations of said contract on its part to be done and performed at the times and in the manner specified therein, then this obligation shall be null and void, otherwise it shall be and remain in full force and effect

It is agreed that any alterations in the work to be done, which may be made pursuant to the terms of said contract, shall not in any way release either the principal or surety hereunder, nor shall any extensions of the time granted under the provisions of said contract release either the principal or surety.

WITNESS our hands this _____ day of _____, 200 ____ .

By _____
(Franchisee/Principal)

By _____
(Surety)

By _____
Its

By _____
Its Attorney-in-fact

By _____
Its

By _____
Its Attorney-in-fact

By _____
Its

By _____
Its