

**AMENDMENT #3 TO FRANCHISE AGREEMENT**

**BETWEEN**

**PEBBLE BEACH COMMUNITY SERVICES DISTRICT**

**AND**

**GREENWASTE RECOVERY, INC.**

**FOR SOLID WASTE, RECYCLING, AND ORGANIC  
COLLECTION SERVICES**

**OCTOBER 29, 2021**

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This Amendment #3 to the Franchise Agreement Between the Pebble Beach Community Services District and Green Waste Recovery, Inc. for Solid Waste, Recycling, and Organic Collection Services (“Amendment #3”), is made and entered into between the Pebble Beach Community Services District, a political subdivision of the State of California (hereafter “Agency”) and GreenWaste Recovery, Inc. a California corporation (hereafter “Contractor”), each of which may be referred to individually as a “Party” or together as the “Parties.”

## RECITALS

This Amendment #3 is made and entered into on the basis of the following facts, understandings, and intentions of the Parties:

**WHEREAS:** The Parties entered into a Franchise Agreement for Solid Waste, Recycling, and Organic Materials Collection on June 27, 2014, (“Agreement” capitalized terms used but not defined herein shall have the meanings given to them in the Agreement); and,

**WHEREAS:** The Agreement provides Agency with the right to direct Contractor to modify the scope of one or more types of service described in the Agreement, or to otherwise modify its performance under the Agreement, subject to providing additional compensation; and,

**WHEREAS:** during the performance of annual Rate adjustments required by Article 8 of the Agreement, Parties identified that the initially agreed-upon Rate adjustment methodology resulted in annual Rate adjustment with differing percentage changes for different Rates and changes to relationships between different service Rates, which was not a desirable outcome of the Parties; and,

**WHEREAS:** Agency and Contractor have agreed to: (a) fund additional Contractor personnel to conduct record keeping and reporting activities through Rates when the cost-based Rate adjustment process was performed for Rate Period Five; and, (b) Contractor agrees it shall not request further funding from Agency or through Rates in order to employ or retain additional personnel related to the performance of record keeping and reporting requirements as required by the Agreement as well as additional record keeping and reporting efforts that may result from the implementation of SB 1383 regulations; and,

**WHEREAS:** Agency and Contractor wish to modify: (a) the annual Rate adjustment methodologies in the Agreement; and, (b) the services specified within the Agreement and to be provided by Contractor with relation to record keeping and reporting requirements required by Senate Bill 1383, in each case in accordance with the terms and conditions of this First Amendment;

**WHEREAS:** SB 1383 establishes regulatory requirements for jurisdictions, Generators, haulers, Solid Waste facilities, and other entities to support achievement of State-wide Organic Waste Disposal reduction targets; and,

**WHEREAS:** SB 1383 requires the Agency to implement Collection programs, meet Processing facility requirements, conduct contamination monitoring, provide education, maintain records, submit reports, monitor compliance, conduct enforcement, and fulfill other requirements; and, the Agency has chosen to delegate some of its responsibilities to the Contractor, acting as the Agency’s designee, through this Agreement; and,

**WHEREAS:** Both Parties have, in good faith, negotiated changes to the Agreement necessary to support the Agency’s compliance with SB 1383, as set forth herein.

**NOW, THEREFORE**, in consideration of the mutual promises, covenants, and conditions herein contained, Agency and Contractor do hereby agree as follows:

## **I. EFFECTIVE DATE**

This Amendment #1 shall become effective on the date this Amendment is signed by both Parties.

## **II. PROGRAM AMENDMENTS TO AGREEMENT**

### **Article 1. Grant and Acceptance of Franchise**

#### **1.2 Limitations to the Franchise**

1. Article 1, Section 1.2 of the Agreement is hereby amended to add the following subsections:

- "K. Edible Food, which is collected from a Generator by other Person(s), such as a Person from a Food Recovery Organization or Food Recovery Service, for the purposes of Food Recovery; or which is transported by the Generator to another Person(s), such as a Person from a Food Recovery Organization, for the purposes of Food Recovery, regardless of whether the Generator donates, sells, or pays a fee to the other Person(s) to collect or receive the Edible Food from the Generator.
- L. Food Scraps that are separated by the Generator and used by the Generator or other Person(s) for lawful use as animal feed, in accordance with 14 CCR Section 18983.1(b)(7). Food Scraps intended for animal feed may be Self-Hauled by Generator or hauled by another party."

### **Article 4. Scope of Services**

2. Article 4 of the Agreement is hereby amended to include the following:

"Contractor shall perform the Solid Waste, Recyclable Materials, Organic Materials, Reusable Materials, and C&D services described in this Article 4. This Article 4 describes the general requirements for the services to be provided. More specific requirements for how each service shall be provided to each Customer Type are described in Exhibit B.- Failure to specifically require an act necessary to perform the service does not relieve Contractor of its obligation to perform such act."

#### **4.2 Recyclable Materials**

3. Article 4, Section 4.2 of the Agreement is hereby amended to read as follows:

"Contractor shall provide Recyclable Materials Collections services as described in Exhibit B.

Contractor agrees to Transport and deliver all Recyclable Materials placed by Customers in Recyclable Material Containers in Agency to the Approved Recyclable Materials Processing Facility. All tipping fees and other costs associated with Transporting to and Processing Recyclable Materials at the Approved Recyclable Materials Processing Facility shall be paid by Contractor. All contamination fees charged by the Approved Recyclable Materials Processing Facility shall be paid by Contractor and shall be allowable and recoverable as one-time costs provided in Exhibit E.

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Contractor shall observe and comply with all regulations in effect at the Approved Recyclable Materials Processing Facility and cooperate with and take direction from the operator thereof with respect to delivery of Recyclable Materials. Contractor shall actively work with the Approved Recyclable Materials Processing Facility operator throughout the Term of this Agreement to minimize contamination of the Recyclable Materials Collected under this Agreement and delivered to the Processing Facility.”

#### **4.3 Organic Materials**

3. Article 4, Section 4.3 of the Agreement is hereby amended to read as follows:

“Contractor shall provide Organic Material Collections services as described in Exhibit B.

Contractor agrees to Transport and deliver all Organic Materials placed by Customers in Organic Material Containers in Agency to the Approved Organic Materials Processing Facility. All tipping fees and other costs associated with Transporting to and Processing Organic Materials at the Approved Organic Materials Processing Facility shall be paid by Contractor. All contamination fees charged by the Approved Organic Materials Processing Facility shall be paid by Contractor and shall be allowable and recoverable as one-time costs provided in Exhibit E.

Contractor shall observe and comply with all regulations in effect at the Approved Organic Materials Processing Facility and cooperate with and take direction from the operator thereof with respect to delivery of Organic Materials. Contractor shall actively work with the Approved Organic Materials Processing Facility operator throughout the Term of this Agreement to minimize contamination of the Organic Materials Collected under this Agreement and delivered to the Processing Facility.”

#### **4.4 Construction and Demolition Debris (C&D)**

4. Article 4, Section 4.4 of the Agreement is hereby amended to read as follows:

“Contractor shall work with the Customer to determine the best approach to facilitate CalGreen compliance through offering Source Separated or Mixed C&D Collection services as described in Exhibit B. C&D Collection service shall be a temporary service, provided only at sites where construction, alteration, remodeling, repair, or demolition operations are being performed. C&D Collection services shall be provided to any Customer upon request.

Contractor shall Transport all C&D Collected under this Agreement to the Approved C&D Processing Facility. Contractor shall pay all tipping fees and other costs associated with Transporting and Processing C&D. All contamination fees charged by the Approved C&D Processing Facility shall be paid by Contractor and shall be passed on to the Customer.

Contractor shall observe and comply with all regulations in effect at the Approved C&D Processing Facility and cooperate with and take direction from the operator thereof with respect to delivery of C&D.”

#### **4.7 Public Education and Outreach**

6. Article 4, Section 4.7 of the Agreement is hereby amended to read as follows:

“The public education and outreach activities included in the scope of services provided by Contractor under this Agreement are described in Exhibit C. Each piece of collateral identified in Exhibit C as

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unique must be developed and distributed. In the event the Agency approves any deviation to the outreach pieces identified in Exhibit C, approval shall be obtained by email and the approval email shall be provided with the next Quarterly report.”

#### 4.9 Customer Service Program

5. Article 4 Section 4.9.2 Service Requests, Compliments, Complaints of the Agreement is hereby amended to read as follows:

“Contractor shall be responsible for the prompt and courteous attention to, and prompt and reasonable resolution of, all Customer service requests and complaints. Contractor shall record in a separate log, approved as to form by Agency Contract Manager, all complaints, noting the name and address of complainant, date and time of complaint, nature of complaint, and nature and date of resolution. The Contractor shall retain this complaint log for the Term. Upon request by the Agency Contract Manager, Contractor shall compile and submit a summary statistical table of the complaint log.

Contractor shall respond to all complaints received within twenty-four (24) hours, weekends and Holidays excluded. In particular, if a complaint involves a failure to Collect Solid Waste, Recyclable Materials or Organic Materials from a Premises in the Agency, Contractor shall Collect the material in question within twenty-four (24) hours of receipt of the Complaint, provided that Generator has properly placed materials for Collection.”

#### 4.10 Generator Waivers

6. Article 4 of the Agreement is hereby amended to add the following subsections:

“A. Types of Generator Waivers

1. General. Agency may grant waivers described in this Section to Generators that impact the scope of Contractor’s provision of service for those Generators. Waivers issued shall be subject to compliance with SB 1383 Regulatory requirements, pursuant to 14 CCR Section 18984.11, or other requirements specified by the Agency.
2. De Minimis Waivers. The Agency may waive a Multi-Family or Commercial Generator’s obligation to comply with some or all of the Source Separated Recyclable Materials and/or Source Separated Organic Materials requirements set forth in this Agreement and SB 1383 Regulations so long as the Multi-Family or Commercial Generator provides documentation, or the Agency has evidence demonstrating one of the following de minimis conditions:
  - a. The Multi-Family or Commercial Generator’s total Solid Waste Collection service is two (2) cubic yards or more per week, and Source Separated Recyclable Materials subject to Collection in a Recyclable Materials Container comprises less than twenty (20) gallons per week, per applicable Container, of the Multi-Family’s or Commercial’s total waste; or,
  - b. The Multi-Family or Commercial Generator’s total Solid Waste Collection service is less than two (2) cubic yards per week, and Organic Materials subject to Collection in an Organic Materials Container comprises less than ten (10) gallons



per week, per applicable Container, of the Multi-Family's or Commercial total waste.

3. Physical Space Waivers. The Agency may waive a Multi-Family or Commercial Generator's, obligation to comply with some or all of the Source Separated Recyclable Materials or Source Separated Organic Materials Collection service requirements set forth in this Agreement, SB 1383 Regulations, and Agency's Municipal Code Section \_\_\_\_ if the Multi-Family Generator, Commercial Generator provides documentation, or the Agency has evidence from its staff, the Contractor, licensed architect, or licensed engineer demonstrating that the Premises lacks adequate space for Recyclable Materials Containers and/or Organic Materials Containers.
- B. Contractor Waiver Request on Behalf of Generator. Upon reasonable belief that a Generator that is a Generator may qualify for a de minimis or physical space waiver, the Contractor may submit a request to the Agency to grant a waiver to the Generator, provided that adequate evidence of the de minimis or physical space waiver requirements specified in 14 CCR Section 18984.11 is included with the request. Agency shall review and approve or deny the waiver request. Contractor's request for consideration of a waiver shall include the Generator's name and address, type of Commercial business or number of Multi-Family units if Generator is a Multi-Family Premises, reasons Generator may be eligible for the waiver, and evidence such as, but not limited to: Service Level data, photo documentation, weight records, and technical assistance assessment results.
- D. Contractor Change in Customer's Service Levels. When the Agency grants a waiver to a Generator that is a Customer, the Agency shall notify the Contractor within five (5) days of the waiver approval with information on the Customer and any changes to the Service Level or Collection service requirements for the Customer. Contractor shall have five (5) days to modify the Customer's Service Level and billing statement, as needed.
- E. Contractor Recordkeeping of Customers' Granted Waivers. Upon Contractor request, no more than four (4) times per year, the Agency shall provide Contractor an updated listing of waivers approved by the Agency, including the Customer' names, mailing address, service address, and type of waiver. Contractor shall maintain waiver-related records pursuant to Exhibit D."

#### **4.11 Edible Food Recovery Program Support**

7. Article 4 of the Agreement is hereby amended to add the following subsection:

"A. Contractor Cooperation and Non-Interference with Food Recovery Efforts by Others. Contractor shall cooperate with and shall not impede, interfere, or attempt to impede or interfere with the implementation, expansion, or operation of Food Recovery efforts in the Agency."

#### **4.13 Contamination Monitoring**

8. Article 4 of the Agreement is hereby amended to add the following subsection:

"A. Noticing of Generators with Contamination, Non-Collection, and Disposal of Materials. Upon identification of Prohibited Container Contaminants in a Customer's Container, Contractor

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shall provide the Customer with a with a non-Collection notice or courtesy notice as required in Section 1 of Exhibit C.

- B. Quarterly Reporting Requirements. Contractor shall maintain records and report to the Agency quarterly on contamination monitoring activities and actions taken, in accordance with Exhibit D.”

## Article 5. Standard of Performance

### 5.5 Container Requirements

9. Article 5, Section 5.5 of the Agreement is hereby amended to read as follows:

“Contractor shall provide all Carts, Bins, and Drop Boxes to all Customers as part of its services. Contractor-provided Containers shall be designed and constructed to be watertight and prevent the leakage of liquids. All Containers shall display the Contractor’s name, local telephone number, and some identifying inventory or serial number.

In the interest of creating effective and consistent public education and outreach, Contractor will utilize its Containers to reinforce public education messages. All Solid Waste Containers shall be grey in color. All Recyclable Materials Containers shall be blue in color. All Organic Materials Containers shall be green in color. Containers for Collection of C&D may be in any color, provided that the colors do not conflict with the Container color requirements of this Section and provided that the C&D Container colors are consistent for all C&D Containers. The C&D Container color shall be reviewed and approved by the Agency on or before December 31, 2021 and Contractor shall only be directed to modify the color of the C&D containers if all Agencies agree on the color and Contractors actual costs to repaint existing C&D containers shall be fully recoverable to Contractor within one (1) year of incurring such costs. Contractor’s Containers shall also be labeled with a list of acceptable materials and a list of prohibited materials, and such labels shall be in both English and Spanish. Specific color selections and labels shall be approved by the Agency Contract Manager prior to placing the order for any new Containers.

Contractor shall provide Customers (including Single-Family, Multi-Family, Commercial, and Agency facility Customers) with Collection Containers as requested by the Customer, Agency, or District to meet its desired Service Level within five (5) Business Days of Service provider’s first receipt of the Customer request. If an existing Container is replaced by the Contractor from a Customer’s Premises for any reason on or after January 1, 2022, the Contractor shall replace the Container with a Container that complies with the color and labeling requirements of this Section 5.5.

All Containers shall be maintained in a safe, serviceable, and functional condition and present a clean appearance. Customers using Carts shall be responsible for cleaning such Carts. Contractor shall steam clean and repaint all Containers, except Carts, as requested by Customer or as deemed necessary by Contractor to present a clean appearance. If Customer requests steam cleaning more frequently than one (1) time per year, Contractor may charge the Customer at approved Rates for such service. If any Container is impacted by graffiti, Contractor shall remedy the situation within fourteen (14) calendar days of notification at no additional charge.

### 5.6 Personnel

9. Article 5, Section 5.6 of the Agreement is hereby amended to add the following subsection:

- "E. **Record Keeping and Reporting Personnel.** During the Rate adjustment process to determine Rates for Rate Period Five, Contractor and Agency reviewed the number of personnel Contractor assigned to perform record keeping and reporting activities required by this Agreement and agreed to fund additional personnel above the level reflected in Contractor's Proposal (and shown in Exhibit G). Contractor agrees that the augmentation of record keeping and reporting personnel shall be sufficient throughout the Term and agrees that Contractor may not request additional personnel or resources for the performance of any increased record keeping and reporting requirements resulting from the implementation of SB 1383."

## Article 6. Record Keeping and Reporting

### 6.2 Report Submittal Requirements

10. Article 6, Section 6.2 of the Agreement is hereby amended to read as follows:

"Contractor shall submit quarterly reports within thirty (30) calendar days after the end of the calendar quarter. Contractor shall submit annual reports no later than forty-five (45) calendar days after the end of each calendar year. Quarterly and annual reports shall, at a minimum, include all data and information as described in Exhibit D.

Contractor may propose report formats that are responsive to the objectives and audiences for each report. The format of each report shall be approved by the Agency Contract Manager and such approval shall not be unreasonably withheld. Agency Contract Manager may, from time to time during the Term, review and request changes to Contractor's report formats and content and Contractor shall not unreasonably deny such requests; provided, however, that Contractor shall be entitled to compensation adjustments if Agency Contract Manager's requested changes to Contractor's report formats and content materially increase Contractor's reporting requirements or time required to prepare, compile, assemble or otherwise create such reports and Contractor.

Contractor shall submit (via mail and e-mail) all reports in Excel<sup>®</sup>, csv, or other formats compatible for uploading into Agency managed record keeping and reporting systems to the Agency Contract Manager with a copy to the General Manager (or their designated representative) of the MRMWD. Agency reserves the right to require Contractor to provide additional reports or documents as Agency Contract Manager or MRWMD reasonably determines to be required for the administration of this Agreement or compliance with Applicable Law. For reports and documentation specifically related to demonstrating Agency SB1383 compliance, Contractor shall provide all such reports to the Agency Contract Manager and/or MRWMD within five (5) Business Days of such request."

For complaints the Contractor receives regarding Generator or Property Owner non-compliance with SB 1383, Contractor shall record such complaints separately from other complaints in a SB 1383 log. SB 1383 complaints shall not be considered complaints related to the Contractor's performance under this Agreement unless the individual filing the complaint specifically alleges the Contractor's non-performance. Contractor shall maintain records and report to the Agency quarterly on SB 1383 related complaints in accordance with Article D.

## Article 8. Contractor's Compensation and Rate Setting

10. Article 8, Section 8.2.C of the Agreement is hereby amended to read as follows:

“Rates for Subsequent Rate Periods. Rates for subsequent Rate Periods shall be adjusted annually in accordance with this Section 8.2 and Exhibit E. The index-based adjustment, which is described in Exhibit E1, involves use of various cost adjustment factors (such as the percentage change in the consumer price index and percentage change in the Approved Facility tipping fees) to calculate adjusted Rates. Such Rate adjustment calculations shall be performed in strict conformance to the procedures described in Exhibit E1.

Up to three times during the initial term of the Agreement and up to once per extension period, each Party may request that Rates be adjusted using the cost-based methodology described in Exhibit E2 that involves a review of Contractor's actual costs and projection of cost for the coming Rate Period. This cost-based Rate adjustment, if requested by either Party, will be performed instead of the index-based rate adjustment for that Rate Period. The option to request a cost-based adjustment process during the Term of the Agreement is intended to provide the Parties an opportunity to adjust Rates to more accurately reflect actual costs of operations if the cost indices are not tracking with actual changes in costs. Such Rate adjustment calculations shall be performed in strict conformance to the procedures described in Exhibit E2. If either Party desires use of the cost-based methodology pursuant to Exhibit E2, such Party shall provide written notice to the other Party on or before November 1 of the Rate Period prior to the Rate Period for which the Rates would be adjusted using such methodology.”

## Article 10. Default and Remedies

### 10.1 Events of Default

11. Article 10, Section 10.1 of the Agreement is hereby amended to add the following subsection:

“P. Failure to Comply with Requirements of SB 1383. Contractor fails to materially comply with other requirements of the Agreement including, but not limited to, public education, reporting, recordkeeping and reporting, or other obligations of this Agreement that delegate the Agency's responsibility and/or authority under SB 1383 to the Contractor.”

## Article 12. Other Agreements of the Parties

10. Article 12, Section 12.9 of the Agreement is hereby amended to read as follows:

“All notices, demands, requests, proposals, approvals, consents, and other communications, which this Agreement requires authorizes or contemplates, shall be in writing and shall either be personally delivered to a representative of the Parties at the address below or deposited in the United States mail, first class postage prepaid, addressed as follow:

If to Agency:

Michael Niccum  
General Manager  
3101 Forest Lake Road  
Pebble Beach, CA 93953

If to Contractor:

Tracy Adams

Chief Executive Officer  
610 E. Gish Road  
San Jose, CA 95112

The address to which communications may be delivered may be changed from time to time by a notice given in accordance with this Section. Notice shall be deemed given on the day it is personally delivered or, if mailed, three (3) calendar days from the date it is deposited in the mail."

## Article 13. Miscellaneous Agreements

### 13.8 Consent to Change in Control and Transitional Assignment

12. Article 13, Section 13.8 is added to the Agreement:

"A. Consent to Change in Control.

The Agency acknowledges Contractor entered into an agreement dated as of August 28, 2021 (the "Transaction") to sell all or substantially all of its outstanding capital stock to MIP V Waste, LLC, a Delaware limited liability company ("Company"), which would result in a change of control of Contractor to Company. Agency engaged HF&H Consultants ("Consultant") to review the Transaction and opine on a resultant change of control of Contractor pursuant to Section 12.6 of the Agreement (the "Evaluation Report").

Notwithstanding any provision in this Agreement, Agency hereby approves and consents to the change of control of Contractor to Company pursuant to Section 12.6 of the Agreement (the "COC Approval"). The COC Approval shall in no event be deemed an event of default or cause or result in any default or violation under, termination of, or any other effect on this Agreement. The COC Approval shall become effective immediately upon execution by Agency of this Agreement provided, that the COC Approval and this Section 13.8 shall be deemed null and void if Contractor furnishes written notice to Agency that it will not consummate the Transaction.

In consideration of the COC Approval, Agency may request that Rates be adjusted one additional time during the remaining term of the Agreement after November 16, 2021 using the cost-based methodology and rate adjustment procedures described in Section 8.2.C and Exhibit E2 of the Agreement.

B. Calendar Year 2022 Transitional Assignment.

Agency acknowledges that Company, no later than December 31, 2022, may cause Contractor and its affiliates to undergo a reorganization and, in connection therewith, Contractor may assign the Agreement to an affiliate of the Company ("Proposed Assignee") in a manner that would otherwise constitute an assignment pursuant to Section 12.6 of the Agreement ("Future Assignment"). For the purposes of this Section 13.8, "affiliate" of the Company shall only include MIP V Waste (ECI) AIV, L.P. (together with Macquarie Infrastructure Partners V, L.P., Macquarie Infrastructure Partners V SCSp). Effective upon the COC Approval, the Agency approves and consents to any Future Assignment, and such assignment shall in no event be deemed an event of default or cause or result in any default or violation under, termination of, or any other effect

on this Agreement, upon the satisfaction of the following:

1. Contractor furnishes thirty (30) calendar days written notice to Agency following the closing of any Future Assignment (“Notice”). The Notice shall describe the assignment in general terms, and identify the Proposed Assignee, as that term is defined herein below.
2. Within thirty (30) calendar days of the Notice, Consultant provides written confirmation to Contractor and the Agency that the assignment hereunder is to an affiliate in accordance with this Section 13.8.B and does not result in a change in governance or management.
3. By furnishing Notice to Agency, Proposed Assignee represents and warrants to Agency that it accepts the assignment of the Agreement from Contractor, and that it assumes all of the rights, interests, and obligations of the Agency under this Agreement.

Contractor acknowledges that Agency is providing such consent upon representations by Contractor that any such reorganization shall not result in any adverse changes in the quality or frequency of services provided under this Agreement, and that Contractor acknowledges that any such reorganization shall not be grounds for an increase in rates under the terms of this Agreement. “

## Exhibit A Definitions

### Modified Definitions

13. Exhibit A of the Agreement is hereby amended to modify the following definitions:

**“Approved Recyclable Materials Processing Facility.** The Monterey Regional Waste Management District Compost Facility at 14201 Del Monte Blvd, Marina, CA 93933 , which is owned and operated by the MRWMD.

**Construction and Demolition Debris.** Those materials collected as C&D by Contractor and accepted at the Approved C&D Processing Facility as C&D and includes Source Separated discarded building materials, packaging, debris, and rubble resulting from construction, alteration, remodeling, repair or demolition operations on any pavements, excavation projects, houses, Commercial buildings, or other structures, excluding Excluded Waste.

**Discarded Materials.** means Solid Waste, Recyclable Materials, Organic Materials, and C&D placed by a Generator in a receptacle and/or at a location for the purposes of Collection by Contractor, excluding Excluded Waste and Edible Food that is recovered for human consumption that is not discarded.

**Food Scraps.** Discarded Materials that will decompose and/or putrefy including: (i) all kitchen and table food waste; (ii) animal or vegetable waste that is generated during or results from the storage, preparation, cooking or handling of food stuffs; (iii) discarded paper that is contaminated with Food Scraps; (iv) fruit waste, grain waste, dairy waste, meat, and fish waste; and, (v) non-Recyclable paper or Food-Soiled Paper. Food Scraps are a subset of Organic Materials.

**Recyclable Materials.** Those Discarded Materials that are set out in Recyclables Containers by generators, that are Collected by Contractor as Recyclable Materials, and are specifically accepted by the Approved Recyclable Materials Processing Facility for the purpose of Recycling. Recyclable Materials are those materials that include, but are not limited to: newspaper (including inserts, coupons, and store advertisements); mixed paper (including office paper, computer paper, magazines, junk mail, catalogs, brown paper bags, brown paper, paperboard, paper egg cartons, telephone books, grocery bags, colored paper, construction paper, envelopes, legal pad backings, shoe boxes, cereal, and other similar food boxes yet excluding paper tissues, paper towels, paper with plastic coating, paper contaminated with food, wax paper, foil-line paper, Tyvex non-tearing paper envelopes); chipboard; corrugated cardboard; glass containers of any color (including brown, clear, and green glass bottles and jars); aluminum (including beverage containers and small pieces of scrap metal); steel, tin or bi-metal cans; mixed plastics such as plastic containers (no. 1 to 7); and, bottles including containers made of HDPE, LDPE, or PET. The definition of Recyclable Material is subject to change based on the requirements of the Approved Recyclable Materials Processing Facility.

**Yard Trimmings.** means those Discarded Materials that will decompose and/or putrefy, including, but not limited to, green trimmings, grass, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees, small pieces of unpainted and untreated wood, and other types of organic waste. Yard Trimmings are a subset of Organic Materials. Yard Trimmings placed for Collection may not exceed six (6) inches in diameter and three (3) feet in length and must fit within the Contractor provided Container. The definition of Yard Trimmings is subject to change based on the requirements of the Approved Organic Materials Processing Facility.”

## **New Definitions**

13. Exhibit A of the Agreement is hereby amended to add the following definitions:

**“Alternative Daily Cover (ADC).** Disposal Site cover material, other than Compostable material and at least six (6) inches of earthen material, placed on the surface of the active face of the refuse fill area at the end of each operating day to control vectors, fires, odors, blowing litter, and scavenging, as defined in 20690 of Title 27 of the California Code of Regulations.

**Back-Haul.** Generating and Transporting Organic Waste to a destination owned and operated by the Generator using the Generator’s own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).

**CalGreen.** California Green Building Standards Code, 24 CCR, Part 11 as amended July 1, 2019 and effective January 1, 2020.

**California Code of Regulations or CCR.** The State of California Code of Regulations. CCR references in this Agreement are preceded with a number that refers to the relevant Title of the CCR (e.g., “14 CCR” refers to Title 14 of CCR).

**Commercial Edible Food Generators.** Tier One Commercial Edible Food Generators and Tier Two Commercial Edible Food Generators, or as otherwise defined in 14 CCR Section 18982(a)(7). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators, or as otherwise specified by 14 CCR Section 18982(a)(7).

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**Edible Food.** Food intended for human consumption. For the purposes of this Agreement, Edible Food is not Solid Waste if it is recovered and not discarded. Nothing in this Agreement requires or authorizes the recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code. If the definition in 14 CCR Section 18982(a)(18) for Edible Food differs from this definition, the definition in 14 CCR Section 18982(a)(18) shall apply to this Agreement.

**Food Recovery.** Actions to collect and distribute food for human consumption which otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).

**Food Recovery Organization.** An entity that primarily engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities, including, but not limited to:

1. A food bank as defined in Section 113783 of the Health and Safety Code;
2. A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,
3. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

**Food Recovery Service.** A Person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery; or as otherwise defined in 14 CCR Section 18982(a)(26).

**Food-Soiled Paper.** Pre- and post-consumer compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, coffee filters, napkins, pizza boxes, and milk cartons. Unless otherwise provided in the definition of Food Scraps, Food-Soiled Paper is a subset of Food Scraps.

**Food Scraps** means those Discarded Materials that will decompose and/or putrefy including: (i) all kitchen and table food waste; (ii) animal or vegetable waste that is generated during or results from the storage, preparation, cooking or handling of food stuffs; (iii) discarded paper that is contaminated with Food Scraps; (iv) fruit waste, grain waste, dairy waste, meat, and fish waste; and, (v) non-Recyclable paper or contaminated paper. Food Scraps are a subset of Organic Materials. The definition of Food Scraps is subject to change based on the requirements of the Approved Organic Materials Processing Facility.

**Grocery Store.** A store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments.

**Non-Collection Notice.** The Contractor's notice to Customer(s) as described in Section 4.13.

**Organic Waste.** Solid Wastes containing material originated from living organisms and their metabolic waste products including, but not limited to, food, Yard Trimmings, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate,



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and sludges, or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined in 14 CCR Section 18982(a)(4) and 14 CCR Section 18982(a)(16.5), respectively.

**Paper Products.** Include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling; or as otherwise defined in 14 CCR Section 18982(a)(51).

**Printing and Writing Paper(s).** Include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications; or as otherwise defined in 14 CCR Section 18982(a)(54).

**Prohibited Container Contaminants.** The following: (i) Discarded Materials placed in the Recyclable Materials Container that are not identified as acceptable Source Separated Recyclable Materials; (ii) Discarded Materials placed in the Organics Materials Container that are not identified as acceptable Source Separated Organic Materials; (iii) Discarded Materials placed in the Solid Waste Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Organic Materials to be placed in Organics Materials Container and/or Recyclable Materials Container; and (iv) Un-permitted Materials placed in any Container.

**Property Owner.** The owner of real property, or as otherwise defined in 14 CCR Section 18982(a)(57).

**Related-Party Entity.** All business (including corporations, limited and general partnerships, and sole proprietorships) which are directly or indirectly related to Contractor by virtue of direct or indirect Ownership interests or common management shall be deemed to be affiliated with Contractor and included within the term "Related-Party Entity" as used herein. A Related-Party Entity shall include a business in which Contractor Owns a direct or indirect Ownership interest, a business which has a direct or indirect Ownership interest in Contractor and/or a business which is also Owned, controlled, or managed by any business or individual which has a direct or indirect Ownership interest in Contractor. For purposes of determining whether an indirect Ownership interest exists, the constructive Ownership provisions of Section 318(a) of the Internal Revenue code of 1986, as in effect on the date of this Agreement, shall apply; provided, however, the (i) "ten percent (10%)" shall be substituted for "fifty percent (50%)" in Section 318(a)(2)(C) and in Section 318(a)(3)(C) thereof; and (ii) Section 318(a)(5)(C) shall be disregarded. For purposes of determining Ownership under this paragraph and constructive or indirect Ownership under Section 318(a), Ownership interest of less than ten percent (10%) shall be disregarded, and percentage interests shall be determined on the basis of the percentage of voting interest or value which the Ownership interest represents, whichever is greater. Related-Party Entities shall be limited to those businesses which are directly or indirectly involved in the provision of service under this Agreement.

**SB 1383.** Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

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**SB 1383 Regulations or SB 1383 Regulatory.** Refers to the Short-Lived Climate Pollutants (SLCP): Organic Waste Reductions regulations developed by CalRecycle and adopted in 2020 that created Chapter 12 of 14 CCR, Division 7 and amended portions of regulations of 14 CCR and 27 CCR.

**Self-Hauler or Self-Haul.** A Person who hauls Solid Waste, Organic Waste, or recovered material they have generated to another Person, or as otherwise defined in 14 CCR Section 18982(a)(66). Self-Hauler also includes a landscaper, a Person who Back-Hauls waste or any Contractor removing materials as an incidental part of services provided as defined in Section 1.2.

**Service Level.** Refers to the size of a Customer's Container and the frequency of Collection service.

**Tier One Commercial Edible Food Generator.** As defined under 14 CCR Section 18982(a)(7). Tier One Commercial Edible Food Generators include:

1. Supermarket. Full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items.
2. Grocery Store with a total facility size equal to or greater than 10,000 square feet.
3. Food Service Provider. An entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations of others based on contractual arrangements with these types of organizations.
4. Food Distributor. A company that distributes food to entities including, but not limited to, supermarkets, and grocery stores.
5. Wholesale Food Vendor. Business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination.

**Tier Two Commercial Edible Food Generator.** As defined under 14 CCR Section 18982(a)(7). Tier Two Commercial Edible Food Generators include:

1. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
2. Hotel with an on-site food facility and 200 or more rooms.
3. Health facility with an on-site food facility and 100 or more beds.
4. Large Venue. A permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of 14 CCR, Division 7, Chapter 12 and this Agreement, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of 14 CCR, Division 7, Chapter 12 and this Agreement, a site under common ownership or control that includes more than one Large Venue that is

## Amendment #3 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services

contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this Agreement.

5. Large Event. An event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this Agreement.
6. A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
7. A local education agency with an on-site food facility.”

### Exhibit B1 Single-Family Residential Services

14. Exhibit B1, Section 1 of the Agreement is hereby amended to read as follows:

#### “1. Solid Waste Collection

Contractor shall Collect Solid Waste in Contractor-provided Carts one (1) time per week from Single-Family Customers and Transport all Solid Waste to the Approved Disposal Facility for Disposal.

Containers: Carts

Container Sizes: 32-, 64-, and 96-gallons (as requested by Customer)

Service Frequency: One (1) time per week

Service Location: Contractor shall provide one (1) direction side/back-yard Solid Waste Collection service (i.e., Containers are either collected from or returned to a designated location on the property within 100 feet of the Curb) to Single-Family Customers at no charge upon Customer request. Contractor shall provide two (2) direction side/back-yard Solid Waste Collection Service to Single-Family Customers upon request for an additional monthly fee.

Acceptable Materials: Solid Waste

Prohibited Materials: Recyclable Materials, Organic Materials, Excluded Waste.

Additional Service: Contractor shall provide additional Solid Waste Carts to Single-Family Customers upon request and may charge the “Additional Solid Waste Cart” Monthly Service Rate approved by the Agency.

Contractor shall provide for Collection of up to ten (10) additional bags of Solid Waste from each Customer annually at no additional charge. Solid Waste must be placed in black or grey bags and placed next to their Solid Waste Container for

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Collection. Single-family Customers will not be required to contact Customer Service for pick-up. Prior to the Service Commencement Date, Contractor shall distribute to each Single-Family Customer fourteen (14) Additional Solid Waste/Yard Trimmings stickers for use in the 2015 calendar year. Beginning in January 2016 on an annual basis thereafter, Contractor shall distribute to each Single-Family Customer twenty-eight (28) Solid Waste/Yard Trimmings Collection stickers. Single-Family Customers may purchase additional Solid Waste Only Collection stickers in multiples of 10 by contacting Customer Service. Each additional Solid Waste Collection sticker will be charged at a Rate equal to the weekly collection Rate of a single 32-gallon Container (monthly Rate divided by four). Customers may also place a standing order on their account for collection of additional Solid Waste each bag collected will charged at a Rate equal to the weekly collection Rate of a single 32-gallon Container (monthly Rate divided by four).

Other Requirements: None”

15. Exhibit B1, Section 2 of the Agreement is hereby amended to read as follows:

“2. Recyclable Materials Collection

Contractor shall Collect Recyclable Materials in Contractor-provided Containers one (1) time per week from Single-Family Customers and Transport all Recyclable Materials to the Approved Recyclable Materials Processing Facility for Processing.

Containers: Carts

Container Sizes: 64-, and 96-gallons. Standard Container size is 96-gallon Carts. 64-gallon Carts will be made available, when requested by Customer.

Service Frequency: One (1) time per week on the same day Solid Waste is collected.

Service Location: Contractor shall provide one (1) direction side/back-yard Solid Waste Collection service (i.e., containers are either collected from or returned to a designated location on the property within 100 feet of the curb) to Single-Family Customers at no charge upon Customer request. Contractor shall provide two (2) direction side/back-yard Solid Waste Collection Service to Single-Family Customers upon request for an additional monthly fee.

Acceptable Materials: Recyclable Materials

Prohibited Materials: Solid Waste, Organic Materials, Excluded Waste

Additional Service: Single-Family Customers shall receive one (1) Recyclable Materials Cart as standard. Contractor shall provide additional Recyclable Materials Carts to Single-Family Customers upon request and may charge the “Additional Recycling Cart” Monthly Rental Rate approved by the Agency.

Contractor shall establish an "overages" program that allows Single-Family Customers to place additional mixed Recyclable Materials Curbside (in Customer-provided clear plastic bags) or cardboard (tied and bundled no larger than 3' x 3') adjacent to the Recyclable Materials Cart on their regularly scheduled Collection day at no additional charge to the Customer.

Other Requirements: Contractor shall accept household batteries in the Recyclable Materials program, provided that those batteries have been separately packaged in a sealed, clear plastic bag.

Contractor may assess a "contamination fee" per event for Customers who have repeatedly (no less than three times in a calendar year) placed more than the allowable volume of prohibited materials in their Recyclable Materials Container. Prior to assessing such contamination fee, Contractor must provide targeted education (e.g., through the use of a tag on the Container) no less than three times to that specific Customer. Such education shall, at a minimum, notify the Customer of the specific materials that have been incorrectly placed and inform the Customer as to which Container the materials should be placed. Upon assessment of the contamination fee, Contractor shall document the presence of prohibited items through photographic record and make such documentation available to the Customer and/or Agency Contract Manager, upon request."

15. Exhibit B1, Section 3 of the Agreement is hereby amended to read as follows:

### "3. Organic Materials Collection

Contractor shall Collect Organic Materials in Contractor-provided Carts one (1) time per week from Single-Family Customers and Transport all Organic Materials to the Approved Organic Materials Processing Facility for Processing.

Containers: Carts

Container Sizes: 64-, and 96-gallons. Standard Container size is 96-gallon Carts. 64-gallon Carts will be made available, when requested by Customer.

Service Frequency: One (1) time per week Seaside: on the same day Solid Waste is collected.

Service Location: Contractor provided the Agency with an estimate of the number of Customers utilizing this service at the date of the commencement of services. Contractor shall not be required to increase the total number of Customers utilizing this service. Contractor shall provide one (1) direction side/back-yard Organic Material Collection service (i.e., Containers are either collected from or returned to a designated location on the property within 100 feet of the Curb) to Single-Family Customers at no charge upon Customer request. Contractor shall provide two (2) direction side/back-yard Organic Material Collection Service to Single-Family Customers upon request for an additional fee.

Acceptable Materials: Organic Waste

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Prohibited Materials: Solid Waste, Recyclable Materials, Excluded Waste

Additional Service: Single-Family Customers shall receive one (1) Organic Materials Cart standard. Contractor shall provide additional Organic Materials Carts to Single-Family Customers upon request and may charge the "Additional Organics Cart" Monthly Service Rate equivalent to fifty (50%) of the Solid Waste monthly Service Rate gallon equivalent.

Contractor shall provide for Collection of up to ten (10) additional bags of Yard Trimmings from each Customer annually at no additional charge. Single-family Customers will not be required to contact Customer Service for pick-up. On an annual basis, Contractor shall distribute to each Single-Family Customer 10 Yard Trimming Collection stickers. Single-Family Customers may purchase additional Yard Trimming stickers in multiples of 10 by contacting Customer Service. Each additional Yard Trimming Collection sticker will be charged at a Rate equal to fifty percent (50%) of the weekly collection Rate of a single 32-gallon Solid Waste Collection Container (monthly Rate x 50% divided by 4).

Customers may also place a standing order on their account for collection of additional Yard Trimmings and each additional Customer-provided can or bundle collected will charge at a Rate equal to the weekly collection Rate of a single 32-gallon Container (monthly Rate divided by four).

Other Requirements: Contractor may assess a "contamination fee" per event for Customers who have repeatedly (no less than three times in a calendar year) placed more than the allowable volume of prohibited materials in their Organic Materials Container. Prior to assessing such contamination fee, Contractor must provide targeted education (e.g., through the use of a tag on the Container) no less than three times to that specific Customer. Such education shall at a minimum, notify the Customer of the specific materials that have been incorrectly placed and inform the Customer as to which Container the materials should be placed. Upon assessment of the contamination fee, Contractor shall document the presence of prohibited items through photographic record and make such documentation available to the Customer and/or Agency Contract Manager, upon request."

16. Exhibit B1, Section 6 of the Agreement is hereby amended to read as follows:

"Contractor shall develop and educate Single-Family Customers about the availability of and participation requirements for programs dealing with seasonal or periodic waste management demands that exceed regularly scheduled Collection via outreach through the Customer newsletter and the Contractor website. Contractor shall provide the following seasonal program services to Single-Family Customers at no additional charge:

- i) Holiday Tree Collection. Contractor shall Collect from Single-Family Customers whole, unflocked, and undecorated holiday trees that are placed Curbside during the first two (2) weeks of each year.

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- ii) Halloween Pumpkins. Contractor shall Collect undecorated raw Holiday Pumpkins from Single-Family Customers that have removed all non-biodegradable debris (candle wax, glue, and paint) and placed the pumpkins in their Organic Material Carts.
- iii) Spring Cleaning. Contractor shall provide Single-Family Customers with Spring Cleaning Collection opportunities through the Bulky Item and Reusable Materials Collection Events.
- iv) Leaf Season. Contractor Collect from Single-Family Customers up to 10 additional bags of Yard Trimming Materials throughout the year as described in the Yard Trimmings Additional Services section above.”

**Exhibit B2 Multi-Family Services**

17. Exhibit B2, Section 1 of the Agreement is hereby amended to read as follows:

“1. Solid Waste Collection

Contractor shall Collect Solid Waste in Contractor-provided Containers not less than one (1) time per week from Multi-Family Customers and Transport all Solid Waste to the Approved Disposal Facility for Disposal or, at the direction of the Agency Contract Manager (if an additional cost is involved), or the MRWMD (if no additional cost is involved) to the Approved Mixed Waste Processing Facility for Processing prior to Disposal.

Containers: Carts, Bins, Drop Boxes, Compactors

Container Sizes: 64-, and 96-gallon Carts;  
1-, 2-, 3-, 4-, 6-, and 8 - cubic yard Bins; and,  
10-, 15-, 20-, 25-, 30-, 35-, and 40- cubic yard Drop Boxes or Compactors  
(as requested by Customer)

Service Frequency: Up to six (6) times per week but not less than one (1) time per week, as requested by Customer.

Service Location: Curbside or other Customer-selected service location at the Multi-Family Premises (push/pull charges may apply if service location is not immediately accessible by the Collection vehicle)

Acceptable Materials: Solid Waste

Prohibited Materials: Recyclable Materials, Organic Materials, Excluded Waste

Additional Service: Special pickups requested by a Customer, on days other than their regularly scheduled Collection day, will be available at an approved additional charge. Extra picks ups can be scheduled equating to up to six (6) days per week total service.

Other Requirements: Contractor shall make contact with Multi-Family Customers in advance of the start of service to determine appropriate Container sizes and service frequency.

Contractor shall open and close gates, push and/or pull Containers, lock and unlock Containers, or perform other services as reasonably necessary to access and empty Containers (additional charge may apply)."

17. Exhibit B2, Section 2 of the Agreement is hereby amended to read as follows:

"2. Recyclable Materials Collection

Contractor shall Collect Recyclable Materials in Contractor-provided Containers not less than one (1) time per week from Multi-Family Customers and Transport all Recyclable Materials to the Approved Recyclable Materials Processing Facility for Processing.

Containers: Carts, Bins, Drop Boxes, Compactors

Container Sizes: 64-, and 96-gallon or comparable size Carts;  
1-, 2-, and 3-cubic yard Bins; and,  
10-, 20-, 30-, and 40- cubic yard Drop Boxes or Compactors  
(as requested by Customer)

Service Frequency: Up to six (6) times per week but not less than one (1) time per week (as requested by Customer)

Service Location: Curbside or other Customer-selected service location at the Multi-Family Premises (difficult to service charges may apply if service location is not immediately accessible by the Collection vehicle)

Acceptable Materials: Recyclable Materials

Prohibited Materials: Solid Waste, Organic Materials, Excluded Waste

Additional Service: Special pickups requested by a Customer, on days other than their regularly scheduled Collection day, will be available at an approved additional charge. Extra picks ups can be scheduled equating to up to six (6) days per week total service.

Other Requirements: Contractor shall make contact with Multi-Family Customers in advance of the start of service to determine appropriate Container sizes and service frequency.

Contractor shall open and close gates, push and/or pull Containers, lock and unlock Containers, or perform other services as reasonably necessary to access and empty Containers (additional charge may apply).

Multi-Family Customers with no greater than once per week individual cart service will receive one (1) Recyclable Materials cart free of additional charge.

Contractor may assess a "contamination fee" per event for Customers who have repeatedly (no less than three times in a calendar year) placed more than the allowable volume of prohibited materials in their Recyclable Materials Container. Prior to assessing such contamination fee, Contractor must provide targeted education (e.g., through the use of a tag on the Container) no less than three



times to that specific Customer. Such education shall, at a minimum, notify the Customer of the specific materials that have been incorrectly placed and inform the Customer as to which Container the materials should be placed. Upon assessment of the contamination fee, Contractor shall document the presence of prohibited items through photographic record and make such documentation available to the Customer and/or Agency Contract Manager, upon request.”

17. Exhibit B2, Section 3 of the Agreement is hereby amended to read as follows:

“2. Organic Materials Collection

Contractor shall Collect Organic Materials in Contractor-provided Carts no less than one (1) time per week from Multi-Family Customers and Transport all Organic Materials to the Approved Organic Materials Processing Facility for Processing.

Containers: Carts

Container Sizes: 64-, and 96-gallon or comparable size Carts (as requested by Customer).

Service Frequency: Up to three (3) times per week but not less than one (1) time per week, as requested by the Multi-Family Customer.

Service Location: Curbside or other Customer-selected service location at the Multi-Family Premises (difficult to service charges may apply if service location is not immediately accessible by the Collection vehicle)

Acceptable Materials: Organic Materials

Prohibited Materials: Solid Waste, Recyclable Materials, Excluded Waste

Additional Service: Special pickups requested by a Customer, on days other than their regularly scheduled Collection day, will be available at an approved additional charge. Extra picks ups can be scheduled equating to up to six (6) days per week total service.

Other Requirements: Contractor shall make contact with Multi-Family Customers in advance of the start of service to determine appropriate Container sizes and service frequency.

Contractor may assess a “contamination fee” per event for Customers who have repeatedly (no less than three times in a calendar year) placed more than the allowable volume of prohibited materials in their Organics Container. Contractor shall document any setouts classified as Contaminated with photographic evidence of the presence of the Prohibited Material(s) and shall provide such evidence to the Agency Contract Manager or Customer upon request. In the event of a Contaminated set-out, Contractor shall provide Customer with a written warning of the Contamination and instruct the Customer about how to properly separate and place Organic Materials for Collection and Contractor may, at their sole discretion, refuse to Collect the Container until it is no longer Contaminated. In the event that Contractor classifies more than two (2) set outs in a consecutive three (3) month period as Contaminated, whether Collected or

not, Contractor may assess the "Organics Contamination" Rate approved by the Agency under this Agreement if Collected. In the event that Contractor has assessed the Organics Contamination Rate more than two (2) times in a consecutive six (6) month period, Contractor may cancel the Customer's subscription to the Organic Materials program and may prohibit such Customer from subscribing to the program until they demonstrate to the satisfaction of the Contractor or Agency Contract Manager that adequate measures have been implemented to prevent future contamination."

### Exhibit B3 Commercial Services

17. Exhibit B2, Section 1 of the Agreement is hereby amended to read as follows:

#### "1. Solid Waste Collection

Contractor shall Collect Solid Waste in Contractor-provided Containers not less than one (1) time per week from Commercial Customers and Transport all Solid Waste to the Approved Disposal Facility for Disposal or, at the direction of the Agency Contract Manager (if an additional cost is involved), or the MRWMD (if no additional cost is involved) to the Approved Mixed Waste Processing Facility for Processing prior to Disposal.

Containers: Carts, Bins, Drop Boxes, Compactors.

Container Sizes: 64-, and 96-gallon or comparable size Carts;  
1-, 2-, and 3- cubic yard Bins; and,  
10-, 20-, 30-, and 40- cubic yard Drop Boxes or Compactors  
(as requested by Customer).

Service Frequency: Up to six (6) times per week but not less than one (1) time per week, as requested by Customer.

Service Location: Curbside; or other Customer-selected service location at the Commercial Premises (difficult to service charges may apply if service location is not immediately accessible by the Collection vehicle)

Acceptable Materials: Solid Waste

Prohibited Materials: Excluded Waste

Additional Service: Special pickups requested by a Customer, on days other than their regularly scheduled Collection day, will be available at an approved additional charge. Extra picks ups can be scheduled equating to up to six (6) days per week total service.

Other Requirements: Contractor shall make contact with Commercial Customers in advance of the start of service to determine appropriate Container sizes and service frequency.

Contractor shall open and close gates, push and/or pull Containers, lock and unlock Containers, or perform other services as reasonably necessary to access and empty Containers (additional charge may apply). "

17. Exhibit B2, Section 2 of the Agreement is hereby amended to read as follows:

**"2. Recyclable Materials Collection**

Contractor shall Collect Recyclable Materials and/or Source Separated Recyclable Materials in Contractor-provided Containers not less than one (1) time per week from Commercial Customers and Transport all Recyclable Materials to the Approved Recyclable Materials Processing Facility for Processing or, at Contractor's discretion, to any Person who will make a net payment to Contractor for the delivery of the Source-Separated Recyclable Materials.

**Containers:** Carts, Bins, Drop Boxes, Compactors

**Container Sizes:** 64-, and 96-gallon or comparable size Carts; 1-, 2-, and 3- cubic yard Bins; and, 10-, 20-, 30-, and 40- cubic yard Drop Boxes or Compactors (as requested by Customer)

**Service Frequency:** Up to six (6) times per week but not less than one (1) time per week (as requested by Customer)

**Service Location:** Curbside or other Customer-selected service location at the Commercial Premises (difficult to service charges may apply if service location is not immediately accessible by the Collection vehicle)

**Acceptable Materials:** Recyclable Materials

**Prohibited Materials:** Solid Waste, Organic Materials, Excluded Waste

**Additional Service:** Special pickups requested by a Customer, on days other than their regularly scheduled Collection day, will be available at an approved additional charge. Extra picks ups can be scheduled equating to up to six (6) days per week total service.

**Other Requirements:** Contractor shall make contact with Commercial Customers in advance of the start of service to determine appropriate Container sizes and service frequency.

Contractor shall open and close gates, push and/or pull Containers, lock and unlock Containers, or perform other services as reasonably necessary to access and empty Containers (additional charge may apply).

Contractor may assess a "contamination fee" per event for Customers who have repeatedly (no less than three times in a calendar year) placed more than the allowable volume of prohibited materials in their Recyclable Materials Container. Prior to assessing such contamination fee, Contractor must provide targeted education (e.g., through the use of a tag on the Container) no less than three times to that specific Customer. Such education shall, at a minimum, notify the Customer of the specific materials that have been incorrectly placed and inform the Customer as to which Container the materials should be placed. Upon assessment of the contamination fee, Contractor shall document the presence of

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prohibited items through photographic record and make such documentation available to the Customer and/or Agency Contract Manager, upon request.

Contractor shall document and report to the Agency Contract Manager and the MRWMD each instance where Contractor delivers Source Separated Recyclable Materials to a Person other than the Approved Recyclable Materials Processing Facility. Such report shall include the Person to whom the materials were delivered, the specific type of materials delivered (e.g., cardboard, metal etc.), the number of Tons, and the amount received in payment for the delivery. "

17. Exhibit B2, Section 3 of the Agreement is hereby amended to read as follows:

**"3. Organic Materials Collection**

Contractor shall Collect Organic Materials in Contractor-provided Containers one (1) time per week from Commercial Customers and Transport all Organic Materials to the Approved Organic Materials Processing Facility for Processing.

**Containers:** Carts, Bins, Drop Boxes, Compactors

**Container Sizes:** 64-, and 96-gallon or comparable size Carts;  
1- and 2- cubic yard Bins; and,  
10-, 20-, 30-, and 40- cubic yard Drop Boxes or Compactors  
(as requested by Customer)

**Service Frequency:** Up to six (6) times per week but not less than one (1) time per week, as requested by Customer

**Service Location:** Curbside or other Customer-selected service location at the Commercial Premises (difficult to Service charges may apply if service location is not immediately accessible by the Collection vehicle)

**Acceptable Materials:** Organic Materials

**Prohibited Materials:** Solid Waste, Recyclable Materials, Excluded Waste

**Additional Service:** Special pickups requested by a Customer, on days other than their regularly scheduled Collection day, will be available at an approved additional charge. Extra picks ups can be scheduled equating to up to six (6) days per week total service.

**Other Requirements:** Contractor shall make contact with Commercial Customers in advance of the start of service to determine appropriate Container sizes and service frequency.

Contractor shall open and close gates, push and/or pull Containers, lock and unlock Containers, or perform other services as reasonably necessary to access and empty Containers (additional charge may apply).

Contractor may assess a "contamination fee" per event for Customers who have repeatedly (no less than three times in a calendar year) placed more than the

allowable volume of prohibited materials in their Organics Container. Contractor shall document any setouts classified as Contaminated with photographic evidence of the presence of the Prohibited Material(s) and shall provide such evidence to the Agency Contract Manager or Customer upon request. In the event of a Contaminated set-out, Contractor shall provide Customer with a written warning of the Contamination and instruct the Customer about how to properly separate and place Organic Materials for Collection and Contractor may, at their sole discretion, refuse to Collect the Container until it is no longer Contaminated. In the event that Contractor classifies more than two (2) set outs in a consecutive three (3) month period as Contaminated, whether Collected or not Contractor may assess the "Organics Contamination" Rate approved by the Agency under this Agreement if Collected. In the event that Contractor has assessed the Organics Contamination Rate more than two (2) times in a consecutive six (6) month period, Contractor may cancel the Customer's subscription to the Organic Materials program and may prohibit such Customer from subscribing to the program until they demonstrate to the satisfaction of the Contractor or Agency Contract Manager that adequate measures have been implemented to prevent future contamination."

### **Exhibit C Public Education and Outreach Requirements**

18. Exhibit C, Section 1 of the Agreement is hereby amended to read as follows:

#### **"1. General Administration**

The Agency places the utmost importance on effective public outreach and education in helping residents and businesses fully understand options for and benefits of source reduction, reuse, Recycling, and Composting. General provisions are as follows:

1. Prior to the Commencement Date and by December 1 of each following year during the Term of this Agreement, Contractor shall develop and submit an annual public education plan to promote the programs performed by Contractor under this Agreement. Each public education plan shall specify the target audience for services provided, include upcoming promotions for ongoing and known special events, identify program objectives, individual tasks, public education materials to be developed or updated, opportunities for expanded partnerships, and a timeline for implementation. Input shall be solicited from the Agency and each plan implementation success shall be measured by deadlines and products developed. Contractor shall meet with the Agency Contract Manager to present and discuss the plan, review the prior year's activities (including direct and in-kind donations made, sponsorships and services provided to Agency-sponsored events) and determine whether community activities and the provision of services to the Agency reflect the needs of Agency staff and their Board of Directors. Agency Contract Manager shall be allowed up to thirty (30) calendar days after receipt to review, request modifications, and approve the plan. Additionally, beginning December 1 of 2022 for calendar year 2023, Contractor shall include as part of its annually public education plan, an annual diversion plan. The annual diversion plan shall include, at a minimum, an analysis of Solid Waste, Recyclable Material, and Organic Material tons from the prior year that were delivered for Processing by Customer Type and Contractor's proposed plan to decrease the percentage and/or total tons of Solid Waste tons Collected relative to Recyclable Material and Organic Material tons delivered for Processing.

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2. The Agency Contract Manager and Contractor shall meet a minimum of one (1) time per calendar quarter to discuss services, outreach, and educational campaigns and request changes or adaptations to the annual public education plan.
3. Contractor shall distribute instructional information, public education, and promotion materials in advance of, and following, commencement of services. This shall entail, at a minimum, distributing program literature with delivery of Containers. Contractor shall use multiple media sources including print, radio television, electronic/ social media, and events to notify Customers of the change in their service provider and to highlight new program offerings. Transition and ongoing sector-specific collateral materials shall be developed and distributed.
4. When developing outreach, educational and promotional materials, Contractor shall work with the Agency to understand goals and objectives, ensure coordinated messaging, then begin drafting the content and developing a graphic mock-up. All outreach and educational materials shall be thematically branded with consistent color, font, look and feel; produced in English and Spanish; and photo-oriented to appeal to varied language and literacy levels. Materials shall also be made available in digital form, and shall be printed double-sided by a Monterey County business on 100% recycled and recyclable paper. Prior to finalizing any collateral materials, and no fewer than four (4) weeks prior to the deadline for distribution, the draft shall be provided to the Agency for a final review. The draft shall then be sent for printing and distribution.
5. All Agency facilities shall receive any and all public education and outreach materials and services provided to the Commercial sector. Contractor shall provide all printed public education materials to Agency offices and facilities to have available for the public that visits those facilities and shall replenish the materials as requested by the Agency Contract Manager.
6. Contractor shall participate in and provide annual funding of at least twenty-five thousand dollars (\$25,000) to the Central Coast Recycling Media Coalition as the service provider for the Cities of Carmel-by-the-Sea, Del Rey Oaks, Marina, Pacific Grove, Sand City, and Seaside and the Pebble Beach CSD.
7. Contractor shall develop and utilize corrective action notices that will also function as Non-Collection and courtesy notices in clear instances of Customer non-compliance or when the Contractor identifies Prohibited Container Contaminants in a Container. The notices shall include the Generator's requirement to properly separate Discarded Materials into the appropriate Collection Container. Contractor shall develop and maintain a system of keeping records of and following up with Customers who receive Non-Collection Notices during Collection of materials.
8. Contractor shall develop a website specific to its operations in Monterey County, with a section specific to Agency programs and Customers, that will be used to post educational materials for download, highlight program successes and provide Diversion statistics. Contractor shall prepare multi-lingual public education materials in English and Spanish and post the multi-lingual outreach materials on its website.

9. Not less than once per year during each Rate Year, and by January 1, 2022, Contractor shall distribute a mailer designed by the District to each Generator in the Agency that includes information specified in 14 CCR Section 18985.1(a). Such mailer shall be distributed by Contractor to all Residential and Commercial mailing addresses including individual Multi-Family dwelling units and tenants of multi-tenant Commercial properties. Contractor shall also make this notice available in an electronic format through the Contractor's website.
  10. In coordination with the MRWMD, Contactor shall distribute Compost coupons to Generators to be able to retrieve Compost from the MRWMD subject to availability and program rules to be defined by MRWMD."
19. Exhibit C, Section 2 of the Agreement is hereby amended to read as follows:

**"2. Public Education and Outreach Team**

To best achieve the highest possible level of public education and awareness, Contractor has proposed to employ one full-time Environmental Outreach Manager (EOM) a two (2) full-time Environmental Outreach Coordinators (EOC) to develop and implement all public education and outreach activities required by this Agreement for all sectors in the Cities of Carmel-by-the-Sea, Del Rey Oaks, Marina, Pacific Grove, Sand City, and Seaside and the Pebble Beach CSD. and shall serve the MRWMD service area exclusively. The public education and outreach staff shall work with Agency to conduct outreach, promote waste reduction, Recycling, Diversion programs, and provide technical assistance to qualifying Multi-family and Commercial Customers.

As described in Contractor's Proposal, the EOM shall have the following duties and responsibilities:

1. Serve as liaison with the Agency and MRWMD. In this capacity, EOM shall participate in strategy development meetings related to source reduction, reuse, Recycling, and Composting;
2. Participate in community activities and offer support to local service organizations;
3. Develop and maintain relationships with the media, draft press releases; and,
4. Ensure compliance with Agreement(s).

The Contractor's EOCs shall have the following duties and responsibilities:

1. Attend events and meetings in the community to promote Recycling and Diversion programs;
2. Assist with the development and distribution of educational and outreach materials;
3. Develop a thorough understanding of the history and challenges in managing Solid Waste and increasing Recycling and Diversion efforts;
4. Identify recurring contamination issues and proposing solutions;

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5. Participate in educational and Participating Agency-sponsored activities as well as workshops, civic and business group meetings, and other community events;
6. Provide tours of Processing Facilities, as appropriate;
7. Create environmental awareness and promoting Recycling throughout the community; and,
8. Provide technical assistance to qualifying Multi-Family and Commercial Service Recipients to comply with SB 1383 by conducting site surveys to right-size Containers and Collection frequency and making recommendations to increase participation and reduce contamination.

Contractor's EOM and EOCs shall, at a minimum, perform the following additional tasks:

9. Work to develop partnerships with and incorporate Agency and MRWMD program and educational activities into Contractor activities, and vice versa;
10. Prepare proposals and presentations to municipal contract entities;
11. Participate and represent Contractor in community activities;
12. Oversee Customer satisfaction of all program services, as described in Exhibit B to the Agreement;
13. Ensure compliance with the Agreement and regulatory agencies having jurisdiction over Contractor's activities;
14. Coordinate, produce, and implement the annual education and outreach plan required by Section 1 of this Exhibit C to the Agreement;
15. Offer annual visits to identify the service needs of each eligible Customer, other than Single-Family Customers, by conducting "Recycling opportunity assessments" of Customer locations and facilities;
16. Manage follow up Recycling opportunity assessments for businesses to conduct a more comprehensive investigation and educational process after the initial review;
17. Provide all Customers with appropriate educational information necessary to make informed, environmentally forward decisions relative to waste reduction, reuse, and Recycling activities.
18. Maximize the opportunity for initial and sustained program success by seeking to identify a "champion" (ideally a senior manager) at each eligible Commercial and Multi-Family Customer who will serve as a primary contact and advocate for Recycling and Composting programs within the Customer's organization;
19. Help plan service needs for special events and Large Venues with a focus on reducing the Disposal of materials resulting from such events or venues; and,



20. Create and distribute reports as required under this Agreement and/or requested by Agency Contract Manager.”

20. Exhibit C, Section 3 of the Agreement is hereby amended to read as follows:

“3. Sector-Specific Activities

The following tables present the public education and outreach activities to be performed by Contractor as minimum requirements under this Agreement. Each Customer Type faces unique waste management opportunities and challenges; therefore, Contractor shall develop targeted, sector-specific educational materials and perform outreach activities as described for each Customer Type.

Any public education and outreach materials provided to schools shall be updated by the Contractor to offer on-going technical assistance to eligible schools and the development and implementation of curriculum to teach children about Recycling, Composting, Food Scraps, and may include information on the Agency’s Edible Food Recovery program to the extent that information is provided by the Agency.”

### **Exhibit D Reporting Requirements**

21. Exhibit D of the Agreement is hereby amended to read as follows:

“Records shall be maintained in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. Reports are intended to compile recorded data into useful forms of information that can be used to, among other things:

1. Determine and set Rates and evaluate the financial efficacy of operations.
2. Evaluate past and expected progress towards achieving the Contractor’s Diversion goals and objectives.
3. Provide concise and comprehensive program information and metrics for use in fulfilling reporting requirements under the Act.
4. Determine needs for adjustment to programs.
5. Evaluate Customer service and complaints.

#### Quarterly Report Content

Quarterly reports shall be presented by Contractor to show the following information for each month in the reported quarter. In addition, each quarterly report shall show the past four (4) quarters average for data comparison (the first three (3) quarters of the Agreement shall only include the available quarterly information).

1. Tonnage Report

- Tonnage delivered to each Approved Facility by Customer Type, subtotaling and clearly identifying those Tons that are Disposed and those that are delivered for Processing.

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- Units of Used Oil, E-Waste, U-Waste, and Bulky Items Collected by Customer Type.

## 2. Customer Report

- Number of Customers by Customer Type.
- Number of Containers at each Service Level by Customer Type and program. Summarizing the total gallons of Cart service, cubic yards of Bin service, and pulls and cubic yards or Tons of Drop Box and Compactor service by Customer Type. Report should calculate the average volume of service received per: Single-Family Customer; Multi-Family dwelling unit; Commercial Customer; and, C&D Customer.
- Number of Bulky Item/Reusable Materials Collection events by Customer Type.
- Participation percentage by program and Customer Type where the participation percentage is calculated as the number of Customers who have subscribed to or requested service under the program relative to the number of Customers of that Customer Type subscribing to Solid Waste service. Contractor shall not be required to submit participant Customer names and addresses as part of the regular reporting; however, such information shall be provided to the Agency Contract Manager upon request.
- List of all Commercial and Multi-Family Dwelling Unit Customers with a Solid Waste Service Level of two (2) cubic yards of service capacity per week or more. Such list shall include each such Customer's service address and Solid Waste Container, Recyclable Materials Container, and Organic Materials Container Service Levels.
- The total number of de minimis waivers and physical space constraint waivers granted in the month, including the Generator name and address for each waiver.

## 3. Agency Services Report

- Agency facility Diversion rate report (i.e. volume of service by Service Type received by each Agency Facility and the percentage of the total Service Levels that are for Diversion services relative to the total).
- Summary report on the programs offered to Agency as described in Exhibit B6 focused on when each service was provided and any issues/concerns identified.

## 4. Customer Service Report

- Number of Customer calls listed separately by complaints and inquiries (where inquiries include requests for Recycling information, Rate information, etc.). For complaints, list the number of calls separately by category (e.g., missed pickups, scheduled cleanups, billing concerns, damage claims, etc.).
- Number of new service requests for each Customer Type and program.
- Number of events of Discarded Materials being tagged for non-Collection summarized by the reason for tagging (e.g., inclusion of non-Recyclable or non-Compostable materials, improper set out, Hazardous Waste, etc.).
- Number of hits and unique visitors to the Contractor's website.

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- Contractor shall maintain a record of all SB 1383 Regulatory non-compliance complaints and responses pursuant to Section 4.9.2 of this Agreement and submit the following information:
  - a. Total number of complaints received and total number of complaints investigated
  - b. to the extent such information is provided to Contractor, Contractor shall provide copies of documentation recorded for each complaint received, which shall at a minimum include the following information:
    - i. The complaint as received;
    - ii. The name and contact information of the complainant if the complaint is not submitted anonymously;
    - ii. The identity of the alleged violator, if known;
    - iii. A description of the alleged violation; including location(s) and all other relevant facts known to the complainant;
    - iv. Any relevant photographic or documentary evidence submitted to support the allegations in the complaint; and,
    - v. The identity of any witnesses, if known.

#### 5. Education and Outreach Report

- The quarterly status of activities identified in the public education and outreach plan described in Exhibit C of this Agreement.
- Provide a status report of Contractor's actual activities completed compared to the annual public education plan. For each completed item, document the results including what date the activity was performed, how many Customers were targeted or participated, and what methods were used to accomplish the task, if different from the plan.
- Summarize the Recycling opportunity assessments provided to Customers (reporting Multi-Family separate from Commercial) by identifying the number of Recycling opportunity assessments conducted each month in the most-recently completed quarter, and contact information including address, contact names, telephone number of Persons contacted, number of units (for Multi-Family), and the Solid Waste and Recyclable Materials Service Level for each complex. Include any Service Level changes resulting from such visits.
- Dates, times, and group names of meetings and events attended.

#### 6. Pilot and New Programs Report

For each pilot and/or new program, provide activity related and narrative reports on goals, milestones, and accomplishments. Describe problems encountered, actions taken and any

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recommendations to facilitate progress. Describe vehicles, personnel, and equipment utilized for each program.

#### 7. Revenue Report

Provide a statement detailing Gross Receipts from all operations conducted or permitted pursuant to this Agreement as required by Section 7.8.

Maintain a list of Customers that are forty five (45) or more calendar days past due and include the following information for each delinquent account: name; service address; contact information; number of days the account is delinquent; method(s) the Contractor has used to attempt collection of the bad debt including date of such attempt(s); and, identification, if, and when the Contractor plans to or did stop service to a delinquent account.

#### 8. Updated Insurance and Performance Bond

In addition to providing the Agency with Certificates of Insurance (COI) and annual performance bonds (Bonds) when renewed as provided in Sections 9.2.C and 9.3 respectively, Contractor shall also include copies of Certificates of Insurance and Performance Bonds in the quarterly report in which new COIs and Bonds are provided to the Agency.

### Annual Report Content

The annual report shall be the fourth quarterly report plus the following additional information.

#### 1. Summary Assessment

Provide a summary assessment of the programs performed under this Agreement from Contractor's perspective relative to the financial and physical status of the program. The physical status assessment shall reflect how well the program is operating in terms of efficiency, economy, and effectiveness in meeting all the goals and objectives of this Agreement, particularly the Contractor's Diversion goals. Provide recommendations and plans to improve. Highlight significant accomplishments and problems. Results shall be compared to other similar size communities served by the Contractor in the State.

#### 2. Vehicle Inventory

Provide a listing of all vehicles used in performing services under this Agreement including the license plate number, VIN, make, model, model year, purchase date, engine overhaul/rebuild date (if applicable), and mileage on December 31.

#### 3. Cost-Based Rate Adjustment Data

Provide the following information only if Rates are to be determined for the upcoming Rate Period using a cost-based adjustment pursuant to Exhibit E3. With the exception of the "Financial Information" listed below, all other items listed may be requested by the Agency Contract

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Manager at any time during the Term of the Agreement and Contractor shall comply with that request in a timely fashion.

Contractor understands that although all materials received by the Agency in connection with this Agreement are intended for the use of the Agency, they are potentially subject to disclosure under the provisions of the Public Records Act. The Agency agrees to hold financial information delivered pursuant to the requirements of this Agreement and marked "CONFIDENTIAL" as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law. In the event such financial information is requested by any party, Agency shall notify Contractor of the request and shall thereafter disclose the requested information unless Contractor, within five (5) Business Days of receiving notice of the disclosure request: a) requests nondisclosure; b) provides Agency a legally sound basis for the nondisclosure; and, c) agrees to indemnify, defend, and hold Agency harmless in any/all actions brought to require disclosure. This provision shall not be construed to create any legal right or claim that does not exist under the operation of Applicable Law.

- a) **Financial Information.** Within one hundred twenty (120) calendar days after the close of the Contractor's Fiscal Year (ending September 31), Contractor shall deliver to the Agency one (1) hard copy of the audited consolidated financial statements of Contractor for the preceding Fiscal Year. Financial statements shall include a supplemental combining schedule showing Contractor's results of operations, including the specific revenues and expenses in connection with the operations provided for in this Agreement from others included in such financial statements. The financial statements and footnotes shall be prepared in accordance with Generally Accepted Accounting Principles (GAAP) consistently applied and fairly reflecting the results of operation and Contractor's financial condition. Annual financial statements shall be audited, in accordance with Generally Accepted Auditing Standards (GAAS) by a Certified Public Accountant (CPA) licensed (in good standing) to practice public accounting in the State as determined by the State Department of Consumer Affairs Board of Accountancy, and that the CPA's opinion on Contractor's annual financial statements shall be unqualified, and shall contain the CPA's conclusions regarding the Contractor's accounting policies and procedures, internal controls, and operating policies. The CPA shall perform an evaluation and, if necessary, shall cite recommendations for improvement.
- b) **Related Party Entities.** As part of the annual reporting requirement, Contractor shall provide the Agency with a copy of each Related Party Entity's (whose cost of services are not pre-determined in this Agreement on a unit price basis or by a governmental contractor) audited annual financial statements and management letter for that fiscal year, or within ninety (90) calendar days of each Related Party Entity's fiscal year-end, if timing does not coincide with the annual report date. Financial statements shall be prepared in accordance with GAAP and audited, in accordance with GAAS, by a CPA licensed in the State, and that the CPA's opinion on each Related Party Entity's annual financial statements shall be unqualified, and that the CPA make available to the Agency (or the Agency's designated representative) such CPA's working papers related to the audit.

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Contractor agrees that all financial transactions with all Related Party Entities shall be approved in advance in writing and disclosed in a separate disclosure letter to the Agency, upon request. This letter shall include, but not be limited to, the following information:

- A general description of the nature of each Related Party Entity transaction, or type of transaction (if many similar transactions exist) shall be provided, as applicable. Such description shall include for each (or similar) transaction, amounts, specific Related Party Entity, basis of amount (how amount was determined), description of the allocation methodology used to allocate any common costs, and profit amount. Amounts shall be reconciled to the Related Party Entity disclosures made in Contractor's annual audited financial statements referred to in this Exhibit.
- At the Agency's request, Contractor shall provide the Agency with copies of working papers or other documentation deemed relevant by the Contractor relating to information shown in the annual disclosure letter.

**Operational Information****A. Routes by Customer Type:**

1. Number of routes per day.
2. Types of vehicles.
3. Crew size per route.
4. Number of full time equivalent (FTE) routes.
5. Number of accounts and cubic yards scheduled per route.
6. Total route hours per Customer Type per year.
7. Average cost per route.

**B. Personnel:**

1. Organizational chart.
2. Job classifications and number of employees (e.g., administrative, Customer service representatives, drivers, supervisors, educational staff).
3. Wages by job classification.
4. Number of FTE positions for each job classification.
5. Number of hours per job classification per year.

**C. Productivity Statistics:**

1. Average Number of accounts per route per day by Customer Type.

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2. Average number of setouts per route per day by Customer Type.
3. Average Tons per route per day by vehicle type (i.e., side-loader, front-loader, roll-off).
4. Average cubic yards of Collection scheduled per route.

**D. Vehicles:**

1. List of collection vehicles including year purchased and mileage.
2. Average age of mobile equipment with oldest and newest.

**E. Operational Changes:**

1. Number of routes.
2. Staffing.
3. Supervision.
4. Collection services.

**Variance Analysis.** Provide the following variance analysis for each Customer Type. For any variances greater than five (5) percent annually, Contractor shall provide sufficient rationale to support variance:

1. Variance analysis comparing current Rate Period to each of the prior Rate Periods of Agreement
2. Variance analysis comparing current Rate Period to each of the future projected Rate Periods.

**Allocations.** Provide the following allocation data:

1. Provide a concise general explanation of the various allocation methodologies used for each Rate application line item.
2. Provide specific examples of each type of allocation used showing how an entry is reported in the general ledger and ties to the Rate application
3. Provide a statement indicating whether there have been any changes in allocation methods used since the last Rate application. If any allocation methods have changed clearly identify those changes.

**Projections.** Provide the following projection data:

1. Provide support for the basis for projected Gross Receipts and line item expenses, clearly indicate the supporting calculations and assumptions

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2. Provide support for the most-recent twelve (12) months of Tonnage data for Rate Period ending October. Clearly indicate the supporting calculations and assumptions.

5. Collection and Subscription

- The type(s) of Collection service(s) provided, a list of all Hauler Routes serviced, and a record of the addresses served on each Hauler Route.
- A summary of Customer subscription data, including the number of accounts; the total number of Generators enrolled with Contractor for service, listed separately by Service Level and Container type (Cart, Bin, and Drop Box service), separately by Single-Family, Multi-Family, and Commercial Customers, and separately for each type of Discarded Material; and the number of Bulky Items Collections performed.
- The number of C&D Collection sites served and Tonnage Collected.

9. Public Education and Outreach

- A copy of all education and outreach materials provided to Customers that are Generators, or Generators pursuant to Section Exhibit C, Section 1.9, or otherwise used for education and outreach efforts in accordance with Exhibit C of the Agreement, including, but not limited to: flyers, brochures, newsletters, invoice messaging/billing inserts, and website and social media postings.
- A record of the date and to whom the information was disseminated or direct contact made, in the form of a list that includes: the Generator's address, the type of education or outreach received; the distribution date, and the method of distribution.
- The number of Organic Waste Generators that are Customers and Commercial Edible Food Generators pursuant to Section pursuant to Section Exhibit C, Section 1.9 that received information and the type of education and outreach used.
- For any mass distribution through mailings or bill inserts, the Contractor shall maintain a record of the date, a copy of the information distributed, and the type and number of accounts that received the information.
- A copy of electronic media, including the dates posted of: social media posts, e-mail communications, or other electronic messages.
- The annual public education plan required by Exhibit C of the Agreement for the upcoming then-current calendar year. For example, Contractor submittal of a 2021 annual report in February 2022 shall include Contractor submittal of the annual public education plan for calendar year 2022.

10. Compliance Monitoring and Enforcement

- A summary of the total number of SB 1383 Regulatory non-compliance complaints that were received and reported to the Agency in accordance with Section 4.9.2.



- A copy of written and/or electronic records and documentation for all audits, studies, non-collection event reviews, compliance reviews, and all other inspections conducted pursuant to Section 4.13 of the Agreement.”

### **Exhibit G6 SB 1383 Implementation Plan and Schedule**

23. Exhibit G of the Agreement is hereby amended to add the content of Attachment 1 to this Amendment upon review and approval by the Agency Contract Manager.

Contractor must provide the SB 1383 Implementation Plan and Schedule by January 31, 2022.

## **III. AMENDMENTS TO AGREEMENT RELATED TO COSTS OF SB 1383 PROGRAMS**

### **Article 7. Franchise Fees and Other Fees**

#### **7.3 AB 939/SB 1383 Fee**

24. Article 7, Section 7.3 of the Agreement is hereby amended to read as follows:

“The Contractor shall pay an AB 939/ SB1383 Fee to Agency each quarter. The amount of the AB 939/SB 1383 Fee shall be Zero Dollars (\$0) in Rate Period One and shall be paid in equal quarterly installments. The amount of the AB 939/SB 1383 Fee shall be Zero Dollars (\$0) in Rate Period Seven and shall be paid in equal quarterly installments. Agency shall use the AB 939/SB 1383 Fee to offset expenses for Agency and/or the MRWMD programs, pilot studies, education and outreach campaigns, reporting, compliance, or other activities involved in compliance with AB 939 and/or SB 1383. The Agency shall retain the sole right to set priorities for the use of its AB 939/SB 1383 Fee. This fee shall be a pass-through cost.”

#### **7.7 Adjustment to Fees**

25. Article 7, Section 7.7 of the Agreement is hereby amended to read as follows:

“Agency may set other fees or adjust the fees established in this Article from time-to-time during the Term of this Agreement and such adjustments shall be included in the adjustment of Rates as described in Exhibit E.

The amounts of the Administrative Fee, AB 939/SB 1383 Fee, Vehicle Impact Fee, and Litter Abatement Fee for subsequent Rate Periods shall be adjusted annually in accordance with the adjustment method described in Exhibit E, or shall be the amount specified by the Agency.”

### **Exhibit E Rate Setting Methodology**

26. Exhibit E1 of the Agreement is hereby amended to read as follows:

#### **“1. GENERAL**

The purpose of this Exhibit E1 is to describe and illustrate the method by which the Agency will calculate the annual adjustment to Rates to reflect changes in various cost indices and changes to Disposal and Processing costs based on Tonnages of materials Collected and changes in Tipping Fees.

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The index-based adjustment involves application of indices to various costs that comprise the Total Proposed Annual Costs for Rate Period One (and to Total Calculated Costs for future Rate Periods) to determine the Total Calculated Costs for the coming Rate Period. In addition, Processing and Disposal costs shall be adjusted to reflect actual Tonnage Collected during the most-recently completed Rate Period.

The amount equal to the Total Calculated Costs for the coming Rate Period divided by the Total Calculated Costs for the then-current Rate Period is the Rate Adjustment Factor. The Rate Adjustment Factor is applied to the current Rates to determine the Rates for the coming Rate Period.

The calculation to determine the Rate Adjustment Factor pursuant to this Exhibit E1 is subject to review for accuracy only. Approval of the Rate Adjustment Factor and its application to determine the new Rates is not subject to discretionary approval by the Agency Contract Manager or the Board of Directors. In the event that a calculation is in dispute on the basis of mathematical accuracy or compliance with the terms of this Agreement, Contractor shall not implement new Rates until such dispute is resolved.

In the event that the Annual Percentage Change in the index-based adjustment as calculated by this Exhibit E1 results in a negative Rate Adjustment Factor, the Agency reserves the right to "roll-under" the Rate reduction, such that there is no Rate adjustment in the Rate Period for which the negative Annual Percentage Change Rate Adjustment Factor would have been applied and defer the dollar value of a negative Rate Adjustment Factor to a subsequent Rate Period(s), using an "Other Adjustment", as a credit against future Rate increase(s).

## 2. ADJUSTMENT OF TOTAL CALCULATED COSTS

The cost categories of the main components of Total Calculated Costs are presented in detail in Exhibit G2. Adjustments to these components to calculate costs for the coming Rate Period shall be calculated as follows:

### A. Total Annual Cost of Operations

1. Labor-Related Costs. The Labor-Related Costs component of Total Calculated Costs for the then-current Rate Period is multiplied by one plus the Annual Percentage Change in the ECI.

For example, in Rate Period Five when calculating the Labor-Related Costs for Rate Period Six, the Labor-Related Costs of Rate Period Five shall be multiplied by one plus the Annual Percentage change in the ECI.

2. Vehicle-Related Costs (excluding Fuel). The Vehicle-Related Costs component of Total Calculated Costs for the then-current Rate Period is multiplied by one plus the Annual Percentage Change in the CPI.
3. CNG Fuel Costs. The CNG Fuel Cost component of Total Calculated Costs for the then-current Rate Period is multiplied by one plus the Annual Percentage Change in the CNG Fuel Index.

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4. **Other Costs.** The Other Costs component of the Total Calculated Costs for the then-current Rate Period is multiplied by one plus the Annual Percentage Change in the CPI.
5. **Direct Depreciation.** Direct Depreciation is One Hundred Forty One Thousand Five Hundred and Fifty-Six dollars (\$141,556) per year through Rate Period Fifteen and is not annually adjusted. If the Agreement is extended beyond Rate Period Fifteen, direct depreciation shall be zero in any subsequent Rate Periods unless Parties mutually agree to a different amount. Direct Depreciation is a fixed cost and is not subject to inflation.
6. **Allocated Costs (Labor, Vehicle, Fuel, and Other Costs).** The Allocated Costs (Labor, Vehicle, Fuel, and Other Costs) component for the then-current Rate Period is multiplied by one plus the Annual Percentage Change in the CPI.
7. **Allocated Depreciation and Start-Up Costs.** The Allocated Depreciation and Start-Up Costs shall be Twenty Nine Thousand Eight Hundred and Eighty-Two dollars (\$29,822) per year through Rate Period Fifteen, and are not adjusted annually. If the Agreement is extended beyond Rate Period Fifteen, direct depreciation shall be zero in any subsequent Rate Periods unless Parties mutually agree to a different amount. Allocated Depreciation and Start-Up Costs are fixed costs and are not subject to inflation.
8. **Total Annual Cost of Operations.** The Total Annual Cost of Operations for the coming Rate Period equals the sum of the costs calculated in subsections (1) through (7) above.

**B. Profit**

Profit for the coming Rate Period shall be calculated by dividing the Total Annual Cost of Operations for the coming Rate Period (the value calculated in 2.A.8 above) by an operating ratio and subtracting from the result the Total Annual Cost of Operations for the coming year. The operating ratio shall equal Eighty-Nine and Three Tenths percent (89.3%) for Rate Periods Two through Fifteen and in any extension period.

$$\text{Profit} = \frac{\text{Total Annual Cost of Operations for Coming Rate Period}}{\text{Operating Ratio}} - \text{Total Annual Cost of Operations for Coming Rate Period}$$

**C. Pass-Through Costs (Costs which are Excluded from the Calculation of Profit)**

1. **General.** Processing Costs for Recyclable Materials, Food Scraps, Yard Trimmings, Residue, Reusable, and C&D, and Disposal Costs shall each be calculated independently by multiplying the per-Ton Tipping Fee of each material type at the Approved Facilities for the coming Rate Period by the total Tons of material Collected for the most-recently completed 12-month period. It is possible that the Processing/Disposal Tipping Fees may adjust at different times than the Rates under this Agreement. In the event that such timing differences occur, Contractor shall include in its Rate application an adjustment to the Processing/Disposal

## Amendment #3 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services

costs for the incremental change in Tipping Fees multiplied by the actual Tonnage Processed/Disposed for that same period.

2. Disposal Costs. The Disposal Costs shall be calculated by multiplying the per-Ton Disposal fee at the Approved Disposal Facility for the coming Rate Period by the total Tons of Solid Waste Collected for the most-recently completed calendar year.
3. Recyclable Materials Processing Costs. The Recyclable Materials Processing Costs shall be calculated by multiplying the Recyclable material per-Ton Tip Fee at the Approved Recyclable Materials Processing Facility for the coming Rate Period by the total Tons of Recyclable Materials Collected for the most-recently completed calendar year.
4. Food Scraps Processing Costs. The Food Scraps Processing Cost shall be calculated by multiplying the per-Ton Food Scraps Processing fee at the Approved Organic Materials processing Facility for the coming Rate Period by the total Tons of Food Scraps Collected for the most-recently completed calendar year.
5. Yard Trimmings Processing Costs. The Yard Trimmings Processing Costs shall be calculated by multiplying the per-Ton Yard Trimmings Processing fee at the Approved Organic Materials Processing Facility for the coming Rate Period by the total Ton of Yard Trimmings Collected for the most-recently completed calendar year.
6. Residue Processing Costs. The Residue Processing Costs shall be calculated by multiplying the per-Ton residue Processing fee at the Approved Disposal Facility for the coming Rate Period by the total Tons of Residue processed for the most-recently completed calendar year as reported by the Facility. Should the MRWMD perform an audit more than once per year or change the annual Residue audit at any time that does not coincide with a Rate Period, any interim rate applied as residue processing costs will be multiplied by the tons charged at this rate and added to the Residue Processing Costs for the coming Rate Period.
7. Reusable Materials Costs. The Reusable Materials Costs (for charges by the operator of Approved Reusable Materials Processing Facility for acceptance of Bulky Items and Reusable Materials) shall be calculated as the Reusable Materials processing fee for the coming Rate Period multiplied by the tons/units of reusable materials processed for the most-recently completed calendar year as reported by the Facility.
8. C&D Materials Processing Costs. The C&D Materials Processing Costs shall be calculated by multiplying the per-Ton Tip Fee at the Approved C&D Processing Facility for the coming Rate Period by the total Tons of C&D Materials Collected for the most-recently completed calendar year.
9. Curbside Supplemental Payment. The Curbside Supplemental Payment shall be reported as a revenue based on the prior year's receipts granted by the State.

Amendment #3 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services

10. Interest Expense. The Interest Expense amount is Forty Three Thousand and Thirteen dollars (\$43,013) per year. Interest Expense is a fixed cost and is not subject to inflation.
11. Direct Lease Costs. The Direct Lease Costs amount is zero dollars (\$0) per year and shall not be adjusted over the Term of the Agreement.
12. Allocated Lease Costs. The Allocated Lease Costs amount is Thirty Six Thousand Seven Hundred and Six dollars (\$36,706) for Rate Period Two through Fifteen is not annually adjusted, and shall remain unadjusted in any subsequent Rate Period unless Parties mutually agree to a different amount.
13. Total Pass-Through Costs. Total Pass-Through Costs for the coming Rate Period are the sum of the amounts in subsections (2) through (12) above.

D. Total Calculated Costs before Agency Fees

The Total Calculated Costs before Agency Fees shall be the sum of the Total Annual Cost of Operations, Profit, and Total Pass-Through Costs for the coming Rate Period.

E. Agency Fees (Pass-Through Fees)

1. Franchise Fee. Franchise Fees for the coming Rate Period, which shall equal nine percent (9%) of the Total Calculated Costs, shall be calculated as follows: ((Total Calculated Costs Before Fees + the sum of other Agency Fees) divided by (minus (Total Calculated Costs Before Fees + the sum of other Agency Fees) with Agency Fees/Payments specified in Sections 2.E.2 through 2.E.7) and other adjustments, if any, pursuant to Section F).
2. Administrative Fee. The Administrative Fee shall be in an amount prescribed by the Agency. If no revised Administrative Fee is provided by the Agency, the Administrative Fee paid to the Agency during the prior Rate Period shall remain in effect.
3. AB 939 Fee. The AB 939 Fee for the coming Rate Period shall be in an amount prescribed by the Agency. If no revised AB 939 Fee is provided by the Agency, the AB 939 Fee paid to the Agency during the prior Rate Period shall remain in effect.
4. HHW Fee. The HHW Fee for the coming Rate Period shall be in an amount prescribed by the Agency. If no revised HHW Fee is provided by the Agency, the HHW Fee paid to the Agency during the prior Rate Period shall remain in effect.
5. Vehicle Impact Fee. The Vehicle Impact Fee for the coming Rate Period shall be in an amount prescribed by the Agency. If no revised Vehicle Impact Fee is provided by the Agency, the Vehicle Impact Fee paid to the Agency during the prior Rate Period shall remain in effect.
6. Litter Abatement Fee. The Litter Abatement Fee for the coming Rate Period shall be in an amount prescribed by the Agency. If no revised Litter Abatement Fee is

Amendment #3 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services

provided by the Agency, the Litter Abatement Fee paid to the Agency during the prior Rate Period shall remain in effect.

7. **Rate Application Review Costs.** An amount determined by the Agency to reimburse the Contractor for payment of the Agency's costs, including consulting and legal fees associated with determination of Rates under this Exhibit. Such Rate application review costs may or may not be one-time costs and shall be included in subsequent Rate Periods if it is not a one-time cost.
8. **Total Agency Fees/Payments.** The Total Agency Fees/Payments for the coming Rate Period shall equal costs calculated in Section 2.E.1 through 2.E.7 above; provided, however, that any adjustment in any such fee, whether pursuant to the relevant index or as the result of the decision of Agency, shall be pass-through fees (which are excluded from the calculation of profit) and reflected in the Total Agency Fees/Payments.

F. **Other Adjustments**

From time to time during the Term of the Agreement, it may be necessary to make other adjustments to the compensation calculations. These adjustments to the compensation calculations are intended to allow for one-time adjustments for items including, but not necessarily limited to: costs of professional services for Rate reviews, performance reviews, and/or audits; "roll-unders" of Rates from one Rate Period to the next; and, one time programs or services that are mutually agreed upon by the Parties.

As part of this Amendment, Contractor and Agency have agreed to include depreciation and interest costs associated with new SB1383 routes as described in Exhibit 2 of this Amendment and exclude labor associated costs required to operate new routes. To the extent Contractor demonstrates additional labor costs and other operational costs associated with building routes for new collection services provided by Contractor for SB1383 compliance, Contractor may recover such eligible costs, up to \$14,871 in Rate Year 7 and annualized and adjusted annually thereafter, as one-time adjustments until full routes are established and additional route positions and other operational expenses associated with these new routes are incorporated into Contractors' compensation on an ongoing basis.

G. **Total Calculated Costs**

The Total Calculated Costs for the coming Rate Period shall equal the sum of the Total Annual Cost of Operations, Profit, Total Pass-Through Costs, Total Agency Fees, and Other Adjustments (if applicable), for the coming Rate Period.

3. **RATE ADJUSTMENT FACTOR**

The Rate Adjustment Factor shall equal the Total Calculated Costs for the coming Rate Period divided by the Total Calculated Costs for the then-current Rate Period, which shall be rounded to the nearest thousandth.

4. **ADJUSTMENT OF RATES**

Amendment #3 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services

Each then-current Rate shall be multiplied by the Rate Adjustment Factor to calculate the effective Rate for the coming Rate Period. The adjustment to each Rate shall be rounded to the nearest cent.

5. EXAMPLES

The following example illustrates the index-based adjustment method for determining Rates for Rate Period Seven. The dollar amounts shown are hypothetical amounts for Total Calculated Costs for Rate Period Six (July 1, 2020 through June 30, 2021) and the adjustment factors are based on assumed changes in the various indices between the average index values for the twelve (12) months ending December 2019 and for the twelve (12) months ending December 2020.

A. Assumptions for Example Adjustment to Contractor's Compensation:

Most-Recently Completed Rate Period = Rate Period Five (July 1, 2019 through June 30, 2020)

Then-current Rate Period = Rate Period Six (July 1, 2020 through June 30, 2021)

Coming Rate Period = Rate Period Seven (July 1, 2021 through June 30, 2022)

Disposal cost for the coming Rate Period = \$65.00 per Ton

Recyclable Materials Processing costs for the coming Rate Period = \$40.00 per Ton

Yard Trimmings Materials Processing Cost for the coming Rate Period = \$42.00 per Ton

Food Scraps Processing cost for the coming Rate Period = \$57.00 per Ton

C&D Processing Cost for the coming Rate Period = \$57.63 per Ton

Annual Percentage Change in the CPI-U = 0.017

Annual Percentage Change in the ECI = 0.027

Annual Percentage Change in the District Rate for CNG = 0.00

Tonnages for the most-recently completed Rate Period:

Solid Waste – 2,177.50 Tons

Yard Trimmings Materials – 2,974.00 Tons

Food Scraps – 109.10 Tons

Recyclable Materials – 1,165.60 Tons

C&D – 6.80 Tons

Residue – 158.52 Tons

## Amendment #3 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services

Note: All values presented in this table are hypothetical and used for illustrative purposes only.

**TABLE 1**  
**Calculation of Total Calculated Costs for Rate Period Seven**

	Rate Period Six	Adjustment Factor	Rate Period Seven
<b>Annual Cost of Operations</b>			
Labor-Related Costs	\$ 360,988	1.027	\$ 370,569
Vehicle-Related Costs	\$ 112,801	1.017	\$ 114,738
Fuel Costs	\$ 67,278	1.00	\$ 67,278
Other Costs	\$ 195,049	1.017	\$ 198,398
Direct Depreciation	\$ 126,220	N.A.	\$ 126,220
Total Allocated Costs - Labor, Vehicle, Fuel & Other	\$ 391,968	1.017	\$ 398,698
Total Allocated Costs - Depreciation & Start-Up	\$ 29,822	N.A.	\$ 29,822
<b>Total Annual Cost of Operations</b>	\$ 1,284,126	N.A.	\$ 1,305,723
<b>Profit</b>	\$ 153,865	OR=89.3	\$ 156,453
<b>Pass-Through Costs</b>			
Disposal Costs	\$ 144,974	\$65.00 * 2,177.50	\$ 141,538
Curbside Supplemental	\$ (3,206)	1.00	\$ (3,206)
Recycling Processing Costs	\$ 46,386	\$40.00 * 1,165.60	\$ 46,624
Residue Processing Costs	\$ 8,788	\$65.00 * 158.52	\$ 10,304
Yard Trimmings Processing Costs	\$ 138,731	\$42.00 * 2,974.00	\$ 124,908
Food Scraps Processing Costs	\$ 13,250	\$57.00 * 109.10	\$ 6,219
C&D Processing Costs	\$ 652	\$57.63 * 6.80	\$ 392
Interest Expense	\$ 40,706	N.A.	\$ 40,706
Direct Lease Costs	\$ -	N.A.	\$ -
Total Allocated Costs - Lease	\$ 36,706	N.A.	\$ 36,706
<b>Total Pass-Through Costs</b>	\$ 426,987	N.A.	\$ 404,190
<b>Total Costs before Agency Fees</b>	\$ 1,864,979	N.A.	\$ 1,866,365
<b>Agency Fees/Payments</b>			
Franchise Fee	\$ 119,041	9.00%	\$ 184,586
<b>Other Adjustments (as needed from time to time)</b>			
Residue Processing Costs (Back Pay for 2019-2020)		N.A.	\$ -
Adjustment from MRWMD Tip Fee Estimates			\$ (151)
<b>Total Calculated Costs</b>	\$ 1,984,020		\$ 2,050,800

A. Example Calculation of the Rate Adjustment Factor and Adjusted Rate for Rate Period Seven

As Seen in Table 1 - Rate Adjustment Factor =  $\$2,050,800 / \$1,984,020 = 1.034$

32-gallon Single-Family Rate for Rate Period Seven =  $\$27.55 \times 1.034 = \$28.48$ , which shall be effective July 1, 2021.

6. OTHER

If an index described in Exhibit E, Definitions Section is discontinued, the successor index with which it is replaced shall be used for subsequent calculations. If no successor index is



identified by the Bureau of Labor Statistics, the index published by the organization which is most comparable shall be used.”

26. Exhibit E2 of the Agreement is hereby amended to read as follows:

“1. GENERAL

The cost-based adjustment involves review of the Contractor’s actual cost of operations and operational statistics (staffing levels, routes, route hours, Customers and their service levels, etc.) to determine the actual Total Contractor’s Compensation for the most-recently completed Rate Period and to forecast the Total Contractor’s Compensation for the coming Rate Period. The difference (measured as a percentage) between the Total Contractor’s Compensation for the coming Rate Period and the Gross Receipts most-recently reported calendar year is the “Rate Adjustment Factor”. The Rate Adjustment Factor is applied to the then-current Rates to determine the Rates for the coming Rate Period.

The intent of performing the cost-based adjustment is to examine the actual impact of changes in inflation, the number of Customers, and the Service Level of Customers.

In the event that the cost-based adjustment calculated in accordance with this Exhibit E2 results in a negative Rate Adjustment Factor, the Agency reserves the right to “roll-under” the Rate reduction, such that there is no Rate adjustment in the Rate Period for which the negative Rate Adjustment Factor was calculated, but the calculated Rate reduction may be deferred to the following Rate Period, as a credit against future Rate increases.

2. FORECASTING TOTAL CONTRACTOR’S COMPENSATION

A. Forecasting Total Annual Cost of Operations

1. Determine Actual Allowable Total Annual Cost of Operations. Contractor's financial statement, books, and records shall be reviewed to determine Contractor's “Actual Allowable Total Annual Cost of Operations” for the most-recently completed Rate Period to perform all the services in the manner required by this Agreement for each of the following cost categories:

- a. Actual labor-related costs
- b. Actual vehicle-related costs (excluding fuel and depreciation)
- c. Actual fuel costs
- d. Actual other costs (as defined on Form 6D of Exhibit G2)
- e. Direct depreciation costs (in the amount specified in Exhibit E1)
- f. Actual allocated costs (labor, vehicle, general and administrative, and other costs)
- g. Actual allocated costs (depreciation and start-up) (in the amount stated in Exhibit E1)

2. Non-Allowable Costs. The following list of non-allowable costs shall be deducted from the Contractor’s actual costs when determining the Actual Allowable Total Annual Cost of Operations.

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Amendment #3 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services

- a. Labor, equipment, fuel, and start-up costs for personnel and vehicles that are not specified in the Contractor's Proposal forms contained in Exhibit G2.
- b. Payments to directors and/or owners of Contractor unless the amount paid is reasonable compensation for services actually rendered. Reasonableness shall be determined based on available market pricing for similar services and shall be in the sole discretion of the Agency.
- c. Travel expenses and entertainment (above five thousand dollars (\$5,000) annually in total) expenses, unless authorized in advance by the Agency.
- d. Payments to repair damage to public or private property for which Contractor is legally liable.
- e. Fines or penalties of any nature.
- f. Liquidated Damages assessed under this Agreement.
- g. Federal or State income taxes.
- h. Charitable or political donations unless such donation is to a youth, civic, or charitable organization and has been previously approved in writing as an allowable expense by the Agency Contract Manager.
- i. Depreciation or interest expense for Collection vehicles, Containers, other equipment, offices and other facilities if such items are leased as specified in Exhibit G.
- j. Attorney's fees and other expenses incurred by Contractor in any court proceeding in which the Agency and Contractor are adverse Parties.
- k. Attorney's fees and other expenses incurred by Contractor arising from any act or omission in violation of this Agreement.
- l. Attorneys' fees and other expenses incurred by Contractor in any court proceeding in which Contractor's own negligence, violation of law or regulation, or wrong doing are in issue and occasion, in whole or in part, the attorneys' fees and expenses claimed; and attorneys' fees and expenses incurred by Contractor in a court proceeding in which the legal theory or statute providing a basis of liability against Contractor also provides for separate potential liability for the Agency derived from the action of its citizens or Rate payers (such as in a CERCLA lawsuit) unless the Contractor is found not liable in such claims and such claims arise from acts or occurrences within the Term of the Agreement.
- m. Payments to Related-Party Entities for products or services, in excess of the cost to the Related-Party Entities for those products or services.

- n. Goodwill.
  - o. Unreasonable profit sharing distributions.
  - p. Replacement costs for Containers that need to be replaced because the useful life of such Container was less than the Term.
  - q. Administrative costs greater than the general and administrative costs presented in Contractor's Proposal (Exhibit G2) adjusted annually by one plus the Annual Percentage Change in the CPI.
  - r. Bad debt write-offs in excess of two percent (2%) of annual Gross Receipts.
3. Forecast Total Annual Costs of Operations. Forecasted Total Annual Cost of Operations for the coming Rate Period shall be calculated based on Actual Allowed Total Cost of Operations for the most-recently completed Rate Period determined in accordance with Sections 2.A.1 and 2.A.2 above. The forecasts shall be performed in the following manner:
- a. Forecasted labor-related costs shall be calculated for the coming Rate Period by (i) multiplying the allowed labor-related costs, both direct and allocated, for the most-recently completed Rate Period by one plus the Annual Percentage Change in the ECI, and (ii) multiplying the result of step one once more by one plus the Annual Percentage Change in the ECI.
  - b. Forecasted vehicle-related costs (excluding fuel and depreciation costs) shall be calculated for the coming Rate Period by (i) multiplying the allowed vehicle-related costs, both direct and allocated, for the most-recently completed Rate Period by one plus the Annual Percentage Change in the CPI, and (ii) multiplying the result of step one once more by one plus the Annual Percentage Change in the CPI.
  - c. Forecasted fuel costs shall be calculated for the coming Rate Period by (i) multiplying the allowed fuel costs, both direct and allocated, for the most-recently completed Rate Period by one plus the Annual Percentage Change in the District Rate for CNG, and (ii) multiplying the result of step one once more by one plus the Annual Percentage Change in the District Rate for CNG.
  - d. Forecasted other costs shall be calculated for the coming Rate Period by (i) multiplying the allowed other-related costs for the most-recently completed Rate Period by one plus the Annual Percentage Change in CPI, and (ii) multiplying the result of step one once more by one plus the Annual Percentage Change in the CPI.
  - e. Forecasted direct depreciation expense shall be the amount specified in Exhibit G2 for vehicles, Containers, and facilities. Direct depreciation expense is a fixed cost and is not subject to inflation.

## Amendment #3 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services

- f. Forecasted allocated costs (labor, vehicle, fuel, and other) shall be calculated for the coming Rate Period by (i) multiplying the allowed allocated costs (labor, vehicle, fuel, and other) for the most-recently completed Rate Period by one plus the Annual Percentage Change in CPI, and (ii) multiplying the result of step one once more by one plus the Annual Percentage Change in the CPI.
- g. Forecasted allocated depreciation and start-up expense shall be the amount specified in Exhibit G2 for vehicles, Containers, and facilities.
- h. Forecasted Total Annual Cost of Operations for the coming Rate Period shall equal the sum of the following costs, which shall have been calculated in accordance with the procedures in this Exhibit E2:
  - (1) Forecasted labor-related costs
  - (2) Forecasted vehicle-related costs (excluding fuel costs)
  - (3) Forecasted fuel costs
  - (4) Forecasted other costs
  - (5) Forecasted direct depreciation expense
  - (6) Forecasted allocated costs (labor, vehicle, fuel, and other)
  - (7) Forecasted allocated costs (depreciation and start-up)

## B. Forecast Profit

Contractor shall be entitled to Profit on Forecasted Total Annual Cost of Operations. Profit shall be calculated using an operating ratio of eighty-nine and three tenths percent (83.87%) as proposed by Contractor and described in Exhibit G2. Profit shall be calculated using the following formula:

$$\text{Profit} = (\text{Forecasted Total Annual Cost of Operations} / \text{Operating Ratio}) - \text{Forecasted Total Annual Cost of Operations}$$

For example:

1. Assuming an operating ratio of 92%
2. Assuming a Forecasted Total Annual Cost of Operations of \$1,000,000
3. Profit = (\$1,000,000 / 0.92) - \$1,000,000 = \$86,956.52

## C. Forecast Pass-Through Costs (Costs which are excluded from the calculation of Profit)

Pass-Through Costs for the coming Rate Period shall be forecasted in the manner described in Section 2.E of Exhibit E1.

## D. Forecast Agency Fees

Agency fees shall be calculated in the manner described in Section 2.E of Exhibit E1.

## E. Other Adjustments

Amendment #3 to Franchise Agreement for Solid Waste, Recycling, and Organic Collection Services

Other adjustments may be included in the manner described in Section 2.F of Exhibit E1.

3. PROJECTED GROSS RECEIPTS

Projected Gross Receipts at then-current Rates shall reflect projected annual Gross Receipts from all Customers based on then-current Rates and then-current Customer Service Levels.

4. RATE ADJUSTMENT FACTOR

The Rate Adjustment Factor shall equal the Forecasted Total Calculated Costs for the coming Rate Period divided by the Projected Gross Receipts calculated in accordance with Sections 2 and 3 of this Exhibit E2. The Rate Adjustment Factor shall be rounded to the nearest thousandth.

5. ADJUSTMENT OF RATES


Each then-current Rate shall be multiplied by the Rate Adjustment Factor to calculate the effective Rate for the coming Rate Period."

**Exhibit G2 Cost Basis for Proposal**

26. Exhibit G2 of the Agreement is hereby amended to add the content of Attachment 2 to this Amendment.

Pebble Beach Community Services District

GREENWASTE RECOVERY, INC.

BY:   
ITS: General Manager

BY:   
ITS: Co-CEO

APPROVED AS TO FORM  
BY:   
District Counsel

**ATTACHMENT 1:  
CONTRACTOR'S IMPLEMENTATION PLAN**

**(to be provided by GreenWaste Recovery, Inc. on or before  
January 31, 2022)**

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**ATTACHMENT 2:  
CLARIFICATION OF CONTRACTOR'S COMPENSATION  
- ALLOWABLE SB 1383 COSTS**

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**Greenwaste Recovery, Inc.**  
**SB 1383 Cost Analysis**

Subscription percentage	Total	Sand City 2.03%	Del Rey Oaks 2.44%	Marina 18.39%	Seaside 28.86%	Pebble Beach 10.12%	Carmel 15.16%	Pacific Grove 23.00%
Driver labor	\$ 169,086.79	\$ 3,432.24	\$ 4,119.21	\$ 31,087.07	\$ 48,806.02	\$ 17,117.86	\$ 25,637.68	\$ 38,886.71
Customer Service/Outreach Allocation	405,080.71	8,223	9,868	74,475	116,924	41,009	61,420	93,161
	574,167.50	11,654.84	13,987.60	105,562.28	165,730.44	58,127.06	87,057.79	132,047.49
Fuel	70,884.35	1,438.86	1,726.85	13,032.28	20,460.40	7,176.13	10,747.79	16,302.04
Vehicle Maintenance Allocation	7,500.00	152.24	182.71	1,378.90	2,164.84	759.28	1,137.18	1,724.86
Vehicle Insurance	9,600.00	194.87	233.87	1,764.99	2,770.99	971.88	1,455.59	2,207.82
Vehicle registration	1,800.00	36.54	43.85	330.93	519.56	182.23	272.92	413.97
Depreciation	151,483.67	3,074.92	3,690.37	27,850.69	43,724.97	15,335.77	22,968.62	34,838.33
Other expenses one-time	19,890.75	403.76	484.67	3,856.97	5,741.36	2,013.88	3,015.92	4,574.49
Other expenses annual	62,588.41	1,270.46	1,524.75	11,507.05	18,065.82	6,336.27	9,489.93	14,394.13
General & Administrative - 7.75%								
	323,747.18	6,571.64	7,886.98	59,521.81	93,447.93	32,775.23	49,087.96	74,455.63
Total cost per year	897,914.69	18,226.48	21,874.58	165,084.09	259,178.37	90,902.29	136,145.75	206,503.12
Carmel specific (see tab)								
Total Costs	897,914.69	18,226.48	21,874.58	165,084.09	259,178.37	90,902.29	136,145.75	206,503.12
Operating Ratio		89.30%	89.30%	89.30%	89.30%	89.30%	85.76%	89.30%
Franchise/Other Fees - Percentage		10.00%	20.00%	15.00%	15.00%	9.00%	13.00%	19.95%
General & Administrative - 7.75%								
Franchise/Other Fees	205,109.64	2,319.22	6,262.70	33,362.58	52,378.51	10,295.75	24,237.91	58,937.30
Profit	113,882.08	2,183.91	2,821.03	19,780.51	31,054.97	10,891.99	22,606.29	24,743.37
Interest (@ subscription percentage)	22,789.96	462.61	555.20	4,190.00	6,578.20	2,307.19	3,455.51	5,241.25
TOTAL	\$ 1,239,696.36	\$ 23,192.22	\$ 31,313.51	\$ 222,417.18	\$ 349,190.05	\$ 114,397.22	\$ 186,445.47	\$ 295,425.04
RP7 Final Compensation	20,348,906	\$ 506,856	\$ 492,912	\$ 3,861,304	\$ 5,786,438	\$ 2,050,800	\$ 3,030,857	\$ 4,619,739
"Buffer" Included in RP7	258,624	\$ 10,000	\$ 5,000	\$ -	\$ 48,500	\$ 61,524	\$ 72,600	\$ 61,000
Total Proposed Cost Minus RP7 "Buffer"	\$ 981,072	\$ 13,192	\$ 26,314	\$ 222,417	\$ 300,690	\$ 52,873	\$ 113,845	\$ 234,425
Annual Increase Requested	4.82%	2.60%	5.34%	5.76%	5.20%	2.58%	3.76%	5.07%

One-Time Increase that will wholly account for SB1383 that will be CPI'd	Sand City 2.60%	Del Rey Oaks 5.34%	Marina 5.76%	Seaside 5.20%	Pebble Beach 2.58%	Carmel 3.78%	Pacific Grove 5.07%
RP7 Final Compensation	\$ 506,856	\$ 492,912	\$ 3,861,304	\$ 5,786,438	\$ 2,050,800	\$ 3,030,857	\$ 4,619,739
SB1383 Costs	\$ 23,192	\$ 31,314	\$ 222,417	\$ 349,190	\$ 114,397	\$ 186,445	\$ 295,425
New Revenue Requirement - Annual	\$ 530,048	\$ 524,226	\$ 4,083,721	\$ 6,135,628	\$ 2,165,197	\$ 3,217,302	\$ 4,915,164
Less Buffer (Accrued over 12-months, use over 6-months)	\$ 10,000	\$ 5,000	\$ -	\$ 48,500	\$ 61,524	\$ 72,600	\$ 61,000
January 1 Rate Increase Needs to Generate	\$ 13,192	\$ 26,314	\$ 222,417	\$ 300,690	\$ 52,873	\$ 113,845	\$ 234,425
Rate Increase Will Generate this Amount over 6-months:	6,596	13,157	111,209	150,345	26,437	56,923	117,213
This is the 12-month buffer to be used over 6-months:	10,000	5,000	-	48,500	61,524	72,600	61,000
Total Revenue for GWR (50% Rate Increase for 6-months + Buffer)	16,596	18,157	111,209	198,845	87,961	129,523	178,213
We require this to be generated over 6-months	11,596	15,657	111,209	174,595	57,199	93,223	147,713
Surplus/(Under Revenue)	5,000	2,500	-	24,250	30,762	36,300	30,500
JULY 1 RATE ADJUSTMENT							
Buffer Included in RP7 Rates (12-months)	10,000	5,000	-	48,500	61,524	72,600	61,000
Generated over 6-months with Jan 1 Increase	6,596	13,157	111,209	150,345	26,437	56,923	117,213
2nd Half of SB1383 Needed Already in Rate Base	6,596	13,157	111,209	150,345	26,437	56,923	117,213
Included in July 1 Rate Basis	23,192	31,314	222,417	349,190	114,397	186,445	295,425
Required Rate Basis for July 1 Rate Adjustment	23,192	31,314	222,417	349,190	114,397	186,445	295,425
JULY 1 SURPLUS (SHORTFALL)	-	-	-	-	-	-	-