



GAIL FARBER, Director

COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

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

August 20, 2009

REQUEST FOR PROPOSALS – ADDENDUM 2 EXCLUSIVE FRANCHISE AGREEMENT FOR THE AREA OF HACIENDA HEIGHTS (2009-FA040)

Thank you for attending our mandatory Proposers' Conference for Exclusive Franchise Agreement for the Area of Hacienda Heights (2009-FA040) held on Wednesday, July 29, 2009. Please take note of the following revisions that have been addressed regarding the Request for Proposals (RFP). (Please note that **bold** text has been added, and any text that has a ~~strike through~~ has been deleted from the RFP).

The deadline to submit proposals is **Monday, August 31, 2009, at 5:30 p.m.**

QUESTIONS:

1. Please refer to Enclosures A.1 through A.7, which will address each Proposer's set of questions separately.

Please note that the questions in Enclosures A.1 through A.7 represent the questions asked by Proposers in the exact form and context as submitted. No changes were made by the County to any questions.

CHANGES TO PART I OF THE RFP:

2. Any reference to cart/bin, with respect to manure collection, has been revised to omit the word bin within the context of Part I of the RFP, as applicable.

EXAMPLE:

- "cart/~~bin~~"

3. Part I, Section 1.A.1.d, Basic Services on page 1.1 of the RFP, has been revised to include the following:

- d. One 64-gallon cart/bin for manure **upon customer request.**

4. Part I, Section 3.A.6., Experience, on page 1.11 of the RFP, has been revised to read:

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 **qualifications of the Proposer's key personnel** ~~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).~~

5. Part I, Section 3.A.11, Financial Resources, on page 1.20, has been revised to include the following sentence at the end of the section:

In lieu of submitting the above requested audited or reviewed financial statements, proposer may complete and submit page 3 of Form PW-14.1.

6. Part I, Section 3.A.16, Bid Guaranty, on page 1.22 has been revised to read:
 - 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-2.1**, 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). **The County will accept bid bonds with the statement "in an amount equal to 10 percent of the Proposer's proposed annual rate" utilizing the monthly rate per customers from Form PW-2.1, Proposed Net Rate, multiplied by the number of residential parcels as listed in Exhibit C.** 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.

7. Part I, Section 4.G, Knowledge of Work to be Done, on page 1.27 of the RFP, has been revised to read:

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, **Form PW 17, Rate Schedule (Customer Service Charges)**, and **Form PW-18, Bulky Rate Collection Schedule**, as full compensation for work performed. It is understood and agreed that the quantities set forth in ~~Form PW-2, Proposed Net Rate~~ and this RFP are only estimates, and the unit prices will apply to the actual quantities, whatever they may be.

8. Part I, Section 5.D.8, Pass/Fail Review, on page 1.35, has been revised to include the following sentence:

In lieu of submitting the above requested audited or reviewed financial statements, proposer may complete and submit page 3 of Form PW-14.1.

CHANGES/CLARIFICATIONS TO FORMS:

9. Form PW-2, Proposed Net Rate; Form PW-3.1, Net Rate Proposal; Form PW-3.2, Cost Substantiation of Net Rate; and Form PW-17, Rate Schedule are no longer valid.

Please use **Form PW-2.1**, Proposed Net Rate (Enclosure B); **Form PW-3.1.2**, Net Rate Proposal (Enclosure C); **Form PW-3.2.2**, Cost Substantiation of Net Rate (Enclosure C); and **Form PW-17.1**, Rate Schedule (Enclosure D), when submitting your proposal in lieu of the original forms issued with the RFP.

10. Form PW-15, Terminated Contracts, if a contract(s) was terminated, please attach an explanation to Form PW-15 on a separate sheet, whether the termination was at the fault of the Proposer or not. Any and all terminated contracts should be accompanied with an explanation. It should be noted that contracts that naturally expired need not be listed. The County is only seeking information on contracts that were terminated prior to expiration.

CHANGES TO PART II OF THE RFP:

11. Part II, Exhibit 3A, Item C.1.c, Refuse Collection, Transportation, and Disposal, on page 69, has been revised to read:

c. One 64-gallon cart/bin for manure without surcharge **upon customer request**, as applicable.

12. Part II, Exhibit 3A, Item E.1, Green Waste Collection, Transportation, Processing, and Diversion, on page 72, has been revised to read:

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.~~
13. Part II, Exhibit 3A, Section F6, Sharps Collection, on page 77 has been revised to read:
 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 **Sharps** Container **at least 1 gallon capacity (up to four per year)** for discard of Sharps in accordance with Applicable Law; and,
 - b. If further requested, a **pre-paid postage** container for mailing the Approved Container **Sharps Containers** for discard of Sharps in accordance with Applicable Law.
14. Part II, Attachment 1, Rate Adjustment Examples, paragraph 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) on pages 90 and 91, have been revised to read:

If the Weighted Rate Adjustment Percentage is 16.03% percent, then a hypothetical Net Rate of \$17.00 would be adjusted as follows:

$$\begin{aligned} \$17.00 + [15.89\% \mathbf{16.03\%} \times \$17.00] &= \$17.00 + \$2.72 = \\ \$19.72 &= \text{adjusted Net Rate} \end{aligned}$$

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

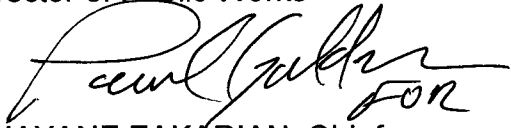
{Adjusted Net Rate / [100% - Franchise Fee %] = adjusted (gross) Rate
{ \$19.72 / [100% - 10%]} = \$21.91
\$ 21.91 = adjusted Rate

Adjusted Rate – adjusted Net Rate = Franchise Fee
\$21.91 - \$19.72 = \$2.19.

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

Very truly yours,

GAIL FARBER
Director of Public Works

A handwritten signature in black ink, appearing to read "Paul G. Zakarian" with a stylized flourish at the end.

GHAYANE ZAKARIAN, Chief
Administrative Services Division

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Enc.

PROPOSER No. 1'S QUESTIONS

PART I QUESTIONS

1. RFP due date – Would DPW consider extending the due date for submittal based on the changes to the RFP document, the short time frame for submittal, and the importance of evaluating and incorporating the DPW responses into our RFP submittal. We request an extension to September 3, 2009.

Response: Please refer Informational Update 1 as the deadline to submit proposals has been extended to **Monday, August 31, 2009.**

2. RFP, Section 1B8 and 9. Senior Discount. Will the senior discount also be available for customers that also receive free roll-out service, resulting in a monthly payment substantially below the cost of providing service? Does the "not to exceed 25%" include the cost of the roll-out service?

Response: Yes, senior discounts are available for qualified residents, as described in Exhibit 2A(G). In addition, qualified seniors and disabled residents are eligible for free roll-out service at all times, thus the 25% discount does not apply.

3. RFP, Section 2F. GAIN/GROW. How will the County verify that Proposers in fact have a proven track record of hiring participants from the GAIN/GROW program? "Attesting a willingness" is a meaningless requirement.

Response: There is no provision for routine verification. The County reserves its right to debar and/or disqualify any proposer who makes a false representation.

4. RFP, Section 3A9. Disputes, Actions, Contests and Debarments; and Environmental History. Would DPW agree to limit the scope of the disclosures under subsections a. i., iii., iv., v. and vi. to Southern California?

Response: The requested limitation is not appropriate and the County will not limit the geographic scope of the disclosures to Southern California as requested, but the scope of certain disclosures will be limited with respect to the Proposer, guarantor, affiliates, and subcontractor, as described in Part I, Section 3.A.9, Disputes, Actions, Contests, and Debarments; and Environmental History.

5. RFP, Section 5 E.4 (a). Disputes, Actions, Contests, and Debarments; and Environmental History. The RFP states that the pertinent supplemental information submitted by the Proposer or included in the Proposer Profile such as the size of the Proposer's business, scope of operations, reasons for the activity, outcome of the activity, and other relevant data will be taken into consideration.

Would DPW consider adding more specific language about how this additional information would be included in the evaluation process? Will the evaluators be looking at ratios, number of employees, revenue, and type and size of facilities? The criteria are still too subjective and would disadvantage larger service providers. The objective data that we suggest using would be readily available from the proposers.

Response: The County has requested supplemental information in order to put the number of proposer's disclosed disputes, actions, contests and debarments in *context* of proposer's business, so that larger service providers are *not* disadvantaged relative to small ones. The supplemental information also allows proposer to explain any mitigating or extenuating circumstances. Proposers may include number of employees, revenue, type and size of facilities and any other information for evaluators to consider as part of proposers' supplemental information related to size of its business and scope of its operations. No comparative, mathematical criteria evaluating the quantitative relationship or ratios between number of employees, revenue, and type and size of facilities has been generally identified.

6. RFP, Section 3A11. Financial Stability. Would DPW accept audited financial statements from the parent of a Proposer that would provide a parent guaranty?

Response: Public Works will accept audited financial statements from the parent of a Proposer as long as the guaranty is in the form provided by the Director of Public Works and submitted with the parent's financial statements. Enclosed with this Addendum 2 is the Franchise Guaranty (Enclosure E).

7. RFP, Section 3A14. Is Form PW-15 (terminated contracts) required? It is not referenced anywhere else in the RFP. How would the information be utilized in the evaluation? Would DPW limit the scope of the disclosure in Form PW-15 to public contracts only? Without objective criteria to assess the relative size of the proposer, this would disadvantage larger proposers.

Response: Form PW-15, Statement of Terminated Contracts, is a requirement and must be completed and submitted with your proposal and will not be limited to public contracts only as requested. Information regarding terminated contracts may be considered by the evaluators to the extent that it is relevant in scoring the Proposers' references as described in Part I, Section 5.E.3, References. In addition, terminated contracts may reflect Proposer's ability to finance the proposed contract activities. Therefore, the requested limitation on the disclosures would work against selection of more responsible Proposers. Proposers may submit pertinent supplemental information. Additionally, it is not possible to establish objective criteria due to the nature of the information, the variety of organizations, and relationships among the Proposers.

8. RFP, Section 4M, PW-4. Industrial Safety Record. Would DPW limit the geographic scope of this disclosure to Southern California? Without objective criteria to assess the relative size of the proposer, this would disadvantage larger proposers.

Response: No, the County will not limit the geographical scope of this disclosure to Southern California. The form expressly limits the scope to the State of California. It is not possible to establish objective criteria due to the nature of the information, the variety of organizations, and relationships among the Proposers.

9. RFP, Section 4.Q. Term of Proposals. What procedures will be in place to address significant changes in the cost of providing services during the very long (360 day) evaluation period?

Response: There are no such procedures. Proposers are expected to hold prices at the proposed levels for the entire period. It should be noted that all efforts will be made by the County to ensure that this contract is awarded in a timely manner.

SAMPLE AGREEMENT QUESTIONS

10. AGMT, Section 1A2a. Recyclables. In what sense is this franchise non-exclusive with respect to recyclables? Does it just mean that customers can sell or donate recyclables, or will other companies be allowed to collect recyclables for a fee? If the latter, this creates a competitive disadvantage for Franchisee, who must operate under specific terms and conditions while the competitors do not.

Response: The Franchise is non-exclusive with respect to recyclables because customers can donate recyclables or pay a fee for recycling service. Purchase of recyclables is not part of the contractually defined "Franchise Services". The Franchise places the franchised hauler on a level playing field with respect to other recycling haulers because it does not require the franchised hauler to pay a franchise fee on any revenue it receives from processing and marketing fee-for-service recyclables

11. AGMT, Section 1A2b. Commercial and Multi-Family Cart Collection. The current provision creates a competitive disadvantage for Franchisee, who must operate under specific terms and conditions, while the competitors do not. This service should either be exclusive, or not in the franchise agreement at all.

Response: Franchisee is obligated to provide commercial and multi-family customers "franchise services" meeting the service specifications under the franchise agreement upon the customer's request. However, Franchisee can also compete directly with other haulers to provide "MSW management" services that

do not meet franchise specifications to commercial and multi-family cart customers.

12. AGMT, Section 1D. Franchise Fee. Will the service rate be adjusted automatically if the percentage franchise fee is increased?

Response: If the County changes the franchise fee, the service rate is not adjusted automatically. A change in the franchise fee would be a "Change in Law" and the rate would be adjusted in accordance with the procedures described in Section 22A6, and Section A1 of Exhibit 10.

13. AGMT, Section 2C. Does the prohibition on recovery against the County apply even where the termination arises due to a breach by the County?

Response: Yes, however this section does not prohibit the Franchisee from taking any actions against the County to enforce this agreement or seek damages for County breach.

14. AGMT, Section 3B. County Notice. This provision requires the franchisee to provide service to "any Premises." Does that mean Premises that are outside the scope of the franchise?

Response: No, "Premises" means those properties located in the Hacienda Heights Franchise Service Area and fall within the scope of service under the agreement.

15. AGMT, Section 7D1b. Does "next day" mean the next business day or the next calendar day?

Response: The "next day" means the next calendar day.

16. AGMT, Section 8. What provisions of existing law does the County rely on with respect to the transfer of ownership of Refuse? Public Resources Code Section 41950 et seq. only relates to transfer of ownership of Recyclables.

Response: The purpose of Section 8 is to acknowledge that the franchise agreement does not change or otherwise affect the ownership of refuse or other solid waste in accordance with existing law.

17. AGMT, Section 13A3b. Annual Report. Can a franchisee submit audited financials for a parent (of both itself and its affiliates) providing a guaranty, in lieu of submitting audited financials for itself and its affiliates?

Response: Public Works will accept audited financial statements from the parent of a Proposer as long as the guaranty is in the form provided by the

Director of Public Works and submitted with the parent's financial statements. Enclosed with this Addendum 2 is the Franchise Guaranty (Enclosure E).

18. AGMT, Section 14A1. Define the term "sole active negligence"?

Response: The phrase "sole active negligence" is clear on its face and does not have a meaning that is specific to this agreement.

19. AGMT, Section 14A5, last paragraph. Does the prohibition on seeking compensation from the County related to Unpermitted Waste apply when the County is at fault?

Response: Yes. However, since the Franchisee makes subscription arrangements directly with its customers, the County is not involved in the provision of service to the customer.

20. AGMT, Sections 16A3d and 16A7. How does the County reconcile the inconsistent requirements that County "shall assume complete responsibility for the Service Assets" and that Franchisee is "not exempt . . . from any Indemnities"?

Response: Sections 16A3d and 16A7 are not inconsistent, because Section 16A7 provides that Franchisee is not required to indemnify County against claims and liabilities arising from the negligence or misconduct of County officers, employees, and agents driving vehicles.

21. AGMT, Section 16A8. Where the event arises from Uncontrollable Circumstances and rental fees are due from the County, is the Franchisee still responsible for County's Reimbursement Costs? This seems unreasonable where the event is outside of Franchisee's control.

Response: No, the Franchisee is not responsible for County's reimbursement costs where the event arises from uncontrollable circumstances. Franchisee is only obligated to pay County's reimbursement costs under Section 16A8b for events that are not due to uncontrollable circumstances.

22. AGMT, Section 17B4. Would the County limit the scope of this provision to performance under this agreement or at least only in the County? What procedures would be in place for the County to decide whether it was satisfied that a violation in another jurisdiction (or even in another state) was addressed? In any event, wouldn't this interfere with the authority of those other jurisdictions? Without objective criteria to assess the relative size of the proposer, this would disadvantage larger proposers.

Response: No, the County will not limit the scope of this provision as requested, but Section 17B4 is already limited to violations by Franchisee and

not by its affiliates or guarantor. The County's procedures to determine whether or not the violation was cured may vary depending on the type of violation, but would likely depend on the determination of the regulatory agency that assessed or determined the violation in the first place. The County would not interfere with any other entities authority, because it would not be taking action with respect to the violation itself, but only determining whether the violation constitutes a Franchisee default.

23. AGMT, Section 17A9. What standards will be applied to determine if a Franchisee is a repeated or habitual violator? It appears to be open-ended as it seems? Define the term "repeatedly and habitually Breaches."

Response: The applicable Section is 17B9. The Director of Public Works will make the determination of a "repeated or habitual violator." The phrase "repeatedly and habitually" is clear on its face and does not have a meaning that is specific to this agreement.

24. AGMT, Section 17C1. Is Franchisee entitled to notice and opportunity to cure per Section 17A with respect to the defaults listed in this subsection?

Response: Yes, under Section 17A Franchisee has a chance to cure *all* breaches (including missed collections) *other* than those that are specifically listed (such as failure to collect for 7 or more consecutive or aggregate days).

- Franchisee has 30 days to cure a material or repeated violation of applicable law.
- Franchisee has 30 days following County notice to pay money Franchisee owes to County.
- Franchisee has 90 days to comply with the Child Support Compliance Program
- Franchisee has any right to hearings and appeals provided under County ordinances with respect to ILO Convention Concerning Minimum Age for Employment, nondiscrimination or the County Lobbying Ordinance.
- The Guaranty provides its own cure.

The remaining breaches, are generally by their nature not capable of cure (such as: Section 17 B1-Fraud, Misrepresentation, or Breach of Warranties, B2-Insolvency or Bankruptcy, B10-Improper Consideration), except with respect to insurance: County cannot risk being un-protected under any lapsed insurance policy for any amount of time.

25. AGMT, Section 17D2b. What procedures are in place to assure that the County will negotiate in good faith the rate adjustment arising from changes in service? As currently worded, the County could assert any position, and then just terminate the entire franchise if the Franchisee did not agree.

Response: The County may only terminate the Franchise after "good faith negotiations."

26. AGMT, Section 18E. Define and/or provide examples of a "nonroutine investigation"?

Response: An example of a "non-routine investigation" would be a customer who alleges it has an evergreen subscription or has been denied its right to terminate upon specified notice. Examples of routine investigations, by contrast, include reviewing reports, auditing franchise fees, checking on renewals of permits and insurance.

27. AGMT, Section 19A – C. Would these provisions apply to a transfer to an affiliate of Franchisee, where the affiliate is also covered by the same parent guaranty? Define and quantify "the value of good will and intangibles" that would be lost, in particular under the circumstance of an intra-company transfer?

Response: Yes, the transfer provisions apply to affiliates that are covered by the same parent guaranty. Affiliates may have a different record of civil or labor disputes, environmental violations or other evaluative criteria originally assessed with respect to the proposer/Franchisee. The value of good will and intangibles is not an issue in the case of a transfer to an affiliate, as described in Exhibit 3A Section A7 of the exclusive franchise agreement.

28. AGMT, Section 20L. Would the Franchisee be afforded the procedural rights per Section 17A prior to any termination based on the County's Quality Assurance Plan?

Response: The Franchisee's procedural rights are already specified in said Section 20L. Please refer to section 20L as follows: 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.

29. AGMT, Section 22A4. Is the County intending to prosecute alleged violations of Applicable Law occurring in other jurisdictions through this franchise agreement?

Response: No, County does not have jurisdiction to prosecute violations of law in other jurisdictions.

30. AGMT, Exhibit 3A, Section B2C. Define what would constitute "Reasonable Business Efforts" to divert residual Solid Waste, since that material would already have gone through processing at a MRF? Is cost-benefit an applicable criteria? Would the County agree to adjust the service rate to encourage diversion? This is especially important since liquidated damages may be imposed for non-compliance with this requirement. The general definition provided is not specific enough to meet legal requirements.

Response: "Reasonable Business Efforts" is defined in Exhibit 21. The definition allows the exercise of Franchisee's business judgment, which would include consideration of cost-effectiveness.

31. AGMT, Exhibit 3A, Section B3c. Would the County allow Franchisee to charge the customer a fee for repair or replacement of containers where the damage or destruction of the container was due to the fault of the customer?

Response: No, this is a no fault obligation in order to minimize customer/Franchisee disputes over damaged causation. However, customers must report lost or stolen containers to the police.

32. AGMT, Exhibit 3A, Section C2. Define what would constitute "Reasonable Business Efforts" to use conversion technologies, where those technologies currently do not exist or may not be cost effective? Would the County agree to adjust the service rate to encourage use of conversion technologies? Is cost-benefit an applicable criteria? This is especially important since liquidated damages may be imposed for non-compliance with this requirement. The general definition provided is not specific enough to meet legal requirements.

Response: "Reasonable Business Efforts" is defined in Exhibit 21. The definition allows the exercise of Franchisee's business judgment, which would include consideration of cost-effectiveness. If a proposed use of conversion technology is a change in Franchise services that is agreed to between the Franchisee and the County, then the rate would be adjusted under Section A.1.c of Exhibit 10.

33. AGMT, Exhibit 18D2, Section 16. Does this apply to a complete billing cycle or each service recipient? If there was one mistake on the billing, however minor and even if rectified, the liquidated damages could be millions of dollars if assessed for each customer.

Response: This liquidated damage applies to each customer, but the imposition of liquidated damages is discretionary at the County's reasonable judgment. Please refer to Section 18D2 for additional information.

34. AGMT, Exhibit 18D2, Section 19. How does the County reconcile the requirements of this section and AGMT Section 20C, which provides that these are to be resolved between the Franchisee and the customer as a civil matter?

Response: Damaging private property is a breach subject to cure. With respect to customers, disputes between Franchisee and customers may be the basis of a civil suit.

35. AGMT, Exhibit 21, definition of Reasonable Business Efforts. Please provide a more specific definition, since liquidated damages may be assessed for failure to make reasonable business efforts and Gov' t Code Section 53069.85 requires that the basis for liquidated damages imposed by public agencies be specific.

Response: The definition of "Reasonable business efforts" is adequate.

36. AGMT, Exhibit 21, definition of Recyclables, subsection 13. Would the County provide for a rate adjustment to collect and process additional recyclables if increased costs could be demonstrated?

Response: No. The definition of "Recyclables" in Exhibit 21 provides for a rate adjustment for additional recyclables only if the additional recyclables require franchise services at the set-out site separate and distinct from previously collected recyclables (e.g., adding food waste processing with new carts).

37. AGMT, Exhibit 21, definition of Violation of Applicable Law. What is the scope of this provision? Does "any Regulatory Agency" mean any agency in the state or the nation?

Response: "Regulatory Agency" is defined in Exhibit 21.

PROPOSER No. 2'S QUESTIONS

1. Estimated Board Approval Date – Can the County provide an estimated date in which County Board approval will be sought for the above contract? Please note that the estimated turnaround time for new refuse vehicles (including Alternative Fuel Vehicles) is upwards of 6 months from the date of order placement, the latter of which will occur right after the approval/execution of the Agreement. As such a 3/1/10 start date may not be feasible. We assume the County is flexible as to the exact service commencement date given the language in Exhibit 3A, Section B.1, which states "*Franchisee may commence Collection as early as March 1, 2010*", however, please confirm.

Response: It is estimated that the County will approve the contract as early as November 2009. The County will work with the winning Proposer to coordinate the start date which may be as long as approximately six months after the approval date.

2. Draft Agreement Section 2.A- *Term* – Section 2.A of the Agreement indicates that the Agreement commences on the date both parties have executed the Agreement and terminates on a date to be determined. Part 1, Section 1.A.2 of the RFP indicates that the term of the Agreement is 7-years, which we interpret to mean the period from which Collection services will commence and the Contactor begins generating/accruing revenue (as opposed to the Execution Date). Since the Execution Date of the Agreement will likely precede the date of commencement of services by possibly up to 6+ months, we trust that the Termination Date will be based on a period which is 7 years from the effective date of service commencement as opposed to the date both parties have executed the Agreement. Please clarify, so it is clear to respondents that their financial models should be based on a full 7-year term (84 months).

Response: The contract is for a term of seven years, plus three 1-year renewal options, if applicable. The Termination Date of the Agreement will be seven years from the Collection Commencement Date.

3. Enforcement of Exclusive Rights – After the contract award and prior to service commencement, will the County be issuing a letter to residents informing them of the change in service providers, including a reference to the fact that residential service recipients will be required to utilize the services of the exclusive contractor? We trust that the County agrees that this as an important step in enforcing the contractor's exclusive rights to service Residential Premises, and ensuring that residents are aware of these requirements.

Response: Yes, the County will work with the Franchisee in notifying residents by letter of the change in service providers and the exclusivity of the services

provided by the Franchisee, subject to the exclusions in Section 1B of the Agreement.

4. Draft Agreement Section 1.B.5- *Rights Under Calif. PRC Section 49520* – Are there any existing haulers that may have continuation rights under PRC 49520 in the subject Service Area (or that have asserted such rights), as it relates to exclusive rights being granted to the contractor hereunder (i.e., residential service to single-family residences and duplexes)? We understand that the County previously issued 5-year notices to all permitted haulers operating in the subject Service Area, however, can the County confirm this, as well as the date in which the notices were given?

Response: We are not aware of any waste haulers that could claim continuation rights in the Hacienda Heights Franchise area. The five-year notice was sent on June 23, 1998 to all permitted haulers operating in the County Unincorporated areas.

5. Draft Agreement Section 7.D.1.a and b – *Resolution of Complaints* – This section requires the Contractor return to the route area on the same day if a "missed collection" call is received as late as 3:00 pm. While we don't expect this to be an issue per se, we would respectfully request modifying the cut-off time from 3:00 pm to 1:00 pm for purposes of a "same day" return, with any calls coming in after 1:00 pm being accommodated on the next Service Day. Would the County be willing to make this modification?

Response: No. Careful planning and conscientious efforts on the Franchisee's part to pick up all material on each set out day should prevent or minimize missed pickups.

6. Draft Agreement Exhibit 3A, Section B.6- *Routing and Street Sweeping Schedule* – Exhibit 3A, Section B.6 of the Draft Agreement indicates that the Franchisee shall schedule collection one to two Service Days before streets are swept. Moreover, this section allows the County to amend the street sweeping schedule after the Execution Date. Please note that proposers will be determining their collection schedules, manpower allocations, equipment requirements, and routing, in view of the street sweeping schedule included in the RFP (and the aforementioned requirement), therefore, a subsequent change in this schedule could have a material impact on these assumptions and the contractor's costs. This section of the contract should be clarified such that the Franchisee will not be held to the requirement to collect one to two Service Days before streets are swept if (a) the County changes the street sweeping schedule subsequent to the Execution Date, and (b) Franchisee cannot accommodate the change without an increase in costs. Would this be acceptable to the County?

Response: The Franchisee should adhere to the street sweeping schedule as described in Exhibit 3A, Section B.6, which states that collection services will be

provided one to two service days before streets are swept, unless otherwise approved by the Director. The County does not anticipate changes to the street sweeping schedule prior to the execution date of the agreement. In the event the County wishes to change the street sweeping schedule, it will do so at its discretion. However, the County may maintain some flexibility with the collection schedule and will work with the Franchisee as needed to address this issue.

7. Service Addresses – Does the County have access to the current customer list information of the current service providers? If not, does the County have a list of names and service addresses for the Residential Customers in the Service Area, and will this list be provided to the successful contractor well in advance of the start date of the contract?

Response: The County does not have access to any current customer lists of the current service providers. However, the County does have a list of residential service addresses and will provide it well in advance of the commencement service date.

8. Litigation History- RFP Part 1, Section 3.A.9 – The County's definition of "affiliates" in the 1st paragraph of Section 3.A.9.a would, in effect, encompass not only the proposer, its subsidiaries and its parent company, but also every operating subsidiary of our parent company across the nation. Please note that the majority of privately-held companies that would normally respond to this procurement operate only in Southern California, and in some cases in LA County only, whereas the larger public companies that would normally respond to this procurement, such as our company, have a multitude of affiliates that operate across the United States, that are completely independent of the proposing entity from the standpoint of operations and management oversight. We strongly urge the County to either limit the disclosures under Sections 9.iv, 9.vi, and, particularly 9.b, to the Proposer only, or limit the definition of "affiliates" under those same sections, to only those affiliates of proposer operating in Los Angeles County, as the County's request will require an abundance of work for the larger publicly owned companies, the results of which may not be deemed useful to the County in its evaluation process on this broad of a scale. For instance, one of our parent company's operating subsidiaries in a state 3,000 miles away that received an NOV or AOC notice for blowing litter 4 years ago would arguably require disclosure given the current definition of Affiliates, but would likely not impact the County's evaluation of the Proposer. We trust that the County would be sensitive to our points and amenable to the above suggested modifications, however, please confirm or clarify.

Response: The County has already limited the scope of disclosure by addendum in the last County residential franchise procurement. In particular, disclosure of civil disputes, and criminal and enforcement actions (such as: NOV for litter), which might be numerous for large companies' affiliates, is limited to *Proposer*, Guarantor (and any Proposed subcontractor). Only the more serious

ENCLOSURE A.2

disclosure items include Affiliates (procurement contests, class actions and labor disputes), which by their nature are presumably far less numerous than civil disputes and criminal actions.

(prior 5 years)	Proposer	Guarantor	Proposed subcontractor	Affiliates
i. Civil disputes (greater than \$250,000)	X	X		
ii. Criminal actions	X	X	X	
iii. Enforcement actions	X			
iv. Contests of municipal procurements	X			X
v. Class action	X			X
vi. Labor disputes	X			X
vii. Debarments	X			

9. Proposer's Financial Statements- RFP Part 1, Section 3.A.11 – The RFP states that the Proposer shall provide "*Copies of the Proposing entity's audited financial statements prepared and certified by an independent CPA for the most current three full fiscal years....*" It is not clear to us as to whether the financial statements need to be those of the entity actually executing the franchise agreement, or if the financial statements of a parent company would be acceptable (as is generally the case with public companies). As is the case with most public companies, the entity that will be executing a contract with the County will be a wholly owned subsidiary of our parent company. As a public company, we do not publish separate financial statements for our operating subsidiaries; however, we are amenable to providing a parent company guarantee to the County. As such, we trust that it would be acceptable to the County to provide only the audited financial statements of our parent company, as long as we indicate that we will provide a parent company guarantee if we are the successful proposer. This is fairly standard and has been an acceptable practice in virtually every RFP process in which we have participated. Please also note that this was deemed acceptable to the County in prior RFP releases similar to this one (i.e., see Addendum No. 2 (dated June 30, 2008), Enclosure A.1 (Item 5) and Enclosure A.5 (Item 16) of the Hacienda Heights, et al, RFPs.). The availability of this option is also reinforced by the language in Section 13.A.3.b of the Draft Agreement, which alludes to the provision of parent company financial reports by a parent company guarantor. Please confirm that this is acceptable.

Response: Public Works will accept audited financial statements from the parent of a Proposer as long as the guaranty is in the form provided by the

Director of Public Works and submitted with the parent's financial statements. Enclosed with this Addendum 2 is the Franchise Guaranty (Enclosure E).

10. Bid Guaranty- RFP Part 1, Section 3.A.16 – This section of the RFP requires the bid guaranty amount to be "*10% of the Proposer's proposed annual rate utilizing the monthly rate per customer from Form PW-2...multiplied by the number of residential parcels as listed in Exhibit C*". Please confirm that it is acceptable to include language in the Bid Guaranty that identifies the bid bond as "10% of the annual bid amount", as opposed to having to calculate a specific dollar figure for inclusion in the bid guaranty form. The reason for this is that most sureties will need some lead time to provide the bid bond and the exact bid amount may not be known until it is too late in the process to obtain the bond. The above language has been acceptable in prior RFPs and is a common practice in many procurements that contain a "% of bid" as opposed to a fixed bond amount. The County has always been amenable to this approach and this was reinforced in Addendum No. 2 (dated August 13, 2007) of the South Whittier, et al, RFPs, and again in Addendum No. 2 (dated June 30, 2008), Enclosure A.3 and A.5 of the Hacienda Heights, et al, RFPs.

Response: Please refer to Addendum 2, item 6 for revised language regarding Bid Guaranty.

11. Draft Agreement Exhibit 3A, Section B.4 - *Collection Vehicles* – It appears that the County is now requiring the use of alternative fuel vehicles for fully automated collection, with the only exception to the AFV requirement being for any vehicles used pursuant to provide alternative collection approaches to automated service pursuant to Section B.3.h. Please note that there will be other ancillary collection services that will not involve the use of automated collection vehicles and that, by definition, involve the use of vehicles that will require only partial or periodic use in the County (i.e., those services listed in Exhibit 3A, Section F "Special Services"), and therefore, it is important to also exclude vehicles used for the services listed in Exhibit 3A, Section F, from the alternative fuel requirement. Instead, the Contractor should have the option of using either alternative fuel vehicles or vehicles that run on ultra low sulfur diesel to provide such services. We trust that the County understands and agrees with this necessary additional exclusion, however, please confirm.

Response: Yes, the use of alternative fuel vehicles for fully automated collection is now a requirement, unless Franchisee provides documentation that supports the use of other vehicles "with respect to collection at Premises that are difficult to serve as permitted in Section B3h". In addition, the use of alternative fuel vehicles for ancillary collection activities is encouraged but not required.

12. Draft Agreement Exhibit 3A, Section F.2.e- *Semi-Annual E-Waste and Clothing Drop-off Events* – We trust that the intent of this language is to provide two drop-off events each year wherein the Contractor provides containers and employee

supervision at a single collection location for a full day for the first event, and then duplicates this effort at a different time of the year for the 2nd event (possibly at a different location than the first event), however, please confirm or clarify.

Response: Yes, the County anticipates the Franchisee to conduct two collection events at locations where people can simultaneously drop-off their e-waste and clothing. These collection events can take place in the same location/dates or in two different locations/dates as approved by the Director of Public Works.

13. Draft Agreement Exhibit 3A, Section F.6- *Sharps Collection* – Would the County be willing to allow the Contractor the option of proposing either 6.a or 6.b, as opposed to requiring the availability of both programs (collection and mail back)? It will be difficult enough to project the potential costs of providing this service (and the degree of utilization thereof), and allowing for both options will add to that difficulty.

Response: No, upon request, the County anticipates the Franchisee to provide residents a regular Sharps container, or a mail back Sharps container.

14. Draft Agreement Exhibit 3A, Section F.7- *Illegal Dumping and Alley Clean-up Program* – Would the County be willing to place some parameters around what the Franchisee is required to provide in terms of annual crew hours and tonnage/items collected, with anything in excess of these parameters being compensated for through a rate adjustment mechanism if properly documented and requested by Franchisee? Given the unknowns as to what this new program might entail, it may better serve the County's interests through more competitive rates if proposers could more easily quantify the potential cost impact associated with this service.

Response: No, the County will not impose program parameters. The County anticipates the Franchisee to collect illegally dumped materials when requested by a resident or County as long as it is within the Hacienda Heights Franchise area and in the public right-of-way.

15. Draft Agreement Exhibit 3A, Section B.1.c- *Manure Collection* – The words "At the Customer's request,..." should be added to Section C.1.c (as well as Part 1, Section 1.A.1.d of the RFP) since Manure service (and a Manure Cart) is to be provided only to those Customers that request the service. We want to avoid the implication that we are required to deliver Manure carts to all of our customers, since this will be an elective service. Also, we assume that Section E.1.c of Exhibit 3A should be deleted, as this material (and service) is not part of Green Waste services and is already covered (as it should be) in Section C.1.c (consistent with prior RFP releases involving Manure). We trust that the County agrees with the above changes, however, please confirm or clarify.

Response: Please refer to Addendum 2, items 3, 11, and 12, for revised language regarding manure collection.

16. Knowledge of Work to be Done - RFP Part 1, Section 4.G – Minor point, but the 2nd to last sentence of this section indicates, in part, "...*Proposer...will accept payment based on the prices shown in Form PW-2, Proposed Net Rate, as full compensation for work performed.*" Since Form PW-2 includes only the standard rate for basic service, it seems that the reference to "Form PW-2, Proposed Net Rate" in the above sentence should be replaced with "Forms PW-17 and PW-18". We noticed that in the prior (2008) release of this RFP, the above language reflected "Attachment 2 of Exhibit 10", which for purposes of this RFP, would be Forms PW-17 and PW-18, hence our comment.

Response: Please refer to Addendum 2, item 7, for revised language regarding knowledge of work to be done.

17. Term of Proposals - RFP Part 1, Section 4.Q – The RFP indicates that all proposals shall be firm for 360 days from the submission date. This means that the approval/Execution Date could be delayed until as late as August 19, 2010, which would translate into a service commencement date sometime in early 2011. It would seem difficult to expect proposers to hold their rates firm for this long a period since the proposed rates will be based on a service commencement date around the 2nd quarter of 2010. Would the County be willing to at least revert back to the 270-day period included in its prior RFP releases?

Response: The County will maintain the 360 day provision. Proposers are expected to hold prices at the proposed levels for the entire period. It should be noted that all efforts will be made by the County to ensure that this contract is awarded in a timely manner.

PROPOSER No. 3'S QUESTIONS

1. Regarding the rate component structure used for calculating future price increases. In light of potentially high increases in disposal rates when Puente Hills closes, shouldn't the County consider using a formula that adjusts the weighting to accommodate the changes caused by unusually high increases (or decreases) in the components? I have attached a spreadsheet that can be used to re-weight the components. Perhaps the County can use this when the weighting changes by a certain threshold?

Response: Although we appreciate this spreadsheet application, the rate adjustment formula considers several economic and market indicators in sufficient detail to capture fluctuations in the disposal market.

2. The 34,200 tons reported for Hacienda Heights. The 2008 Solid Waste Collection Activity Report does not break down the Residential portion of Recycling and Greenwaste. Is this information available?

Response: No, this information is not available. Proposers should independently investigate service conditions in Hacienda Heights prior to proposal submission.

3. The State of California, "Certificate of Good Standing", requirement. How current does that have to be?

Response: The State of California, "Certificate of Good Standing," should be for 2009, unless it is not available, such as it has not yet been issued by the State, or your firms 2008 certificate is still valid, in which case the 2008 certificate will be acceptable.

PROPOSER No. 4'S QUESTION

1. Part 1, Section 3, A.11 Financial Resources and Part 1, Section 5.D.8 proposal requirements refer to submittal of financial statements. As a privately held company and in light of the Public Records Act related to disclosure of submitted information, the prior Hacienda Heights RFP allowed for a thorough review of audited financial statements from bidders who satisfied all other requirements. As a current provider of services in three large County residential franchises, we have demonstrated the ongoing financial capacity to meet and exceed the County's expectations in providing and dedicating resources for successful delivery of residential collection services.

Form PW-14 page implies that a review of audited financials is an acceptable alternative to submittal with the proposal. Can the County provide an amendment to Part 1, Section 3, A.11 Financial Resources and Part 1, Section 5.D.8 to allow for a financial statement review process as indicated on page 3 Form PW-14?

Response: Please refer to Addendum 2, items 5 and 8, for revised language regarding Financial Resources.

PROPOSER No. 5'S QUESTION

1. Compliance with Street Sweeping Schedule (Part I, Section 7.o, page 1.15 and Exhibit 3A, Item B6, page 69): In Exhibit 3A, Item B6, it states that franchisee shall schedule collection one to two service days before streets are swept as provided in County's schedule for street sweeping. Please confirm the Department of Public Works will provide the necessary flexibility to the selected Franchisee to provide collection services only one day in advance.

Response: The Franchisee should adhere to the street sweeping schedule as described in Exhibit 3A, Section B.6, which states that collection services will be provided one to two service days before streets are swept unless otherwise approved by the Director. The County does not anticipate changes to the street sweeping schedule prior to the execution date of the agreement. The County, at its sole discretion, may provide some flexibility with the collection schedule and will work with the Franchisee to address this issue.

2. Is it possible to have Form PW 17 and PW 18 provided on either a Word or Excel document in order to complete the submittal?

Response: Public Works will not provide Word or Excel versions of Form PW-17 or Form PW-18. The only forms available in Excel format are Form PW-3.1 and Form PW-3.2, which can be accessed at the following link:

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

3. Please confirm that Form PW 13.1 and Form PW 14.1 should be submitted instead of the original PW 13 and PW 14.

Response: Yes, the revised Form PW 13.1 and Form PW-14.1 should be submitted in lieu of the original Form PW-13 and Form PW-14.

4. Part I, Section 1, Section B11, page 1.3: Where it reads for all customers: one cart/bin, should bin be eliminated as the rest of the RFP calls for the provision of a 64 gallon cart for manure collection?

Response: Please refer to Addendum 2, items 2, 3, 11, and 12, for revised language regarding "cart/bin."

5. Part II, Exhibit 3A, Section F6, page 77, SHARPS collection program: How many SHARPS containers will a single residential premise be entitled to each year without surcharge?

Response: Please refer to Addendum 2, item 13, for revised language regarding Sharps Collection.

6. Is it possible to have the Hacienda Heights franchise map and street sweeping schedules be sent as a full color attachment so we can determine what sections are swept on specific days?

Response: Please refer to the following link http://dpw.lacounty.gov/asd/contracts/index.cfm?fuseaction=viewRFP&RFP_ID=1692 to obtain copies of the agreement in color. Please remember to set your printer options to "color."

7. On Exhibits G-1, G-2, G-3 and G-4, the legend on the bottom of each exhibit lists the street sweeping schedule with multiple days. For example, on Exhibit G-1, it lists the first street sweeping as occurring on Monday/Tuesday. Does the street sweeping occur on Monday or Tuesday? What day does street sweeping occur on each Exhibit G-1, G-2, G-3 and G-4 since the specific day has a significant bearing on days of service to the Hacienda Heights community.

Response: In exhibit G.1, the street sweeping schedule in blue, which is labeled as Monday/Tuesday street sweeping, means that currently the streets are swept on a Monday on one side, and on Tuesday on the other. Since collection should occur one to two days prior to Monday and/or Tuesday, trash collection must occur on Friday in this particular scenario. The same rule applies to all other street sweeping schedules.

8. Does the Department of Public Works have an approximate number of residential units covered by street sweeping for the area defined in Exhibits G-1, G-2, G-3 and G-4?

Response: Since the number of residential units on a given street is irrelevant as far as street sweeping is concerned, the County does not readily have this information available. In addition, the County does not have an estimate of the percentage of the Hacienda Heights residential units that are included within the color-coded street sweeping areas.

9. If the answer to number two (2) above is no, is it possible for the Department of Public Works to release the parcel list for Hacienda Heights with the day of street sweeping as part of an Excel spreadsheet?

Response: The County will provide the winning Proposer with a total list of residential units in the Hacienda Heights Service Area.

PROPOSER No. 6'S QUESTION

1. Estimated Time Frame - Can the County provide an estimated time frame from date of Board of Supervisors decision to award a contract to commencement of collection pickups? Please note that typical turnaround time for new vehicles is at least 6 months from date vehicles are ordered.

Response: It is estimated that the County will approve the contract as early as November 2009. The County will work with the winning Proposer to coordinate the start date which may be as long as approximately six months after the approval date.

2. RATES-EXHIBIT 10 ATTACHMENT 1 RATE ADJUSTMENT EXAMPLES- On page 91 on third line should 15.89% be 16.03% as indicated in first line on same page and on page 90 in Table 5?

Response: Please refer to Addendum 2, item 14 for revised rate adjustment examples.

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PROPOSER NO. 7'S QUESTION

1. What number do you want on the last line of Form PW-1? The Webven number? Our permit number?

Response: Please provide the WebVen number on the last line of Form PW-1.

2. Carts collection management program - Where in the document can I find this reference? (County followed up with Proposer to clarify this request as "Carts collection management program" is not a known program outlined within the Agreement. Proposer stated that they were seeking information regarding the additional programs that have recently been included in the Agreement.)

Response: The County is now requiring the upfront requirement of Alternative Fuel Vehicles, a Sharps Collection program, an illegal dumping collection program, conducting semi-annual E-waste/clothing drop-off events, and participation in at least 12 local fairs, parades, and other civic events. A brief summary of these programs are outlined in Part I, Section 1.B, Special Services, on pages 1.2 to 1.3 of the RFP and a detailed description of these programs is outlined in Part II, Exhibit 3A.F, Special Services on pages 73 to 77 of the Agreement.

3. Rates-Page 69 Exhibit 3A Routing and Container Placement- Will the FRANCHISEE be required to service the residents based on the first day of the 2-day (i.e., Mon/Tues) street sweeping schedule? Example: Mon/Tue sweeping area would be routed for (1) Thursday? or (2) only Friday? or (3) either day?

Response: In exhibit G.1, the street sweeping schedule in blue, which is labeled as Monday/Tuesday street sweeping, means that currently the streets are swept on a Monday on one side, and on Tuesday on the other. Since collection should occur one to two days prior to Monday and/or Tuesday, trash collection must occur on Friday in this particular scenario. The same rule applies to all other street sweeping schedules.

4. How many units are in the mobile home park?

Response: The County does not have this information. Proposers should investigate the service conditions in the service area prior to proposal submission.

**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 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

ENCLOSURE C

**FORM PW-3.1.2
FORM PW-3.2.2**

NET RATE PROPOSAL AND COST SUBSTANTIATION OF NET RATE

Please complete Form PW-3.1.2, Net Rate Proposal, and Form PW-3.2.2, 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.

**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 <small>(Deduct 25% from Monthly Rate Per Customer)</small>
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 for Manure Collection, upon customer request List Item 2, Monthly Rate Per Customer from Form PW-2.1, Schedule of Prices:	\$ _____	\$ _____
BASIC SERVICE DESCRIPTION FOR MANURE: <ul style="list-style-type: none"> Cart 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 for Manure Collection 1.5 Cubic Yard Bin (Alternative to additional 64-gallon Carts for Manure Collection) 3 Cubic Yard Bin (Alternative to additional 64-gallon Carts for Manure Collection) 	\$ 5.00 \$ _____ \$ _____ \$ _____ \$ _____ \$ _____	\$ 3.75 \$ _____ \$ _____ \$ _____ \$ _____ \$ _____

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

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

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

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

Proposer's Printed Name

Proposer's Signature

Date

FRANCHISE GUARANTY

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

RECITALS

Guarantor and County refer to the following facts:

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

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

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

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

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

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

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

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

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

(2) CHANGES IN CONTRACTOR'S OBLIGATIONS

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

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

(3) TERM OF GUARANTY; CONTINUING.

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

(4) TRANSFER OF GUARANTY

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

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

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

(5) DEMANDS UNDER GUARANTY

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

Franchise Agreement or proceeding or taking any action against Contractor;

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

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

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

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

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

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

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

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

counterclaim, recoup, defense or other right that the Contractor may assert against County that does arise under the Franchise Agreement.

(8) NO ASSERTION OF DELAYING ACTIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(13) CONSTRUCTION AND INTERPRETATION OF GUARANTY

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

(14) ENTIRE GUARANTY.

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

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

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

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

COUNTY:

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

GUARANTOR:

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

Notice is deemed effective at the following times:

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

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

ENCLOSURE E

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

By: _____ Date: _____
Name Title

Attest: _____ Date: _____
Name Title

[Notarize]