

AMENDED AND RESTATED
AGREEMENT BETWEEN THE CITY OF SAN JOSE AND GARDEN CITY
SANITATION, INC. FOR RECYCLE PLUS SFD SOLID WASTE COLLECTION
SERVICES

THIS AGREEMENT is entered into on this 22 day of June, 2020 (the "Effective Date"), by and between the City of San José, a municipal corporation of the State of California ("CITY"), and Garden City Sanitation, Inc., a California corporation ("CONTRACTOR").

WHEREAS, on November 21, 2006, after a competitive procurement process, CITY and CONTRACTOR entered into that certain AGREEMENT BETWEEN THE CITY OF SAN JOSE AND GARDEN CITY SANITATION, INC. FOR RECYCLE PLUS SFD SOLID WASTE SERVICES to provide integrated waste management services for the Recycle Plus Program, through June 30, 2013, with an option to extend through June 30, 2015 (the "Initial Agreement"); and

WHEREAS, on September 2, 2011, CITY and CONTRACTOR continued their contractual relationship and entered into that certain AGREEMENT BETWEEN THE CITY OF SAN JOSE AND GARDEN CITY SANITATION, INC. FOR RECYCLE PLUS SFD SOLID WASTE SERVICES to provide integrated waste management services for the Recycle Plus Program retroactive from July 1, 2010 through June 30, 2021 (the "September 2, 2011 Agreement"), which replaced the Initial Agreement; and

WHEREAS, on June 18, 2019, the City Council authorized the CITY to negotiate and execute an agreement with CONTRACTOR through June 30, 2036 in accordance with the term sheets accepted by City Council on January 15, 2019; and

WHEREAS, CITY and CONTRACTOR desire to amend and restate the September 2, 2011 Agreement to continue services through June 30, 2036 to supersede any and all prior agreements for services to the Recycle Plus Program; and

WHEREAS, continuing CONTRACTOR's solid waste services through June 30, 2036 would ensure continuity of service for more than 300,000 Recycle Plus customers; will benefit the CITY through the implementation of customer service performance standards and metrics, the upgrading of CONTRACTOR's collection fleet to compressed natural gas, accommodating for regulations imposed by the State of California under Senate Bill 1383; assign outreach functions to the CITY; and implement other program enhancements that can be achieved at a reduced cost to the CITY; and

WHEREAS, a Negative Declaration was prepared under File No. PP10-055 and adopted on June 18, 2010 in accordance with the requirements of the California Environmental Quality Act; and

WHEREAS, this project is also consistent with the Determination of Consistency with Envision San José 2040 General Plan Final Program Environmental Impact Report

(Resolution No. 76041), Envision San José 2040 General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto under File No. PP19-037; and

WHEREAS, this AMENDED AND RESTATED AGREEMENT BETWEEN THE CITY OF SAN JOSE AND GARDEN CITY SANITATION, INC. FOR RECYCLE PLUS SFD SOLID WASTE SERVICES is hereinafter referred to as this “Agreement”;

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS, AGREEMENTS AND CONSIDERATIONS CONTAINED HEREIN, CITY AND CONTRACTOR HEREBY AGREE AS FOLLOWS:

ARTICLE 1. DEFINITIONS

For the purpose of this Agreement, the definitions contained in this Article shall apply unless otherwise specifically stated. If a word or phrase is not defined in this Article, the definition of such word or phrase as contained in Chapter 9.10 of the San José Municipal Code shall control. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Use of the masculine gender shall include the feminine gender.

1.1 **Business.**

All retail, professional, wholesale and industrial facilities and any other commercial enterprises offering goods or services to the public.

1.2 **Business Day.**

Any day Monday through Friday that is not designated as a public or bank holiday. As of the date of this Agreement, holidays include: New Year's Day; Martin Luther King, Jr., Day; President's Day; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans Day; Thanksgiving Day; and Christmas Day.

1.3 **Business Service Unit.**

Any Business located in a Mixed-Use Dwelling that elects to utilize SFD Solid Waste Collection Services and is approved for such service under the CITY's Recycle Plus Program requirements, or any Small Commercial Business.

1.4 **Central Business District.**

The Central Business District as described in San José Municipal Code Section 9.10.1500 and as set forth in Exhibit 5 ("CENTRAL BUSINESS DISTRICT AND TRANSIT MALL ZONE") to this Agreement.

1.5 **City Representative.**

The person, or the person's designee(s), designated by the City Manager to administer and monitor this Agreement.

1.6 **Compostable Waste.**

Vegetable and other food scraps including meat, dairy products, kitchen grease and bones; paper and cardboard that have been contaminated with food, fat or kitchen grease; compostable paper associated with food preparation or food consumption such as paper towels, paper plates, tissue, waxed paper and waxed cardboard; and other materials designated by the City Representative that are capable of being composted, and that are set out separate from Garbage for collection by CITY's Yard Trimmings

collection service contractor. The material must be generated at the Service Unit from which it is collected.

1.7 Courtesy Notice.

A form approved by the City Representative and used by CONTRACTOR to inform Service Recipients that a courtesy collection occurred even though materials may not have been set out by the Service Recipient according to program instructions.

1.8 Customer Information System (CIS).

The computer-based system designated by the City used for service records, billing, reporting, and other operations data for the Recycle Plus Program.

1.9 Disposal Facility.

Greenwaste Recovery, Inc., located at 625 Charles Street, San José, CA 95112 or such place or places designated by the City for transfer or disposal of Residential Solid Waste.

1.10 Director.

The CITY's Director of Environmental Services or designee.

1.11 Dwelling Unit.

Any individual living unit in a single-family dwelling ("SFD"), multi-family dwelling ("MFD"), or Mixed-Use Dwelling ("MUD") intended for or capable of being utilized for, residential living. Dwelling Unit does not include an individual living unit in a hotel or motel, guesthouse, residential care facility, extended care facility, sorority or fraternity house, school, dormitory, residential service facility, emergency residential shelter, hospital, convent, or monastery, as determined by the City Representative.

1.12 Exempt Waste.

Biohazardous or biomedical waste which may cause disease or reasonably be suspected of harboring pathogenic organisms including human and animal parts, contaminated bandages, pathological specimens, hypodermic needles, sharps, contaminated clothing and surgical gloves from the operation of medical clinics, hospitals, and other facilities that process this waste; Hazardous Waste; the accumulated solids, residues, and precipitates generated as a result of waste treatment or processing, including wastewater treatment, water supply treatment, or operation of an air pollution control facility, and mixed liquids and solids pumped from septic tanks, grease traps, privies, or similar disposal appurtenances or any other such waste having similar characteristics or effects (biosolid); stable matter; Yard Trimmings or lumber that is more than five (5) feet in length in its longest dimension or more than two (2) feet in diameter, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, and those wastes under the control of the

Nuclear Regulatory Commission, but not including those materials defined as Large Items or Recyclable Material.

1.13 Fiscal Year.

Each twelve (12) month period beginning July 1 and ending June 30 during the term of this Agreement.

1.14 Garbage.

All putrescible waste which generally includes, but is not limited to, kitchen and table food waste, animal, vegetative, food or any organic waste that is attendant with, or results from the storage, preparation, cooking or handling of food materials attributed to normal activities of a Service Unit. Garbage must be generated at the Service Unit from which the Garbage is collected. Garbage does not include those items defined as Exempt Waste and does not include materials collected as Compostable Waste.

1.15 Garbage Cart.

A heavy plastic receptacle having a hinged tight-fitting lid and wheels, that is approved by the City Representative for use by Service Recipients for SFD Solid Waste Collection Services under this Agreement. The specifications for Garbage Carts, including capacity, are set forth in Exhibit 11 ("CONTAINER SPECIFICATIONS AND PERFORMANCE CRITERIA") to this Agreement.

1.16 Hazardous Waste.

Any material which is defined as a hazardous waste under California or United States law or any regulations promulgated pursuant to such law, as such law or regulations may be amended from time to time, but not including materials collected as E-Waste, used oil or used oil filters that can be recycled.

1.17 Homeowners Association.

A corporation of residential owners joined in an association to govern and manage the shared real estate of a multi-unit property, which has the authority to sign service agreements on behalf of the property owner.

1.18 Mixed-Use Dwelling.

A building or structure which contains both Business(es) and Dwelling Unit(s).

1.19 Non-Collection Notice.

A form, approved by the City Representative and used by CONTRACTOR, to notify Service Recipients of the reason for non-collection of materials set out by the Service Recipient for collection by CONTRACTOR pursuant to this Agreement.

1.20 Property Manager.

The person that manages residential property with multiple units and has the authority to sign a service agreement on behalf of the property owner.

1.21 Rebuilt Vehicle.

A vehicle with replaced parts, and reconditioned or replaced hydraulic systems, transmissions, differentials, electrical systems, engines, and brake systems; or a collection vehicle which has been converted from using diesel to compressed natural gas. The Rebuilt Vehicle must also be repainted as needed to the satisfaction of the City Representative.

1.22 Recyclable Material.

Newsprint (including inserts); mixed paper (including magazines, catalogs, envelopes, junk mail, corrugated cardboard, Kraft brown bags and paper, paperboard, paper egg cartons, office ledger paper, and telephone books); glass containers; aluminum beverage containers; small scrap and cast aluminum (not exceeding sixty (60) pounds in weight nor two (2) feet in any dimension for any single item); steel including "tin" cans and small scrap (not exceeding sixty (60) pounds in weight nor two (2) feet in any dimension for any single item); bimetal containers; mixed plastics such as plastic bags, plastic film, plastics (1-7), bottles including containers made of HDPE, LDPE, PET, or PVC, and mixed rigid plastics; textiles; aseptic containers; and other materials that are capable of being Recycled and that would otherwise be disposed of as Residential Solid Waste as mutually agreed upon in writing by CONTRACTOR and the City Representative.

1.23 Residential Solid Waste.

Garbage and Rubbish resulting from the normal activities at a Service Unit. Residential Solid Waste must be generated at the Service Unit from which the Residential Solid Waste is collected and does not include items defined as Exempt Waste.

1.24 Roll-Off Collection Service.

The collection of Roll-Off Containers containing construction and demolition debris from SFD Service Units, Small Civic Service Units or Businesses, and transport to an appropriate facility.

1.25 Roll-Off Container.

A metal container that is normally loaded onto a motor vehicle.

1.26 Rubbish.

All refuse, accumulation of paper, excelsior, rags, wooden boxes and containers, sweep-ups and all other accumulations of a nature other than Garbage and Yard

Trimming, resulting from the normal activities of a Service Unit. Rubbish must be generated at the Service Unit from which the Rubbish is collected. Rubbish does not include items defined as Exempt Waste.

1.27 Service Districts.

Those areas designated as District A and District C on the map set out in Exhibit 4 (“RECYCLE PLUS SERVICE DISTRICTS”) to this Agreement.

1.28 Service Recipient.

A Business Service Unit, a Small Civic Service Unit, or a resident of the City of San José residing in a SFD Service Unit that receives services pursuant to this Agreement.

1.29 Service Unit.

Any Business Service Unit or SFD Service Unit.

1.30 SFD Service Unit.

Any Dwelling Unit or Small Civic Service Unit in the Service Districts utilizing a Garbage Cart, any Dwelling Units in a Mixed-Use Dwelling, or any combination of Dwelling Units sharing a Garbage Cart, for the accumulation and set-out of Residential Solid Waste.

1.31 SFD Solid Waste Collection Service.

The collection of Residential Solid Waste from SFD Service Units and Small Civic Service Units in the Service Districts and the delivery of that Residential Solid Waste to the Disposal Facility.

1.32 Small Civic Service Unit.

Those neighborhood parks, fire stations, and other CITY properties as set forth in Exhibit 6 (“SMALL CIVIC SERVICE UNITS”) to this Agreement.

1.33 Small Commercial Business.

A Business that generates less than one (1) cubic yard of solid waste per week and is included in the residential collection program.

1.34 Tagged Garbage Bag.

A plastic bag meeting the requirements specified in Chapter 9.10 of the San José Municipal Code, whose contents do not exceed sixty (60) pounds in weight and to which is attached a CITY-provided tag designating the material as eligible for collection.

1.35 Transit Mall Zone.

The Transit Mall Zone described in San José Municipal Code Section 9.10.1510 and as set forth in Exhibit 5 to this Agreement.

1.36 Work Day.

Any day, Monday through Friday that is not designated as a holiday under this Agreement, and any Saturday on which collection occurs because of the holiday schedule adjustment described in this Agreement.

1.37 Yard Trimmings.

Any vegetative matter resulting from normal yard and landscaping maintenance that is not more than five (5) feet in its longest dimension or six (6) inches in diameter or weighs more than sixty (60) pounds and any natural Christmas tree regardless of size and weight. Yard Trimmings includes sod; plant debris including palm, yucca and cactus; grass clippings, leaves, pruning, weeds, branches, brush, Christmas trees, and other forms of horticultural waste and must be generated at the Service Unit from which the Yard Trimmings are collected. Yard Trimmings do not include items defined as Exempt Waste.

ARTICLE 2. TERM OF AGREEMENT

2.1 Term.

Subject to Article 17, the term of this Agreement is from the Effective Date through June 30, 2036.

ARTICLE 3. REPRESENTATIONS AND WARRANTIES OF CONTRACTOR

3.1 Organizational Status.

CONTRACTOR is a corporation duly organized, validly existing and in good standing under the laws of the State of California. It is qualified to transact business in the State of California and has the power to own its properties and to carry on its business as now owned and operated and as required by this Agreement.

3.2 Authorization.

CONTRACTOR has the authority to enter into and perform its obligations under this Agreement. CONTRACTOR's Board of Directors and Officers have taken all actions required by law, CONTRACTOR's articles of incorporation, bylaws, or otherwise, to authorize the execution of this Agreement. The individual(s) signing this Agreement on behalf of CONTRACTOR are authorized to do so.

3.3 No Conflict with Applicable Law or Other Documents.

CONTRACTOR's performance of its obligations under this Agreement does not conflict with, violate, or result in breach of any existing applicable law; or any term or condition of any judgment, order or decree of any court, administrative agency or other governmental authority, or any agreement or instrument to which CONTRACTOR is a party or by which CONTRACTOR or any of its properties or assets are bound.

3.4 No Litigation.

There is no action, suit, proceeding or investigation at law or in equity, before or by any court or governmental entity, pending or threatened against CONTRACTOR or its stockholders, or otherwise affecting CONTRACTOR or its stockholders, wherein an unfavorable decision, ruling, or finding, in any single case or in the aggregate, would materially adversely affect CONTRACTOR's performance hereunder, or which, in any way, would adversely affect the validity or enforceability of this Agreement, or which would have a material adverse effect on the financial condition of CONTRACTOR or its stockholders.

3.5 Expertise.

CONTRACTOR has the expertise and professional and technical capability to perform all of its obligations under this Agreement and is ready, willing and able to so perform.

3.6 Acknowledgement of Legal Representation.

It is acknowledged that each party was, or had the opportunity to be, represented by counsel in the preparation and negotiation of this Agreement and had the opportunity to contribute to the terms and conditions of this Agreement and, accordingly, the rule

that a contract will be interpreted strictly against the party preparing the same does not apply due to the joint contributions of the parties.

3.7 Financial Interest Representation.

CONTRACTOR warrants and represents that no elected official, officer, agent or employee of CITY has a financial interest, directly or indirectly, in this Agreement or in the compensation to be paid under it and, further, that no CITY employee who acts as a "purchasing agent" as defined in the appropriate Section of California Statutes, nor any elected or appointed officer of CITY, nor any spouse or child of such purchasing agent, employee or elected or appointed officer, is a partner, officer, director or proprietor of CONTRACTOR and, further, that no such CITY employee, purchasing agent, CITY elected or appointed officer, or the spouse or child of any of them, alone or in combination, has a material interest in CONTRACTOR. Material interest means direct or indirect ownership of more than five percent (5%) of the total assets or capital stock of CONTRACTOR.

ARTICLE 4. GENERAL SERVICES

4.1 Grant of Exclusive Agreement.

CONTRACTOR is hereby granted an exclusive agreement to provide SFD Solid Waste Collection Services at all Service Units within the Service Districts. No other services, including Roll-Off Collection Services, shall be exclusive to CONTRACTOR.

4.2 Limitations to Exclusive Agreement.

Nothing in this Agreement shall be construed to limit the collection, processing, and disposal of the following material to CONTRACTOR:

- Used Oil Collection
- Material collected from temporary residential clean-outs with Roll-Off or front-load containers
- Recyclable Material transported by the generator (self-hauled waste)
- Large Items
- Donated material for which the material and any services related to the collection, processing, or disposal of the material does not involve financial consideration
- Compostable Waste composted on the real property where it is generated
- Exempt Waste
- Material which is set aside for destruction and recycling for security purposes (secure document shredding)
- Rock, concrete, asphalt and dirt (inert material)
- Construction and demolition debris
- Rubber and tires

Nothing in this Agreement shall be construed as requiring Service Recipients to set out the above material for collection by CONTRACTOR. Service Recipients may dispose of these materials by other appropriate means including, but not limited to, taking the material to drop-off facilities and donating or selling such items to private or public entities.

4.3 Service Standards.

CONTRACTOR shall perform all services under this Agreement in a thorough and professional manner. Except for natural disasters as provided in Article 7, CONTRACTOR shall perform all SFD Solid Waste Collection Services described in this Agreement regardless of weather conditions or difficulty of collection. CONTRACTOR

shall perform all additional services described in this Agreement professionally, promptly and courteously.

4.4 Significant Events.

Significant events may occur including, but not limited to: failure of equipment, hazardous materials incident, regulatory actions, fires, earthquakes, floods, or labor actions that detrimentally impact the CONTRACTOR's operations, marketing, labor relations and customer relations. CONTRACTOR will notify the City Representative within two (2) hours of any significant events that negatively impacts its ability to collect or dispose of the material. CITY considers any disruption of more than four (4) hours to be significant.

4.5 Labor and Equipment.

CONTRACTOR shall provide and maintain all labor, equipment, tools, facilities, and personnel supervision required for the performance of CONTRACTOR's obligations under this Agreement. The enumeration of, and specification of requirements for, particular items of labor or equipment does not relieve CONTRACTOR of the duty to furnish all others that may be required, whether enumerated or not. At all times, CONTRACTOR shall have sufficient backup equipment and labor to fulfill CONTRACTOR's obligations under this Agreement. No compensation for CONTRACTOR's services or for CONTRACTOR's supply of labor, equipment, tools, facilities or supervision will be provided or paid to CONTRACTOR by CITY or by any Service Recipient except as expressly provided by this Agreement.

4.6 Holiday Service.

CITY observes Thanksgiving Day, December 25, and January 1 as "legal holidays." On these "legal holidays," CONTRACTOR will not be required to provide services under this Agreement or to maintain office hours. In any week in which one of these legal holidays falls on a Work Day, SFD Solid Waste Collection Services for the legal holiday and each Work Day thereafter will be delayed one Work Day for the remainder of the week with normally scheduled Friday SFD Solid Waste Collection Services being performed on Saturday.

4.7 Ownership of Materials.

Title to Residential Solid Waste shall pass to CONTRACTOR at such time as said materials are placed in CONTRACTOR's collection vehicle except for Residential Solid Waste selected for inclusion in a waste characterization study specified in Article 8, in which case title shall pass to the CITY at the time the Residential Solid Waste is set out for collection.

4.8 Hours of Collection.

Except as set forth below, CONTRACTOR shall provide SFD Solid Waste Services commencing no earlier than 6:00 a.m. and terminating no later than 6:00 p.m.,

Monday through Friday, with no service on Saturday (except for holiday service) or Sunday.

Collection in the Central Business District and the Transit Mall Zone shall take place between the hours required by the San José Municipal Code. A map of the Central Business District and the Transit Mall Zone is included in Exhibit 5 of this Agreement.

The hours, days, or both of collection set out above may be extended due to extraordinary circumstances or conditions with the prior consent of the City Representative. If such consent is given in any manner other than by written notice, the City Representative shall provide written confirmation to CONTRACTOR within three (3) Work Days.

Notwithstanding the above requirements, delivery of collected materials to the Disposal Facility or other appropriate facility shall occur during the normal business hours of such facility unless other arrangements have been made with the facility and have been approved in advance by the City Representative.

4.9 Spillage and Litter.

CONTRACTOR shall conduct SFD Solid Waste Collection Service so that no material spills out of the Garbage Bins, Garbage Carts, or collection vehicles. During transport, all Solid Waste shall be contained, covered or enclosed so that leaking, spilling and blowing of the materials are prevented. If there is a spill, CONTRACTOR shall clean up the Solid Waste spilled or scattered by the CONTRACTOR. CONTRACTOR shall cover with petroleum-absorbent material all oil, hydraulic fluids, spilled paint or any other liquid, and remove the petroleum-absorbent material from the street surface or any other area where CONTRACTOR's operations have occurred. CONTRACTOR shall immediately clean up any spillage or litter caused by CONTRACTOR but no later than two (2) hours after the occurrence. When necessary, CONTRACTOR shall apply a suitable cleaning agent to the spill area to provide adequate cleaning. To facilitate the cleaning, CONTRACTOR's collection vehicles shall at all times carry sufficient quantities of petroleum-absorbent material, brooms and shovels, and other appropriate material or equipment.

4.10 Commingling of Materials Prohibited.

CONTRACTOR shall not commingle any Residential Solid Waste collected pursuant to this Agreement with any other material collected by CONTRACTOR inside or outside the City of San José without the prior written authorization of the City Representative.

ARTICLE 5. SERVICE UNITS

5.1 Service Units.

Categories of premises and all such premises which may be added to CONTRACTOR's Service Districts by means of annexation, new construction, or as otherwise set forth in this Agreement are included within the meaning of SFD Service Units or Business Service Units.

Any question as to whether a premise or premises fall within one of these categories shall be determined by the City Representative and written notification of those premises to be included as Service Units shall be provided by CITY to CONTRACTOR. The determination of the City Representative shall be final.

5.2 Service Unit Changes.

CITY and CONTRACTOR acknowledge that during the term of this Agreement it may be necessary or desirable to add or delete Service Units for which CONTRACTOR will provide SFD Solid Waste Collection Services.

5.2.1 Additions.

CONTRACTOR shall provide SFD Solid Waste Collection Services to new Service Units within five (5) Work Days, unless otherwise specified, of receipt of notice from CITY to begin such SFD Solid Waste Collection Services. Service Units may also be added at the request of CONTRACTOR with written approval of the City Representative or at the request of the Service Unit and written approval of eligibility by the City Representative. The City Representative shall determine the type of collection services to be provided to any Service Units.

5.2.2 Deletions.

CONTRACTOR shall immediately cease providing SFD Solid Waste Collection Services upon receipt of notice from CITY to stop such service. Service Units may also be deleted because of a determination by the City Representative that the premises are not located in CONTRACTOR's Service Districts, or that the premises do not qualify for SFD Solid Waste Collection Services to be performed by CONTRACTOR pursuant to this Agreement.

5.2.3 Route Map.

CONTRACTOR shall revise the Service Unit route maps to show the addition or deletion of Service Units as provided above and shall provide such revised maps in the format compatible with the ESRI Shapefile Technical Description "An ESRI White Paper—July 1998" (or the most current version of this document).

5.3 Annexation.

If, during the term of this Agreement, additional territory within or adjacent to the CONTRACTOR's Service Districts is acquired by CITY through purchase, annexation, eminent domain, or other procedures, the City Representative may designate such additional territory as part of CONTRACTOR's Service Districts as appropriate. If the additional territory is so designated, CONTRACTOR shall provide the appropriate SFD Solid Waste Collection Services, as determined by the City Representative, in such additional territory in accordance with the provisions and service rates set forth in this Agreement. Such SFD Solid Waste Collection Services shall begin within ten (10) Work Days of receipt of written notice from the City Representative. CONTRACTOR shall not begin SFD Solid Waste Collection Services in the additional territory without written authorization from the City Representative. The City Representative shall determine the type of collection services to be provided to any Service Units in the additional territory.

If, at the time of acquisition by CITY, the additional territory contains more than five hundred (500) Service Units for which CONTRACTOR will provide SFD Solid Waste Collection Services, CONTRACTOR may phase in the distribution of Garbage Carts on a schedule approved by the City Representative; provided that CONTRACTOR shall complete the distribution of all Garbage Carts within ninety (90) calendar days after CONTRACTOR receives notification to begin SFD Solid Waste Collection Services in the additional territory.

ARTICLE 6. SFD SOLID WASTE COLLECTION SERVICES

6.1 General Provisions.

6.1.1 Frequency of Service.

CONTRACTOR shall provide all SFD Solid Waste Collection Services to each Service Unit in the Service Districts once every week on a scheduled route basis. Where the scheduled collection day falls on a holiday, CONTRACTOR shall adjust the route schedule as set forth in this Agreement.

6.1.2 Accessibility to Street.

In those instances where a public or private street within the Service Districts is temporarily closed to vehicular traffic but is accessible to pedestrian traffic, CONTRACTOR shall use pedestrian access to provide SFD Solid Waste Collection Service with no disruption of service to the Service Unit.

6.1.3 Service Agreement.

Upon request, CITY will provide CONTRACTOR with a list of private streets in the Service Districts and shall provide updated lists as additional streets are added or additional information is available. CONTRACTOR shall obtain a signed service agreement for each SFD Service Unit complex or development that requires the CONTRACTOR to enter upon private streets to perform SFD Solid Waste Collection Services, and that has a Property Manager and/or Homeowner's Association. CONTRACTOR shall provide the City Representative with copies of all signed service agreements within ten (10) Work Days of receipt by CONTRACTOR. The service agreements will contain at least the following information: Name and address of the complex, development, or homeowners' association; name, address and phone number of the contact person for the complex, development, or homeowners' association; permission for CONTRACTOR to enter the private streets; number and size of Garbage Carts and collection location if not curbside.

6.1.4 Manner of Collection.

CONTRACTOR shall provide all SFD Solid Waste Collection Services with as little disturbance as possible. CONTRACTOR shall leave any Garbage Cart in an upright position at the same point from which its contents were collected, and, without obstructing alleys, roadways, driveways, sidewalks or mailboxes. CONTRACTOR's employees providing SFD Solid Waste Collection Services shall follow the regular walk for pedestrians while on private property and shall not trespass nor cross property to the adjoining premises unless the occupant or owner of both properties has given permission. Care shall be taken to prevent damage to property, including flowers, shrubs, and other plantings.

6.1.5 Holiday Contingency Plan.

On or before September 30th of each year, CONTRACTOR shall submit an annual plan that outlines collection strategies to handle increased tonnages during the fall/winter holiday season. The plan should list any additional vehicles which will be utilized including ID#, type, license number, and material that will be collected; strategy for fluctuation in the labor force; and how coordination with the Yard Trimmings Collection service provider will be accomplished for the collection of Christmas trees.

6.2 SFD Solid Waste Collection Service.

6.2.1 Conditions of Service.

CONTRACTOR shall provide SFD Solid Waste Collection Service to all Service Units in the Service Districts when Residential Solid Waste is properly deposited in the Garbage Carts or Tagged Garbage Bags, where the Garbage Carts and Tagged Garbage Bags have been placed within three (3) feet of the curb, swale, paved surface of the public roadway, closest accessible roadway, or other such location agreed to by CONTRACTOR and the Service Recipient, that will provide safe and efficient accessibility to CONTRACTOR's collection crew and vehicle.

6.2.2 Courtesy Notice.

CONTRACTOR shall be required to collect any Residential Solid Waste that is placed either in a Garbage Cart or in a Tagged Garbage Bag even if placement of cart or bag causes CONTRACTOR to move them to facilitate collection. CONTRACTOR may affix to the Garbage Cart a Courtesy Notice.

6.2.3 Non-Collection of Residential Solid Waste.

CONTRACTOR shall not be required to collect any Residential Solid Waste that is not placed either in a Garbage Cart or in a Tagged Garbage Bag. CONTRACTOR shall not be required to collect Residential Solid Waste from a Garbage Cart when the contents exceed the volume of the Garbage Cart or from a Tagged Garbage Bag when the weight of the contents exceeds sixty (60) pounds.

In the event of non-collection, CONTRACTOR shall affix to the Garbage Cart or Tagged Garbage Bag a Non-Collection Notice explaining why collection was not made and providing instructions to the Service Recipient on the procedures for setting out Residential Solid Waste.

6.2.4 Reporting of Non-Collections.

CONTRACTOR shall document in the Customer Information System all instances where a Non-Collection Notice was issued. Notwithstanding any other reporting obligation, CONTRACTOR shall to the extent possible report all

Non-Collection Notices by the end of the next Work Day, but no later than two Work Days after the Non-Collection Notice was issued. When reporting Non-Collections Notices to the CITY, CONTRACTOR shall include the address of the Service Unit and clear and convincing photographic documentation that supports the reason for the Non-Collection. CONTRACTOR shall submit any photographic documentation in an electronic format, approved by the City Representative, with the Service Unit's address in the file title and the date, time, and GPS coordinates in the metadata of each electronic file. Failure to properly document and report a Non-Collection will subject CONTRACTOR to Liquidated Damages as set forth in this Agreement.

6.2.5 Reporting of Problems.

In addition to reporting Non-Collections, CONTRACTOR shall, on a daily basis, document in the Customer Information System all other situations that prevent or hinder collection and all replacements, repairs and exchanges of Garbage Carts.

Except as otherwise provided in this Agreement, to the extent possible, CONTRACTOR shall make such reports by the end of the Work Day in which the event occurred. Where it is not possible to make such reports by the end of the Work Day, CONTRACTOR shall report such events no later than the end of the next Work Day.

6.3 Disposition of Residential Solid Waste.

CONTRACTOR shall transport and deliver to the Disposal Facility all SFD Solid Waste collected as a result of performing SFD Solid Waste Collection Service pursuant to Section 10.2.

6.4 Provision and Maintenance of Garbage Carts.

6.4.1 Inventory.

CONTRACTOR shall maintain an inventory of Garbage Carts in a sufficient number for CONTRACTOR to perform deliveries, repairs and exchanges of such equipment in a timely manner.

6.4.2 Purchase and Distribution of Garbage Carts.

CONTRACTOR shall purchase and distribute fully assembled and functional Garbage Carts to those Service Units in or added to CONTRACTOR's Service Districts during the term of this Agreement. The number and the size of each Garbage Cart to be distributed will be in accordance with the information provided by the City Representative to CONTRACTOR, except as provided in Section 5.3 of this Agreement. CONTRACTOR shall complete the distribution of the Garbage Carts within five (5) Work Days of receipt of the information from the City Representative, except as provided for in Section 5.3. If directed by the City

Representative, CONTRACTOR will provide multiple Garbage Carts to a Service Unit. Garbage Carts shall meet the specifications set forth in Exhibit 11.

6.4.3 Replacement or Exchange of Garbage Cart.

Under the following circumstances, CONTRACTOR shall replace or exchange each Garbage Cart at no cost or inconvenience to the Service Recipient, and at no cost to the CITY:

- Damage by CONTRACTOR
- Normal Wear and Tear
- Mandatory Service Level Change Initiated by the CITY

Under the following circumstances, CONTRACTOR shall be compensated for the replacement or exchange of each Garbage Cart in accordance with Exhibit 1A ("COMPENSATION THROUGH JUNE 30, 2021") and Exhibit 1B ("COMPENSATION FROM JULY 1, 2021 THROUGH JUNE 30, 2036"), as adjusted under the terms of this Agreement. CONTRACTOR acknowledges that it will not be compensated for (1) customer initiated Garbage Cart exchanges for District A between 0.254% and 5.039% of the average number of households in a Fiscal Year, and (2) customer initiated Garbage Cart exchanges for District C between 0.155% and 3.904% of the average number of households in a Fiscal Year. Garbage cart exchanges below or above these ranges shall be compensated by the CITY in the June invoice. Cart exchange counts shall be rounded to the nearest whole number.

- Stolen or Lost Carts
- Voluntary Service Level Change Initiated by the Service Recipient
- Damage not by CONTRACTOR

All replacement, exchange, or removal of Garbage Carts must be completed within five (5) Work Days of receiving notification from the City Representative or Service Recipient. Any repair of Garbage Carts must be completed within ten (10) Work Days of receiving notification from the City Representative or Service Recipient.

6.4.4 Ownership of Garbage Carts.

Garbage Carts in the possession of a Service Unit as of the Effective Date of this Agreement and all Garbage Carts distributed by CONTRACTOR during the term of this Agreement shall be the property of CONTRACTOR. CONTRACTOR shall retain ownership of such Garbage Carts during the term of this Agreement. Upon the expiration or termination of this Agreement, CONTRACTOR shall transfer to CITY and CITY shall obtain ownership of all

Garbage Carts that are in the possession of a Service Unit on the date of such expiration or termination. CONTRACTOR shall retain ownership of all Garbage Carts in CONTRACTOR's possession at the expiration or termination of this Agreement.

6.5 On-Premises Service.

6.5.1 Non-Subscription On-Premises Service.

CONTRACTOR shall provide on-premises collection of Residential Solid Waste to a SFD Service Unit if all adult Service Recipients residing therein have disabilities that prevent them from setting the Garbage Cart at the curb for collection and if a request for non-subscription on-premises service has been made to, and approved in the manner required by CITY. The City Representative shall notify CONTRACTOR of any SFD Service Units requiring non-subscription on-premises service; along with the date such service is to begin. No additional monies shall be due to CONTRACTOR for the provision of non-subscription on-premises service.

CONTRACTOR may at any time, but not more often than twice in any Fiscal Year, request that the City Representative verify the eligibility of a SFD Service Unit for non-subscription on-premises service. Upon receipt of CONTRACTOR's request, the City Representative shall make a determination as to whether the SFD Service Unit meets the eligibility requirements and shall notify CONTRACTOR of such determination within sixty (60) calendar days of CONTRACTOR's request. At the time CONTRACTOR makes the request for verification of eligibility, CONTRACTOR may submit to the City Representative any information relevant to the City Representative's determination.

6.5.2 Subscription On-Premises Service.

CONTRACTOR shall provide on-premises collection of Residential Solid Waste to those SFD Service Units subscribing to such service, except that subscription on-premises collection service shall not be available in those instances where the on-premises collection location of the Garbage Cart is more than one hundred (100) yards from the normal curbside set out location. The City Representative shall notify CONTRACTOR of any SFD Service Units subscribing to subscription on-premises collection service, along with the date such service is to begin.

6.5.3 Manner of Collection.

In the case of on-premises service, CONTRACTOR shall remove the Garbage Cart or Tagged Garbage Bag from the back or side of the Service Unit (or from such other location as agreed to by CONTRACTOR and the Service Recipient), shall empty the contents into the collection vehicle, and shall return the Garbage Cart to the location from which it was removed.

6.5.4 Collection Day.

CONTRACTOR shall provide on-premises SFD Solid Waste Collection Service on the same Work Day that curbside collection would otherwise be provided to the SFD Service Unit.

6.6 Hard to Serve Service Units.

CONTRACTOR shall provide Collection Service to Service Units in locations that may not be accessible to a standard collection vehicle through use of smaller vehicles and/or alternative collection methods. CONTRACTOR shall assist the CITY in identifying hard to serve areas. The service rate for these locations is to be mutually agreed upon by the CONTRACTOR and CITY.

6.7 Collection and Disposal of Contaminated Christmas Trees.

CONTRACTOR shall collect contaminated Christmas trees that are unsuitable for collection by the CITY's YT & RSS Services contractor during the same day as normal collection operations. Contaminated Christmas trees include Christmas trees that have ornaments, decorations, or tinsel, or are attached to a tree stand. CONTRACTOR will not receive additional compensation for the collection of contaminated Christmas trees.

ARTICLE 7. ADDITIONAL SERVICES

7.1 News Media Relations.

CONTRACTOR shall notify the City Representative by email or phone of all requests for news media interviews related to the Recycle Plus Program within twenty-four (24) hours of CONTRACTOR's receipt of the request. Before responding to any inquiries involving Recycle Plus-related issues or any issues likely to affect participation or Service Recipient perception of services, CONTRACTOR will discuss CONTRACTOR's proposed response with the City Representative.

Copies of draft news releases or proposed trade journal articles shall be submitted to the City Representative for prior review and approval at least five (5) Work Days in advance of release, except where CONTRACTOR is required by any law or regulation to submit materials to any regulatory agency in a shorter period of time, in which case CONTRACTOR shall submit such materials to the City Representative simultaneously with CONTRACTOR's submittal to such regulatory agency.

Copies of articles resulting from media interviews or news releases related to CONTRACTOR's providing services under this Agreement shall be provided to the City Representative within five (5) Work Days after publication.

7.2 Public Education and Outreach.

CITY will be responsible for public education and outreach related to the Recycle Plus Program. If CONTRACTOR chooses to distribute public education and outreach materials or engage in outreach activities related to the Recycle Plus Program at its own expense, such materials or activities must be approved by the City Representative in advance. Copies of any outreach material and/or a description of the outreach activities shall be submitted to the City Representative for prior review and approval at least fifteen (15) Work Days in advance of providing the outreach to the public.

CONTRACTOR shall provide copies of approved outreach material to the City Representative within five (5) Work Days after publication.

7.3 Pilot Programs.

7.3.1 Residential Service.

CITY may request CONTRACTOR to conduct pilot test programs that temporarily change the collection method, the type of service, or the service schedule for a portion of the Service Units in CONTRACTOR's Service Districts. A pilot test program shall be limited to no more than ten percent (10%) of the Service Units in the Service Districts and to a term of no more than eighteen (18) months unless otherwise specifically agreed by CONTRACTOR and the Director. CONTRACTOR shall perform any additional record keeping required by a pilot test program.

7.3.2 Letter of Agreement.

If CONTRACTOR agrees to perform a pilot test program, CONTRACTOR and the Director shall execute a letter of agreement prior to the start of the pilot test program. The letter of agreement shall set forth the terms of the pilot test program including program costs, program operating parameters, and program duration.

If a pilot test program affects the cost of providing collection services, the program costs set forth in the letter of agreement may include an adjustment to the monthly payments otherwise payable to CONTRACTOR under this Agreement to reflect the benefits and/or burdens of the pilot test program. The adjustment shall be set so as to capture any increase or decrease in CONTRACTOR's direct operating costs resulting from the pilot test program. "Direct operating costs" include planning costs; labor expense, including supervision (wages, employment taxes, and fringe benefits); materials, supplies and fuel; and amortized costs of new equipment purchased or equipment modified for the pilot test program. Any increases in direct operating costs must be established by CONTRACTOR and must be capable of verification by an independent auditor.

7.4 Other Programs and Services.

CONTRACTOR shall provide other services and programs related to the Recycle Plus Program as requested by CITY at a price to be mutually agreed upon between CONTRACTOR and the Director. In the event CONTRACTOR and the Director cannot reach a mutually agreed upon price for the requested service or program within sixty (60) calendar days of CITY's request, CITY shall have the right to procure the service of other vendors or contractors to provide the requested service.

7.5 Natural Disaster.

In the event of a tornado, major storm, earthquake, fire, natural disaster, or other such event, the City Representative may grant CONTRACTOR a variance from regular routes and schedules. As soon as practicable after such event, CONTRACTOR shall advise the City Representative when it is anticipated that normal routes and schedules can be resumed. The City Representative shall make an effort through the local news media to inform the public when regular services may be resumed. Clean-up from some events may require that CONTRACTOR hire additional equipment, employ additional personnel, or work existing personnel on overtime hours to clean debris resulting from the event. CONTRACTOR shall receive additional compensation, above the normal compensation contained in this Agreement, to cover the costs of rental equipment, additional personnel, overtime hours and other documented expenses based on the rates set forth in Exhibit 1A and 1B to this Agreement, provided CONTRACTOR has first secured written authorization and approval from the City Representative.

7.6 Emergency Collection Services.

CONTRACTOR may be required to provide Collection Services on an emergency services basis. If CITY requires CONTRACTOR to provide such emergency services, CONTRACTOR shall be compensated for such services at the service rates set forth on Exhibit 1A and 1B to this Agreement.

ARTICLE 8. COLLECTION ROUTES

8.1 Collection Routes.

CONTRACTOR shall provide the City Representative with maps precisely defining CONTRACTOR's collection routes, together with the days and the times at which collection shall regularly commence within ten (10) Work Days of the CITY's request. The maps shall be printed and in an electronic format compatible with the ESRI Shapefile Technical Description "An ESRI White Paper-July 1998" (or the most current version of this document). For purposes of this Section, "compatible" means the ability to import and export data between computer systems without the need for custom translation software. CITY shall provide CONTRACTOR with updated base maps of CONTRACTOR's Service District in the electronic format referenced above.

CONTRACTOR shall provide the City Representative with an electronic spreadsheet containing route numbers, collection days, street sweeping weeks (if applicable), Customer Information System identification number, and service address for all Service Units. This data shall be provided annually by October 15 of each year.

8.2 Collection Route Changes.

CONTRACTOR shall submit to the City Representative, in writing, any proposed route change (including printed and electronic maps) not less than sixty (60) Work Days prior to the proposed date of implementation. The City Representative may provide written comments on such proposed change to CONTRACTOR no later than ten (10) Work Days after receipt of the proposal, and in such event, CONTRACTOR shall revise the routes to reflect such comments and return them to the City Representative for CITY corroboration within ten (10) Work Days after receipt of the City Representative's comments. CONTRACTOR shall not implement any route changes without the prior approval of the City Representative.

Route change requests shall include, but not be limited to, the following information to be considered for approval:

- The route number, the date of the audit, and the starting and ending times of collection during the audit;
- The number of Service Units on the route; and
- Details on routing to accommodate traffic impacts around schools.

If the approved route change will change the collection day for a Service Unit, or will change the time of collection from morning to afternoon or vice versa, CONTRACTOR shall provide notice of the route change, in a manner approved by the City Representative, to the affected Service Units not less than thirty (30) Work Days before the proposed date of implementation.

If the route change will change the collection day for a Service Unit, CONTRACTOR shall first coordinate the proposed change with other Recycle Plus service providers and submit to the CITY a transition plan for the route change, and provide a weekly status on the plan. Specifically, the plan must address how CONTRACTOR will resolve missed collections and respond to increase in calls from Service Recipients.

8.3 Route Audits.

8.3.1 Collection Route Audits.

All collection routes shall be audited annually in a manner subject to the approval of the City Representative. CONTRACTOR shall conduct an annual route audit for each of CONTRACTOR's SFD Solid Waste Collection routes. The route audits shall be conducted once each calendar year during the term of this Agreement, with each route and Service Unit being audited in a different quarter each year so that all routes and Service Units are audited in each of the four (4) quarters. CONTRACTOR shall conduct audits of all routes served by one collection vehicle on five (5) consecutive Work Days. Not later than sixty (60) Work Days prior to the first route audit in each year, CONTRACTOR shall submit to the City Representative a schedule of route audits to be conducted in that year together with a description of the audit methodology.

CITY reserves the right to determine which routes will be audited in a particular week and, if CITY exercises this right, shall notify CONTRACTOR of the routes not less than three (3) Work Days in advance. CONTRACTOR shall report audit findings in an electronic format within thirty (30) calendar days of the audit and summarize the results in CONTRACTOR's quarterly reports.

Upon request by CONTRACTOR, CITY shall provide Service Unit data from the Customer Information System within five (5) Work Days of the request. CONTRACTOR must begin the route audits within five (5) Work Days of receiving the Customer Information System data.

CITY reserves the right to request that CONTRACTOR defer the annual collection route audit in exchange for devoting the same resources to an alternative audit or other measure of program and performance at a time to be determined by the City Representative.

8.3.2 Audit Information.

The route audits shall include the following information for each collection route:

Collection Route Information.

- The name(s), telephone number(s), and signature(s) of the persons performing each route audit;

- The route number, the date of the audit, and the starting and ending times of collection during the audit;
- A description of the route location, including the names of streets covered;
- The number of Service Units on the route;
- The number of Service Units participating on the date of the audit;
- The number of over filled Garbage Carts;
- The number of Garbage Carts that need repair or replacement;
- The tonnage of Residential Solid Waste delivered per vehicle trip and the time of arrival and departure of each vehicle at the Disposal Facility; and
- The number of collection vehicles used on the route by vehicle type (e.g., rear loader solid waste truck, side-loading solid waste truck), the tare weight of each vehicle, the weight of each vehicle each trip, the capacity of each vehicle by weight and volume, and the number of trips made by each vehicle to the Disposal Facility.

Service Unit Information.

- Customer Information System Identification Number;
- Service Recipient address;
- Garbage Cart size, quantity, and whether or not the cart(s) need replacement or repair;
- Tagged garbage bag placed beside cart; and
- Overflowing or contaminated Garbage Carts.

8.4 Special Route Audits.

CITY may request performance of special route audits in addition to the route audits conducted pursuant to Section 8.3. Within fifteen (15) calendar days of receipt of a written request for a special route audit, CONTRACTOR shall provide to the City Representative a written cost proposal for performance of the special route audit. If the City Representative accepts CONTRACTOR's cost proposal, CONTRACTOR shall conduct the special route audit and CITY shall compensate CONTRACTOR at the rate described in CONTRACTOR's cost proposal.

8.5 Waste Characterization Study.

CITY may require that a waste characterization study be undertaken by the CONTRACTOR, or the City may elect to conduct the study itself. In the event the CITY requests participation of the CONTRACTOR, CONTRACTOR shall within fifteen (15) calendar days of receipt of a written request for a waste characterization study, provide to the City representative a written cost proposal for performance of the waste characterization study. If the City Representative accepts CONTRACTOR's cost proposal, CONTRACTOR shall participate in the waste characterization study to the extent set forth in the approved study plan, and CITY shall compensate CONTRACTOR at the rate described in CONTRACTOR's cost proposal. In the event CITY elects to

conduct the waste characterization study itself, CONTRACTOR shall cooperate with the CITY in conducting the study. Cooperation shall include, but not be limited to, providing route and collection data to assist in the selection of the test samples, and coordinating collection routes and activities so as not to interfere with the study.

8.6 CITY-Conducted Collection Route Audits.

CITY reserves the right to conduct audits of CONTRACTOR's collection route audits. CONTRACTOR shall cooperate with CITY in connection therewith, including permitting CITY employees or agents, designated by the City Representative, to ride in the collection vehicles during the conduct of audits. CONTRACTOR shall have no responsibility or liability for the salary, wages, benefits or Worker's Compensation claims of any person designated by the City Representative to conduct such audits.

ARTICLE 9. EQUIPMENT, PERSONNEL, AND FACILITIES

9.1 Personnel Requirements.

CONTRACTOR shall employ and assign qualified personnel to perform all services set forth in this Agreement. CONTRACTOR shall be responsible for ensuring that its employees comply with all applicable laws and regulations and meet all federal, state and local requirements related to their employment and position. In addition:

- CITY may request the transfer of any employee of CONTRACTOR who materially violates any provision of this Agreement, or who is wanton, negligent, or discourteous in the performance of his or her duties.
- CONTRACTOR shall require its field operations personnel to wear a clean uniform shirt bearing CONTRACTOR's name. CONTRACTOR's employees, who normally come into direct contact with the public, including drivers, shall bear some means of individual photographic identification such as a name tag or identification card.
- Each driver of a collection vehicle shall at all times carry a valid California driver's license and all other required licenses for the type of vehicle that is being operated.
- Each driver of a collection vehicle shall at all times comply with all applicable local, state and federal laws, regulations and requirements.
- CONTRACTOR's employees, officers, and agents shall at no time be allowed to identify themselves or in any way represent themselves as being employees of CITY.
- CONTRACTOR's employees, officers, and agents shall at all times conduct themselves in a professional manner, and must be qualified and appropriately trained for the assigned responsibilities.

9.2 Equipment Specifications.

All collection equipment used by CONTRACTOR in the performance of services under this Agreement shall be of high quality and good working order.

9.3 Collection Vehicles.

9.3.1 Vehicle Specification.

CONTRACTOR shall use vehicles that are designed and operated so as to prevent collected materials from escaping from the vehicles. All hoppers shall be closed on top and on all sides with screening material to prevent collected materials from leaking, blowing or falling from the vehicles. All trucks and containers shall be watertight and shall be operated so that liquids do not spill during collection or in transit.

All collection vehicles utilized by CONTRACTOR pursuant to this Agreement shall provide automated collection except where such service is not feasible because of topographic or other physical factors. The determination that

automated collection vehicles are not feasible shall be made by the City Representative after consultation with CONTRACTOR. Where automated services are not feasible, CONTRACTOR shall consult with the City Representative regarding the collection equipment to be utilized.

9.3.2 Clean Air Vehicles.

CONTRACTOR shall ensure its Collection Service vehicles are in full compliance with local, State and federal clean air requirements that have been adopted, including, but not limited to, the California Air Resources Board Heavy Duty Engine Standards; the Federal Environmental Protection Agency's Highway Diesel Fuel Sulfur regulations; and any other applicable air pollution control laws.

9.3.3 Alternative Fuel Vehicles.

For the next fleet replacement, scheduled to occur after July 1, 2021, CONTRACTOR shall use vehicles powered by Compressed Natural Gas ("CNG") or other alternative fuel approved by the CITY. In addition, CONTRACTOR shall replace light-duty vehicles with hybrid-drive technology, or other alternative fuel approved by the CITY, to the extent available, when the light-duty vehicles are no longer in good working order and require replacement.

9.3.4 Cooperation and Testing.

The parties agree to cooperate in seeking grant opportunities for alternative fuel vehicle conversion, facility installations, or deployment of new vehicle technologies. Cooperation may extend to assistance in the preparation and submission of grant requests. CITY may also request that CONTRACTOR participate in testing the use of alternative fuel vehicles and other new vehicle technologies as part of CONTRACTOR's Collection Services. Where vehicle testing involves the use of existing vehicles providing Collection Services under this Agreement, the existing vehicles must be in good working order. Testing of alternative fuels in existing vehicles shall not be required if such testing voids a manufacturer's warranty. CONTRACTOR shall report the results of the testing in CONTRACTOR's Quarterly Report to the CITY.

9.3.5 Lubricants.

Except as approved in writing by the City Representative on an individual vehicle basis, CONTRACTOR shall use re-refined motor oil and re-refined hydraulic oil in all vehicles used by CONTRACTOR in the performance of this Agreement, to the extent that such re-refined lubricants are available and do not void a manufacturer's warranty.

9.3.6 Registration, Licensing and Inspection.

All vehicles used by CONTRACTOR in the performance of services under this Agreement shall be in compliance with all registration, licensing and

inspection requirements of the California Highway Patrol, the California Department of Motor Vehicles, and any other applicable laws or regulations. CONTRACTOR shall maintain copies of all certificates and reports evidencing compliance, and shall make such certificates and reports available for inspection upon request by the City Representative.

9.3.7 Safety Markings and Devices.

All collection equipment used by CONTRACTOR shall have appropriate safety markings including, but not limited to, highway lighting, flashing and warning lights, and clearance lights. All such safety markings and devices shall be in accordance with the requirements of the California Vehicle Code, as may be amended from time to time, and shall be subject to the approval of the City Representative.

9.3.8 Vehicle Signage and Painting.

CONTRACTOR shall maintain all vehicles consistent with a positive public image. Collection vehicles shall be painted and numbered consecutively without repetition and shall have CONTRACTOR's name, customer service telephone number, and the number of the vehicle painted in letters of contrasting color, at least four (4) inches high, on each side and the rear of each vehicle. CITY may specify the format of the alpha-numeric numbering sequence to be used, so that all vehicles in use have a unique identifier. No advertising shall be permitted on the collection vehicles other than the name of CONTRACTOR and promotional advertisement of the CITY. Collection vehicles shall be painted white and vehicle striping and logos shall be painted CONTRACTOR's primary corporate color. CONTRACTOR shall repaint all collection vehicles (including the vehicles' striping) to the satisfaction of the City Representative during the term of this Agreement on a frequency as necessary to maintain a positive public image, but not less often than every eighty-four (84) months.

Collection vehicles shall be identified as City of San José Recycle Plus collection vehicles, or other name, identity, or program designated by the CITY, through the use of interchangeable signs. These signs may also contain other CITY-related announcements in English, Spanish, Vietnamese, or other languages as directed by the City Representative. CONTRACTOR shall be responsible for equipping both sides of the collection vehicles with frames capable of securing signs of dimensions 29-3/16" high by 93-3/16" wide or other dimensions designated by the City Representative. CITY shall provide such signs to CONTRACTOR with a minimum of one (1) week's notice prior to design changes. CONTRACTOR shall install the signs in the frames, and may not be required to change signs more than once every quarter.

9.3.9 Collection Vehicle Noise Level.

The noise level generated by collection vehicles using compaction mechanisms during the stationary compaction process shall not exceed seventy-five (75) decibels at a distance of twenty-five (25) feet from the collection vehicle measured at an elevation of five (5) feet above ground level using the "A" scale of the standard sound level meter at slow response. CONTRACTOR shall cause the collection vehicles to be tested no less than once every three (3) years during the months of March and April. CONTRACTOR shall maintain copies of certificates of testing showing the results of the vehicle testing and shall make such certificates available for inspection upon request by the City Representative. CONTRACTOR shall not use any collection vehicle that does not meet the noise level limitations of this Section.

9.3.10 Vehicle Certification.

All vehicles used in the performance of services under this Agreement shall be in compliance with all applicable state and federal laws and regulations, including, without limitation, requirements of the California Health and Safety Code, the California Vehicle Code, and the regulations promulgated thereunder. CONTRACTOR shall maintain copies of all certificates and reports evidencing compliance and shall make such certificates and reports available for inspection upon request by the City Representative.

9.3.11 Equipment Maintenance.

CONTRACTOR shall maintain all collection equipment in a clean condition, free of graffiti, and in good repair at all times. All parts and systems of the collection equipment shall operate properly and be maintained in good working order. CONTRACTOR shall wash all collection vehicles at least once a week using recycled water. All washings shall be conducted in a manner that conforms to the BMP Guidelines for Non-Point Source Pollutants in the most recent version of the publication entitled *Storm Water Best Management Practices Handbook for Industrial Commercial*.

9.3.12 Maintenance Log.

CONTRACTOR shall maintain a maintenance log for all collection vehicles. The log shall at all times be accessible to CITY via reports, or by physical inspection upon request of the City Representative, and shall show, at a minimum, each vehicle's CONTRACTOR-assigned identification number, date purchased or initial lease, dates of performance of routine maintenance, dates of performance of any additional maintenance, and description of additional maintenance performed.

9.3.13 Equipment Inventory.

CONTRACTOR shall provide to the City Representative an inventory of collection vehicles and major equipment (e.g. tractor trailers used for transporting materials to the Disposal Facility) to be used by CONTRACTOR in the performance of services under this Agreement. The inventory shall indicate each vehicle by make, model, CONTRACTOR-assigned identification number, DMV license number, the age of the chassis and body, type of fuel used, the type and capacity of each vehicle, the number of vehicles by type, the date of acquisition, the decibel rating and the maintenance and rebuild status. CONTRACTOR shall submit on an annual basis, or more often at the request of the City Representative, an updated inventory to CITY. Each inventory shall also include the tare weight of each vehicle as determined by weighing at a public scale and not at a disposal or other facility scale used by CONTRACTOR. The specific procedure for performing the tare weighing will be subject to the approval of the City Representative. With each inventory, CONTRACTOR shall certify that all vehicles meet the requirements of this Agreement.

9.3.14 Reserve Equipment.

CONTRACTOR shall have available to it, at all times, reserve collection equipment which can be put into service and operation within one (1) hour of any breakdown. Such reserve equipment shall correspond in size and capacity to the equipment used by CONTRACTOR to perform services pursuant to this Agreement. CONTRACTOR shall provide the City Representative with the replacement vehicle information including: the CONTRACTOR-assigned identification number, DMV license number, tare weight of each vehicle as determined by weighing at a public scale, the age of the chassis and body, type of fuel used, the type and capacity of each vehicle, the number of vehicles by type, the date of acquisition, the decibel rating and the maintenance and rebuild status.

9.4 Inspections.

CITY shall have the right to inspect CONTRACTOR's facilities as required to provide services pursuant to this Agreement; and CONTRACTOR's collection vehicles and their contents at any time while operating inside or outside the City of San José.

ARTICLE 10. DISPOSAL

10.1 CITY's Responsibility.

CITY shall arrange and pay for sufficient disposal capacity for the disposal of all Residential Solid Waste collected by CONTRACTOR from Service Units in CONTRACTOR's Service Districts and wastes collected by CONTRACTOR in performing emergency services pursuant to Article 7 of this Agreement. CITY shall pay the Disposal Facility directly for the disposal of the above-described materials unless otherwise mutually agreed by the Director and CONTRACTOR.

10.2 CONTRACTOR's Responsibility.

10.2.1 Delivery of Materials.

CONTRACTOR shall transport all Residential Solid Waste collected by CONTRACTOR from Service Units in CONTRACTOR's Service Districts pursuant to this Agreement and shall deliver all such materials to the Disposal Facility, or to such other disposal facilities as the City Representative may designate in writing. In the event the Disposal Facility is closed on a Work Day, CONTRACTOR shall transport and dispose of the SFD Solid Waste at such other legally permitted disposal facility as is designated in writing by the City Representative. If the City Representative directs delivery of materials to a disposal facility other than the Disposal Facility or Newby Island Landfill 1601 Dixon Landing Rd., San José, CA, CITY shall compensate CONTRACTOR for reasonable additional expenses incurred by CONTRACTOR, documented to the reasonable satisfaction of the Director, or deduct payment due to CONTRACTOR for efficiency savings.

10.2.2 Delivery to Alternate Processing Facility.

CITY reserves the right to direct Residential Solid Waste to a legally permitted alternate designated facility for processing. CITY shall give CONTRACTOR written notice pursuant to Section 21.18 and with a minimum of thirty (30) calendar days to begin transporting and delivering the Residential Solid Waste to the designated facility.

10.2.3 Limitation on Use of CITY-Arranged Landfill Capacity.

CONTRACTOR shall not, under any circumstances whatsoever, use the CITY-arranged disposal capacity for the disposal of any material that was collected by CONTRACTOR or by any other person, other than the materials collected pursuant to this Agreement and specifically listed in this Article of this Agreement without the express prior written authorization of the City Representative.

10.2.4 Compliance with Regulations.

CONTRACTOR shall observe and comply with all regulations in effect at the Disposal Facility, or any other CITY-designated disposal facility, at the time CONTRACTOR transports and disposes of materials at the site. CONTRACTOR shall at all times while at the Disposal Facility, or any other CITY-designated disposal facility, operate according to safe industry practices.

ARTICLE 11. RESERVED

ARTICLE 12. COLLECTION SERVICE

12.1 CONTRACTOR's Office.

CONTRACTOR shall maintain an office within the limits of Santa Clara County where service inquiries and complaints can be received. Such office shall be open during the normal business hours of 8:00 a.m. to 6:00 p.m. on all Work Days, and during any and all collection activities on those Saturdays and Sundays when Collection Services are performed pursuant to this Agreement.

For each Fiscal Year of the term of this Agreement that CONTRACTOR's office is not located within the municipal limits of the City of San José, but within the Santa Clara County limits, CITY may deduct Three Thousand Dollars (\$3,000.00) per month from the payment otherwise due to CONTRACTOR. In the event CONTRACTOR's office is located outside the limits of the City of San José for a period of time less than a Fiscal Year, the reduction in the monthly payment shall be effective only for those months in which the office is outside the City limits.

12.2 Emergency Contact.

CONTRACTOR shall provide the City Representative with an emergency phone number where CONTRACTOR's representative authorized to act on CONTRACTOR's behalf can be reached outside of the required office hours.

12.3 SFD Solid Waste Collection Service Telephone Requirements.

CONTRACTOR's office shall be equipped with sufficient telephones that all collection service-related calls received during normal business hours are answered by an employee. CONTRACTOR shall provide either a telephone answering service or mechanical device to receive Service Recipient inquiries during those times when CONTRACTOR's office is closed. Calls received after normal business hours shall be addressed before 12:00 noon on the next Work Day. CONTRACTOR shall insure that telephone calls made to CONTRACTOR's office originating in the Service Districts and calls transferred to CONTRACTOR from CITY's call center are not toll calls.

12.3.1 Multilingual/TDD Service.

CONTRACTOR shall at all times maintain the capability of responding to telephone calls in English, Spanish, Vietnamese and such other languages as the City Representative may reasonably require. CONTRACTOR shall at all times maintain the capability of responding to telephone calls through Telecommunications Device for the Deaf ("TDD") Services.

12.3.2 Service Recipient Calls.

During normal business hours, CONTRACTOR shall maintain a telephone answering system capable of accepting at least fifteen (15) incoming calls at one time. CITY will direct service inquiries and complaints to CONTRACTOR through the Customer Information System. CONTRACTOR shall record all calls including any inquiries, service requests and complaints into the Customer Information System. Any such call received via CONTRACTOR's answering service shall be recorded in the Customer Information System no later than 12:00 noon on the following Work Day.

During normal business hours, CONTRACTOR shall maintain sufficient telephones such that all collection service-related calls received during normal business hours are answered by an interactive voice response system (IVR) within five (5) rings. After processing through the IVR, all calls shall be answered by a customer service representative within an average time to answer of five (5) minutes. The average time to answer shall be the time elapsed between the start of the customer's hold time after processing through the IVR and the time at which the customer is connected to a customer service representative. Any caller "on-hold" in excess of one and one-half (1.5) minutes shall have the option to remain "on-hold" or to be switched to a message center where the caller can leave a message. For all messages left before 3:00 p.m., CONTRACTOR shall attempt all "call backs" at least one time prior to 6:00 p.m. on the day of the call. For messages left after 3:00 p.m., CONTRACTOR shall attempt all "call backs" at least one time prior to noon the next Work Day. CONTRACTOR shall make a minimum of three (3) attempts within twenty-four (24) hours of the receipt of the call. If CONTRACTOR is unable to reach the Service Recipient on the next Work Day, CONTRACTOR shall send a postcard to the Service Recipient on the second Work Day after the call was received, indicating that CONTRACTOR has attempted to return the call. All attempts to contact the caller shall be recorded and provided to the CITY in an electronic format.

12.4 Online Customer Access.

Beginning July 1, 2021, CONTRACTOR shall provide for and maintain an online self-service feature, accessible to the public, on a website specific to the City and dedicated to services provided to the City. The self-service feature shall allow Service Recipients to access service history; provide answers to a list of City-approved frequently asked questions (FAQs); and provide email or web-based forms that provide the public with the ability to report service issues, make service requests or changes to service, provide a change of address, and arrange for special pickup appointments. CONTRACTOR shall arrange for the City's website to include an email link to CONTRACTOR and a link to CONTRACTOR's website. CONTRACTOR shall

implement these features subject to CITY input, direction, and approval and at no additional cost to the CITY. If the CITY exercises the option for the Digital Platform Integration, set forth in Section 12.5, CITY may direct CONTRACTOR to not offer an online self-service feature as required under this Section.

12.5 Digital Platform Integration.

After July 1, 2021, the CITY may exercise an option to implement a digital platform for requests related to customer service, that may include, but is not limited to, missed collections, replacement, repair, and exchange of containers, reports of spills, litter, and toppled containers, and viewing service history. For this digital platform, CONTRACTOR will provide for and maintain back-end support and integration services (that may include but is not limited to the transfer and synchronization of service request data from the CITY's data management system into CONTRACTOR's customer relationship management system and the transfer and synchronization of CONTRACTOR's work order and scheduling data for the service request back to the CITY's data management system) to interface with any digital platform selected by the CITY (e.g., website, mobile application). The CITY will support the digital platform's front-end infrastructure, that includes the user interface (e.g., web request form, live chat). If the CITY exercises this option, CONTRACTOR shall ensure that the CITY's data management system will be connected to CONTRACTOR's customer relationship management system and work order management system through this digital platform during hours of operation and after business hours.

Prior to implementation, CONTRACTOR and CITY will coordinate on the technical aspects of the digital platform integration, including developing an implementation plan that defines specific roles for each party, establishes a roadmap and timelines for implementation and testing of the interface, including data transfer and synchronization.

Subject to appropriation of funds, CITY shall pay appropriate application integration costs. CONTRACTOR shall implement these features subject to CITY input, direction, and approval. CONTRACTOR shall be responsible to pay for any costs to implement, support, and maintain the back-end infrastructure to interface with any digital platform selected by the CITY.

12.6 Service Complaints.

CONTRACTOR shall handle all service complaints in a prompt and efficient manner. In the case of a dispute between CONTRACTOR and a Service Recipient, CONTRACTOR will refer the matter to the City Representative for review. The City Representative will review the matter and make a determination as to the resolution of the dispute.

For those complaints related to missed collections that are received by 3:00 p.m. on a Work Day, CONTRACTOR will return to the Service Unit address and collect the

missed materials before leaving the Service District for the day. For those complaints related to missed collections that are received by CONTRACTOR after 3:00 p.m. on a Work Day, CONTRACTOR shall have until the end of the following Work Day to collect the materials. For those complaints related to repair or replacement of carts, the appropriate provisions of Article 6 of this Agreement shall apply. At the end of each Work Day CONTRACTOR shall utilize the Customer Information System to provide the City Representative with a response to each complaint which was received from a Service Recipient or CITY in the event the complaint was made by CITY, during the preceding Work Day.

12.7 Missed Collections.

CONTRACTOR acknowledges and agrees that it is in the best interest of CITY that all Residential Solid Waste, be collected on the scheduled collection day. Accordingly, CONTRACTOR will remedy missed collections as set forth in Section 12.6 above regardless of the reason that the collection was missed. However, in the event a Service Recipient requests missed collection service more than two (2) times in any consecutive two (2) month period, CITY will work with CONTRACTOR to determine an appropriate resolution to that situation. In the event CONTRACTOR believes any complaint to be without merit, CONTRACTOR shall utilize the Customer Information System to notify the City Representative immediately. The City Representative will investigate all disputed complaints and render a written determination within ten (10) Work Days of receipt of CONTRACTOR's notification. If the City Representative determines complaints about missed collections to be without merit, these reported missed collections will not be applicable to liquidated damages set forth in Article 16.

12.8 Customer Service Representative Training.

All of CONTRACTOR's customer service representatives shall be required to attend training as may be provided by CITY. The City Representative shall coordinate with CONTRACTOR to schedule such training.

12.9 Requirements.

CONTRACTOR shall provide and record operating and customer service data elements as set forth in Exhibit 8 ("DATA AND REPORTING") of this Agreement. CONTRACTOR is required to communicate with the Customer Information System either via an internet portal or other City-approved electronic interface as described in Exhibit 14 ("SERVICE DATA INTERFACE TECHNICAL SPECIFICATIONS") of this Agreement.

The Customer Information System includes the basic functions CONTRACTOR needs in order to perform its customer service and specific operational services. CONTRACTOR access is limited to customer information, service location service type and service level information, collection days, and field activities. CITY shall have

access to all the information available to CONTRACTOR and, additionally, will control access to the financial and billing functions of the Customer Information System.

All service location, property owner information, and property owner record updates shall be maintained in the Customer Information System by the CITY or its agent.

12.9.1 Customer Data and Privacy Protection.

CONTRACTOR is prohibited from selling or sharing customer information with third parties including other Recycle Plus service providers without the express prior written authorization of the City Representative and as permitted by applicable law. CONTRACTOR shall implement data protection and privacy procedures according to standard industry practices. In addition, to the extent permitted by applicable law, CONTRACTOR shall perform a reference and criminal background investigation on all CONTRACTOR personnel with access to customer data. To the extent permitted by applicable law, CONTRACTOR shall not permit any of its employees who have been convicted of a crime of dishonesty, breach of trust, or money laundering to have access to any confidential information on customer information data.

12.9.2 Customer Confidentiality.

CONTRACTOR shall protect all customer information and treat such information as confidential. CONTRACTOR shall not voluntarily disclose such information or use such information for purposes other than for the provision of services set forth in this Agreement, except as otherwise required by law. At the request of the CITY, CONTRACTOR shall provide a copy of its written policies and procedures regarding the use and protection of customer information.

12.9.3 Identity Theft Prevention.

CONTRACTOR shall maintain an identity theft prevention program as required by the Federal Trade Commission's Red Flag Rules (pursuant to the Fair and Accurate Credit Transactions Act of 2003 and 16 CFR §§ 681.1 and 681.2). At the request of the CITY, CONTRACTOR shall provide a copy of its written policies and procedures to detect, prevent and mitigate identity theft in accordance with the most current Federal Trade Commission's Red Flag Rules.

12.10 Field Activity Descriptions.

CONTRACTOR shall use the field activity descriptions that have been set up in the Customer Information System by CITY. CITY will provide field activity descriptions for all the services provided under this Agreement.

12.11 Customer Service Standards.

CONTRACTOR shall be subject to Customer Services Standards as follows:

12.11.1 Customer Satisfaction Standard.

CONTRACTOR shall meet a standard of at least seventy-five percent (75%) overall customer satisfaction for each Fiscal Year as determined by an annual survey of Service Recipients.

12.11.1.1 Customer Surveys.

Surveys will be conducted by a third-party consultant retained by the CITY to perform customer service surveys for all contractors providing residential Recycle Plus services under contract with the CITY. At least one customer service survey will be conducted each Fiscal Year but the CITY may conduct additional customer service surveys at its discretion. If multiple customer service surveys are conducted during a Fiscal Year, the results will be averaged to determine the annual survey result in relation to the overall customer satisfaction standard (see example below).

Annual Survey Result (illustrative example)

- Four (4) surveys conducted during Fiscal Year
- Survey results: 80%, 75%, 85%, 80%
- Straight average of results = $(80\%+75\%+85\%+80\%)/4 = 80\%$
- Annual survey result: 80%

The procurement process for the third-party consultant will follow the CITY's procurement policies and procedures, as may be amended. The third-party consultant will be selected by a panel consisting of: one representative from CONTRACTOR, a representative from all other contractors providing residential Recycle Plus services under contract to the CITY, and members of CITY staff sufficient to constitute a majority of the overall members on the selection panel. The term of the agreement for the selected third-party consultant will be for three (3) years. CITY shall pay the cost of the surveys.

12.11.1.2. Survey Criteria.

For these surveys, Service Recipients who express no opinion or state "don't know" in response to questions about CONTRACTOR's customer service will be excluded from survey results. The results of the survey shall be final and binding on both parties.

Seventy-five percent (75%) overall customer satisfaction means that 75% of survey respondents, who had an opinion, rated CONTRACTOR's overall service as satisfactory or better. For the purpose of this Customer Satisfaction Standard, "satisfactory or better" equals a rating of 3 or better on a 5-point scale.

12.11.2 Service Delivery Standard.

CONTRACTOR shall meet a Service Delivery Standard related to customer service and performance as set forth in this Section.

12.11.2.1 Liquidated Damages.

CONTRACTOR will fail to meet the Service Delivery Standard by accumulating an aggregate of more than \$30,000 in Liquidated Damages in a Fiscal Year related to any of the items on the List of Liquidated Damages: Service Delivery in Section 16.2.

12.11.2.2 Call Center Assessments.

To evaluate CONTRACTOR's call center, the third-party consultant, procured independently by the CITY, may conduct anonymous, "secret shopper" assessments of CONTRACTOR's call center. Before each assessment, CITY shall notify CONTRACTOR in writing of the criteria and methodology used in the assessment. To the extent possible, information regarding any such "secret shopper" calls (including but not limited to, any recordings of such calls, summaries of the calls, the date/time of the call, the names of CONTRACTOR employees who were spoken with and results and assessments of CONTRACTOR's performance on the calls) will be shared with CONTRACTOR as soon as reasonably possible following each such call to assist CONTRACTOR in its quality control efforts for its call center.

12.11.3 Customer Service Deduction.

If CONTRACTOR fails to meet the Customer Satisfaction Standard ("CSS") and Service Delivery Standard ("SDS") in a Fiscal Year, CITY will make deductions from the payments due to CONTRACTOR at the rates below. The total deduction will be spread evenly over the following Fiscal Year after the determination that CONTRACTOR did not meet the Customer Satisfaction Standard and Service Delivery Standard as follows:

- One Fiscal Year: -\$0.15/unit x 12 months

- Second Consecutive Fiscal Year: $-\$0.30/\text{unit} \times 12 \text{ months}$
- Third Consecutive Fiscal Year and Subsequent Fiscal Years: $-\$0.45/\text{unit} \times 12 \text{ months}$

Example deduction methodology *(for illustrative purposes only)*

Fiscal Year	2021-2022	2022-2023	2023-2024	2024-2025	2025-2026	2026-2027
Result	CSS & SDS not met	CSS or SDS met	CSS & SDS not met	CSS & SDS not met	CSS & SDS not met	CSS & SDS not met
Deduction rate (per unit per month)	\$0.15	NA	\$0.15	\$0.30	\$0.45	\$0.45

Example calculation for Fiscal Year 2023-2024 result

CONTRACTOR does not meet CSS & SDS for one Fiscal Year:

Total Deduction = $\$0.15 \times 166,000 \text{ (total SFD units)} \times 12 \text{ months} = \$298,800$

- Determination of deduction finalized after December 2024 payment
- Deduction applied evenly over remaining monthly payments of Fiscal Year 2024-2025 (January 2025 through June 2025, six monthly payments) = $\$298,800/6 = \$49,800$ per month over six monthly payments

Example calculation for Fiscal Year 2024-2025 result

CONTRACTOR does not meet CSS & SDS for second consecutive Fiscal Year:

Total Deduction = $\$0.30 \times 166,000 \text{ (total SFD units)} \times 12 \text{ months} = \$597,600$

- Determination of deduction finalized after October 2025 payment
- Deduction applied evenly over remaining monthly payments of Fiscal Year 2025-2026 (November 2025 through June 2026, eight monthly payments) = $\$597,600/8 = \$74,700$ per month over eight monthly payments

ARTICLE 13. REPORTING AND RECORDKEEPING

13.1 Reports.

13.1.1 Operational Reports.

Operational reports, monthly invoice, and other information will first be generated to support payment to CONTRACTOR. The Customer Information System ("CIS") shall have information related to the Service Districts that are necessary, as determined by the City Representative, for CONTRACTOR's operations and for providing information requested by CITY.

13.1.2 CONTRACTOR Reports.

CONTRACTOR shall submit reports through the Customer Information System for daily collection data and processing data as described in Exhibit 8. CONTRACTOR shall submit to the City Representative daily, monthly, quarterly and annual reports containing the information, in the format, and at the times described in Exhibit 8. CONTRACTOR shall not change the format, sections or categories of these reports without written approval by the City Representative.

As directed by the City Representative, CONTRACTOR shall also submit any reports to the CITY that are required by law, as may be amended. CONTRACTOR shall submit such reports in the format and timeframe as directed and approved by the City Representative.

13.1.3 Customer Data Reconciliation.

CONTRACTOR shall compare the CITY's Service Unit data with the CONTRACTOR's Service Unit data and resolve all discrepancies within thirty (30) calendar days. Reconciliations shall be completed annually by March 15 of each year. CONTRACTOR shall notify CITY ten (10) Work Days prior to commencing the data reconciliation, by requesting Service Unit data from the CITY's Customer Information System. The CITY shall provide data within ten (10) Work Days of the request. If a large number of discrepancies are discovered during the data comparison, the CITY may defer resolution of discrepancies until the next annual route audit. CONTRACTOR may choose to replace their Service Unit data with CITY Service Unit data instead of conducting a data comparison. CONTRACTOR shall replace their data with CITY provided data within five (5) Work Days of data receipt, and notify CITY when complete.

13.2 Recordkeeping.

13.2.1 CONTRACTOR shall maintain any and all letters, books of account, invoices, vouchers, canceled checks, electronic data, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to CITY (other than tags from Tagged Garbage Bags) for

a minimum of five (5) years beyond the expiration or earlier termination of this Agreement, or for any longer period required by law. CONTRACTOR shall maintain tags from Tagged Garbage Bags for a minimum period of three (3) years from the date the CITY made payment to CONTRACTOR for the collected tag.

13.2.2 CONTRACTOR shall maintain all documents and records which demonstrate performance under this Agreement for a minimum period of five (5) years, or for any longer period required by law, from the date of termination or completion of this Agreement.

13.2.3 Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the City Representative, the Director, City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such documents shall be provided to CITY for inspection at the Environmental Services Department office when it is practical to do so. Otherwise, unless an alternative site is mutually agreed upon, the records shall be available at CONTRACTOR's address indicated for receipt of notices in this Agreement.

13.2.4 Where CITY has reason to believe that such records or documents may be lost or discarded due to the dissolution, disbandment or termination of CONTRACTOR's business, CITY may, by written request or demand of any of the above named officers, require that custody of copies of the records (or the records themselves if no copies are available) be given to CITY and that the records and documents be maintained in City Hall. Access to such records and documents shall be granted to any party authorized by CONTRACTOR, CONTRACTOR's representatives, or CONTRACTOR's successor-in-interest.

ARTICLE 14. FUND APPROPRIATION

14.1 Fiscal Year Authorization.

CONTRACTOR understands and agrees that CITY, during any Fiscal Year, is not authorized to expend money, incur any liability or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such Fiscal Year; and that any contract or agreement, verbal or written, made in violation of this Article is null and void; and that consequently, no money may be paid on such contract or agreement beyond such limits. Nothing contained in this Agreement shall prevent the making of agreements or contracts for periods exceeding one (1) year, but any agreement or contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding Fiscal Years. If the City Council does not appropriate funds for the services under this Agreement by June 30 of each year, CITY shall so notify CONTRACTOR and CONTRACTOR shall suspend services under this Agreement until CITY provides written verification that the funds necessary for CONTRACTOR's compensation and other necessary expenditures are appropriated and available within the appropriate Fiscal Year budget.

14.2 Adoption.

CITY does not represent that said appropriation item will be actually adopted, said determination being the determination of the City Council at the time of the adoption of the appropriation.

ARTICLE 15. COMPENSATION

15.1 Billing and Collection of Payments.

CITY shall be responsible for the billing and collection of payments from Service Units for all SFD Solid Waste Collection Services.

15.2 Monthly Invoices.

CONTRACTOR shall provide a monthly report no later than the tenth (10th) day of each month following the month such services were rendered; and complete service data entry into the Customer Information System. Upon receipt of the report and access to complete service data, CITY shall then produce a preliminary monthly invoice for all services received under this Agreement no later than the fifteenth (15th) day of the month following the month such services were rendered.

15.2.1 Review of Monthly Invoice by CONTRACTOR.

CONTRACTOR shall review the monthly invoice prepared by CITY and within ten (10) Work Days of receipt of the invoice, CONTRACTOR shall notify the City Representative of any discrepancies or deficiencies in said invoice.

Beginning July 1, 2013, and annually thereafter through July 1, 2020, CONTRACTOR shall pay the CITY the sum of \$2,650,000, for a total of \$21,200,000, subject to CITY's appropriation for each year pursuant to Article 14 ("Fund Appropriation"). CONTRACTOR shall notify the CITY by February 15, 2013, and annually thereafter, of its intention to either pay the lump sum of \$2,650,000 by July 1, 2013, or remit in monthly installments of \$220,834 to a revenue account designated by the City Representative. Should CONTRACTOR request instead that the CITY deduct monthly installments from CONTRACTOR's invoice, CONTRACTOR shall notify the CITY by February 15 of each year. Should CONTRACTOR fail to notify the CITY by February 15 of each year of its payment methodology, CITY shall deduct \$220,834 from CONTRACTOR's monthly invoice payment for the next Fiscal Year. Should CONTRACTOR fail to remit the lump sum of \$2,650,000 by July 1 of each year, or fail to remit monthly installments of \$220,834 on the first of each month, CITY shall deduct \$220,834 from CONTRACTOR's monthly invoice payment.

15.2.2 Resolution of Discrepancies.

CONTRACTOR shall meet with the City Representative within ten (10) Work Days of CITY's receipt of notice of discrepancies or deficiencies to resolve any such discrepancies or deficiencies and shall provide to the City Representative any and all documentation relating to the discrepancy or deficiency that is requested by the City Representative or which CONTRACTOR wishes to provide in support of CONTRACTOR's calculations. Within fifteen (15) calendar days of the receipt of documentation requested in writing by the City

Representative or within fifteen (15) calendar days of the meeting between CONTRACTOR and the City Representative, whichever occurs later, the City Representative shall notify CONTRACTOR in writing of the City Representative's resolution of the discrepancies or deficiencies. The City Representative's determination shall be final unless within ten (10) calendar days of the date of the determination CONTRACTOR requests a review by the Director.

If CONTRACTOR timely requests a review by the Director, the Director shall review the City Representative's determination, all relevant documentation presented to the City Representative, and any additional relevant information provided by CONTRACTOR at the time of CONTRACTOR's request for review. If requested by CONTRACTOR, the Director shall meet with CONTRACTOR within fifteen (15) calendar days of CONTRACTOR's request for review. The Director shall render a written decision to CONTRACTOR sustaining or reversing the City Representative's determination, in whole or in part, within thirty (30) calendar days of receipt of CONTRACTOR's request for review.

15.2.3 Partial Month Service.

If, during a month, a Service Unit is added to or deleted from CONTRACTOR's Service Unit list, the billing for such Service Unit shall be prorated as follows: (1) if the Service Unit was eligible to receive SFD Solid Waste Collection Service for at least sixteen (16) calendar days during the month, CONTRACTOR shall be compensated for that Service Unit at the full monthly rate set out in Exhibit 1A and 1B; and (2) if the Service Unit was eligible to receive SFD Solid Waste Collection Service for less than sixteen (16) calendar days during the month, CONTRACTOR shall not be compensated for that Service Unit for that month.

15.2.4 Payments.

CITY shall make no payment for any SFD Service Unit, Business Service Unit, or Small Civic Service Units that is not included on the list maintained by the CITY.

15.3 Payments to CONTRACTOR.

CITY shall pay CONTRACTOR for services performed in accordance with this Agreement at the service rates set forth in Exhibit 1A and Exhibit 1B as such rates may be adjusted pursuant to this Agreement. Except as otherwise provided in this Agreement, CITY shall make monthly payments to CONTRACTOR within thirty (30) calendar days of CONTRACTOR's approval of CITY's invoice. In the event there are any amounts listed on the invoice which remain in dispute after CONTRACTOR and CITY complete the Resolution of Discrepancies process set forth in Section 15.2.2 above, CITY shall pay to CONTRACTOR the amounts accepted as appropriate by the Director.

15.3.1 Wire Transfers.

CITY will make monthly invoice payments and/or additional payments by wire transfer to CONTRACTOR's bank account or accounts as are designated by CONTRACTOR. CITY may deduct CITY's costs of the wire transfers from the monthly payment otherwise due to CONTRACTOR.

15.4 Refuse Rate Index (RRI) Adjustment Process.

15.4.1 The service rates set forth in Section 15.5.1 shall be increased or decreased by the percentage change in the Refuse Rate Index ("RRI") from the base month, which shall be for the months of December in the last two calendar years as contained in the most recent publication of the source documents listed in Exhibit 2A ("RATE ADJUSTMENTS - REFUSE RATE INDEX THROUGH JUNE 30, 2021") and Exhibit 2B ("RATE ADJUSTMENTS – REFUSE RATE INDEX FROM JULY 1, 2021 THROUGH JUNE 30, 2036") to this Agreement. Beginning July 1, 2021, the RRI adjustment will be calculated using the annual calendar year averages as published by the United States Department of Labor, Bureau of Labor Statistics ("BLS") indices labeled as Annual by BLS, except the labor index, which will be calculated based on the average change of the four quarters for the calendar year. If an Annual value is not published, the annual calendar year average will be calculated by taking an average of the indices published over the calendar year.

15.4.2 CONTRACTOR shall deliver to CITY financial information for the specific services performed under this Agreement for the preceding calendar year. Such financial information shall be the information described in the "Operating Cost Statement – Description" portion of Exhibit 2A and 2B and shall be in the format described in Exhibit 2A and 2B, as may be revised by CITY from time to time. CONTRACTOR agrees to provide the City a description of all items classified as "Other Operating Expenses" for the purpose of making the indexed adjustment calculation. If CONTRACTOR fails to submit the financial information in the required format by February 15th, it is agreed that CONTRACTOR shall be deemed to have waived the right to the RRI rate adjustment for that year. CONTRACTOR's failure to provide the financial information shall not preclude CITY from applying the RRI using the prior year's financial data, or pro forma data if no prior year financial data is available, if that application would result in a decrease in the affected service rates.

15.4.3 The BLS or source indices shall be truncated at four (4) decimal places for adjustment calculations. The resulting RRI value from the adjustment calculations may be rounded to four (4) decimal places for use in the final RRI compensation rate adjustment. Annual compensation rate adjustments shall be made only in units of one cent (\$0.01). Fractions of less than one cent (\$0.01) shall not be considered in making compensation rate adjustments. For example:

- RRI value of 0.03587 shall be rounded to 0.0359 or 3.59%
- Dollar amount of \$1.235 shall be truncated to \$1.23

15.4.4 If CONTRACTOR's failure to submit the financial information required by Section 15.4.2 is the result of extraordinary or unusual circumstances as demonstrated by CONTRACTOR to the reasonable satisfaction of City Representative, CITY, at its sole discretion, may consider the request for the annual RRI rate adjustment.

15.4.5 On or before June 1 of each year, the City Representative shall notify CONTRACTOR of the RRI adjustment to the affected service rates to take place beginning July 1 of that same year.

15.5 Adjustments To Rates Using Refuse Rate Index (RRI).

The adjustments to rates may result in an increase or decrease to the rates. If the adjustment results in an increase greater than six percent (6%), CONTRACTOR may be required to defer the increase in excess of six percent (6%) to the following year and up to three years thereafter. Any amount of the deferred increase in cost remaining on the fourth year would be included in the fourth year adjustment of the service rates.

If the adjustment results in a negative number, CITY will defer that portion of the savings which would cause CONTRACTOR's then current compensation to decrease to the following year, and up to three years thereafter. Any savings not realized by the fourth year would be included in the fourth year adjustment to the service rates.

Notwithstanding this section, any adjustments to rates that result in an increase or decrease to the rates for the last year of this Agreement (2035-2036) shall fully include any deferred increase or savings not previously realized in the previous years' rates.

15.5.1 SFD Rates.

CONTRACTOR shall, subject to compliance with all provisions of this Article, receive an annual adjustment in the following service rates as set forth in Exhibit 1A and 1B to this Agreement:

- SFD Solid Waste Collection Service (line A.1)
- Subscription On-Premises Service (line B.1)
- Excess Exchange (line B.2)
- Hard to Serve Premise (line B.3)
- Tagged Garbage Bag Collection (line B.4)
- Emergency Services

15.6 Service Unit Counts.

CITY will utilize the Customer Information System to maintain the customer database from which the SFD Service Unit and Business Service Unit counts will be derived. In the event CONTRACTOR does not agree with the Service Unit counts as maintained by CITY, CONTRACTOR may, at any time but not more often than once per Fiscal Year, request that CITY and CONTRACTOR perform a joint route audit of the SFD Service Units count at issue, and/or Small Commercial Business Service Units in the Service Districts. Such audit shall be at no cost to CITY other than labor costs for CITY staff.

15.7 Reconciliation.

During the term of this Agreement, the CITY and the CONTRACTOR may review compensation payments made to CONTRACTOR pursuant to this Agreement and require compensation adjustments for overpayment or underpayment of services up to four (4) years after payment for the services or the date the services were provided, whichever date is later. CONTRACTOR acknowledges that adjustments to compensation can also apply to services provided under the September 2, 2011 Agreement.

The potential compensation adjustments may be due to, but are not limited to, the discovery of Customer Information System errors, discrepancies in Service Unit counts or on-call services already paid to CONTRACTOR, Refuse Rate Index adjustment errors, liquidated damages, or other overpayments or underpayments made to CONTRACTOR's invoice. The City Representative shall issue a written notice to CONTRACTOR of the compensation adjustment and the basis for the assessment. CONTRACTOR may request a review of the compensation adjustments by following the protocols set forth in Section 15.2.2 ("Resolution of Discrepancies") or Section 16.3 ("Procedure for Review of Liquidated Damages"), as appropriate.

15.8 Withholding of Payment.

In addition to express provisions contained elsewhere in this Agreement, CITY may withhold from any payment otherwise due to CONTRACTOR such amount as is reasonably determined by CITY as necessary to protect CITY's interest, or, if CITY so elects, may withhold or retain all or a portion of any monthly payment or refund payment for any of the following reasons. CITY shall provide written notice to CONTRACTOR of the reason for withholding of payments.

- Unsatisfactory progress of the work not caused by any condition beyond CONTRACTOR's control;
- Defective work not corrected;
- CONTRACTOR's failure to carry out instructions or orders of the City Representative;
- Execution of work not in accordance with this Agreement;
- Claims filed by or against CONTRACTOR or reasonable evidence indicating probable filing of claims;

- Failure of CONTRACTOR to make payments to any subcontractor for material or labor;
- Unsafe working conditions allowed to persist by CONTRACTOR;
- Failure of CONTRACTOR to provide route schedules and other reports as required by CITY;
- Use of any subcontractors without CITY's prior written approval.

15.9 Payment of Withheld Amounts.

Upon CONTRACTOR's remedy of the above-listed grounds for withholding payment and demonstration of the remedy to the reasonable satisfaction of the City Representative, CITY shall pay all withheld amounts within ten (10) Work Days. CITY shall not be liable for interest on any delayed or late payment.

ARTICLE 16. QUALITY OF PERFORMANCE OF CONTRACTOR

16.1 Intent.

CONTRACTOR acknowledges and agrees that the CITY's primary goals in entering into this Agreement are to ensure that the SFD Solid Waste Collection services are of the highest caliber, that Service Recipient satisfaction remains at the highest level, and that all services performed under this Agreement are both timely and accurate.

CONTRACTOR agrees its failure to perform the services as set forth in this Agreement would cause CITY damage by undermining the goals. CITY and CONTRACTOR mutually agree that making a precise determination of the amount of CITY's damages as a result of CONTRACTOR's failure would be impractical and/or extremely difficult. Therefore, the parties agree that, in the event of such failure, CONTRACTOR shall pay to CITY as liquidated damages the amounts listed in Section 16.2.

16.2 Liquidated Damages.

It shall be the duty of CONTRACTOR to perform services under this Agreement in such a manner as to implement practices, policies and procedures designed to achieve the goals set forth in Section 16.1 above. In the event CONTRACTOR fails to perform the services as set forth in this Agreement, CONTRACTOR agrees that CITY may deduct liquidated damages from any monies due or which may become due to CONTRACTOR in the following amounts:

List of Liquidated Damages: Service Delivery (Applies to Each Service District)		
a.	Failure or neglect to resolve each complaint within the time set forth in this Agreement.	\$500.00 per incident per Service Recipient.
b.	Failure to clean up spillage or litter caused by CONTRACTOR.	\$300.00 per incident per location.
c.	Failure to repair damage to customer property caused by CONTRACTOR or its personnel.	\$500.00 per incident per location.
d.	Failure to maintain equipment in a clean, safe, and sanitary manner.	\$500.00 per incident per Work Day.
e.	Failure to maintain office hours as required by this Agreement.	\$500.00 per incident per Work Day.

List of Liquidated Damages: Service Delivery (Applies to Each Service District)		
f.	Failure to properly cover materials in collection vehicles.	\$500.00 per incident.
g.	Failure to display CONTRACTOR's name and customer service phone number on collection vehicles.	\$500.00 per incident per Work Day.
h.	Failure to comply with the hours of operation as required by this Agreement.	\$500.00 per incident per Work Day.
i.	Failure to collect material on scheduled day	\$100.00 per 1 missed collection per 1,000 service opportunities per month for SFD (monthly service opportunities = number of service units from most recent monthly compensation x 4.33.
j.	Failure to repair or replace damaged carts within the time required by this Agreement.	\$100.00 per incident per Work Day.
k.	Failure to deliver or exchange carts within the time required by this Agreement.	\$100.00 per incident per Work Day.
l.	Failure of CONTRACTOR's field personnel to carry photographic identification or wear uniform shirts.	\$100.00 per incident per Work Day.
m.	Failure to provide required communications equipment.	\$100.00 per incident per Work Day.
n.	Failure to achieve minimum average telephone delay time of 180 seconds or less, measured on a quarterly basis, for a caller to talk with a Customer Service Representative (CSR). "Delay time" means the time from first ring until caller speaks with CSR.	Minimum delay time: 180 seconds quarterly average. \$5,000 per quarter if > 180 second avg. per quarter.

List of Liquidated Damages: Service Delivery (Applies to Each Service District)		
o.	Failure to achieve minimum telephone hold time of a cumulative of 10 minutes or less. "Hold time" means the cumulative time a caller is on-hold waiting to speak to a CSR or call abandoned while waiting to speak to a CSR.	Each call > 10 minutes total cumulative time on-hold or call abandoned after 10 minutes cumulative time on-hold: 0.3% or more of calls per quarter. \$10,000 per quarter if total cumulative time on-hold or call abandoned after 10 minutes on hold is ≥ 0.3% of calls per quarter.
p.	Failure to achieve minimum acceptable score for call center service level quality.	\$1,000 for not meeting minimum score of third-party quarterly assessment report; minimum score ≥ 80% per assessment/quarter
q.	Failure to provide customer self-service option (website, email) as specified in this Agreement.	\$1,000 per day
r.	Failure to issue Non-Collection Notice as specified in this Agreement.	\$100 per incident
s.	Failure to return empty carts to the point of collection, upright with lids closed and locks secured (if applicable), as specified in this Agreement. This penalty would be complaint-based and for situations with public health & safety implications (e.g., cart toppled, in the middle of the road).	\$100 per incident

List of Liquidated Damages: All Other (Applies to Each Service District)		
t.	Failure to have a vehicle operator properly licensed.	\$500.00 per incident per Work Day.

List of Liquidated Damages: All Other (Applies to Each Service District)		
u.	Failure to maintain or timely submit to CITY, due to CONTRACTOR's negligence, all documents and reports required under the provisions of this Agreement	\$500.00 per incident per Work Day.
v.	Changing routes without proper notification to the City Representative.	\$500.00 per incident per Work Day.
w.	Commingling Residential Solid Waste with Recyclable Materials.	\$5,000.00 per incident.
x.	Commingling of materials in collection vehicles collected pursuant to this Agreement with any other materials.	\$5,000.00 per incident.
y.	Failure to deliver any collected materials to the Disposal Facility, as appropriate, except as otherwise expressly provided in this Agreement.	\$5,000 first failure \$25,000 each subsequent failure
z.	Delivery to the Disposal Facility of any Residential Solid Waste collected outside of the Service Districts boundaries commingled with that collected as part of this Agreement.	\$5,000 first delivery \$25,000 each subsequent delivery
aa.	Failure to comply with the provisions of the "plans" set forth in Exhibit 7 to this Agreement.	\$500 per incident per Work Day.
bb.	Failure to provide access for CITY (CITY staff or CITY designee) to CONTRACTOR'S or subcontractor's operating and Processing facilities used pursuant to this Agreement.	\$1,000 per incident per Work Day.
cc.	Failure to use biodiesel fuel, compressed natural gas, or an equivalent mutually agreed upon alternative fuel in Recycle Plus vehicle collection fleet.	\$500 per vehicle per month.
dd.	Distribution of public education and outreach material prior to approval by the City Representative.	\$1,000 per incident

16.3 Procedure for Review of Liquidated Damages.

If liquidated damages are applicable, the City Representative shall issue a written notice to CONTRACTOR ("Notice of Nonperformance") that lists the liquidated damages associated with the nonperformance, and the nature of the nonperformance.

16.3.1 The liquidated damages shall become final unless, within ten (10) calendar days of the date of the Notice of Nonperformance, CONTRACTOR

provides a written request for a meeting with the Director to present evidence that the liquidated damages should not be applied.

16.3.2 The City Representative shall schedule a meeting between CONTRACTOR and the Director or the Director's designee as soon as reasonably possible after timely receipt of CONTRACTOR's request.

16.3.3 The Director or the Director's designee shall review CONTRACTOR's evidence and render a decision sustaining or reversing the liquidated damages as soon as reasonably possible after the meeting. Written notice of the decision shall be provided to CONTRACTOR.

16.3.4 In the event CONTRACTOR does not submit a written request for a meeting within ten (10) calendar days of the date of the Notice of Nonperformance, the City Representative's determination shall be final and CITY may deduct the liquidated damages from amounts otherwise due to CONTRACTOR.

16.3.5 CITY's collection of liquidated damages shall not prevent CITY from exercising any other right or remedy, including the right to terminate this Agreement, for CONTRACTOR's failure to perform the work and services in the manner set forth in this Agreement.

16.4 Service Supervisor.

CONTRACTOR shall assign supervisor(s) to be in charge of the SFD Solid Waste Collection Services and shall provide the name of that person or those persons in writing to the City Representative annually by July 1 of each year of the term of this Agreement, and any other time the person(s) in that position changes. The supervisor(s) shall be physically located in the geographic boundaries of the Service Districts and available to the contract manager through the use of telecommunication equipment at all times that CONTRACTOR is providing SFD Solid Waste Collection Services. In the event the supervisor is unavailable due to illness or vacation, CONTRACTOR shall designate an acceptable substitute who shall be available and who has the authority to act in the same capacity as the supervisor.

16.5 Contract Manager.

CONTRACTOR shall designate a contract manager and shall provide the name of that person in writing to the City Representative within thirty (30) calendar days of the Effective Date of this Agreement, and annually by July 1 of each subsequent Fiscal Year of this Agreement and any other time the person in that position changes. The contract manager shall be available to the City Representative, the City Manager and the Director through the use of telecommunications equipment at all times that CONTRACTOR is providing SFD Solid Waste Collection Services. The contract manager shall provide CITY with an emergency phone number where the contract manager can be reached outside of normal business hours.

ARTICLE 17. DEFAULT OF AGREEMENT

17.1 Termination.

CITY may terminate this Agreement, except as otherwise provided below in this Article, by giving CONTRACTOR thirty (30) calendar days advance written notice, to be served as provided in Section 21.18, upon the happening of any one of the following events:

17.1.1 CONTRACTOR shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy (court) or a petition or answer seeking an arrangement for its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any other law or statute of the United States or any state thereof, or consent to the appointment of a receiver, trustee or liquidator of all or substantially all of its property; or

17.1.2 By order or decree of a Court, CONTRACTOR shall be adjudged bankrupt or an order shall be made approving a petition filed by any of its creditors or by any of the stockholders of CONTRACTOR, seeking its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any law or statute of the United States or of any state thereof, provided that if any such judgment or order is stayed or vacated within sixty (60) calendar days after the entry thereof, any notice of default shall be and become null, void and of no effect; unless such stayed judgment or order is reinstated in which case, said default shall be deemed immediate; or

17.1.3 By, or pursuant to, or under the authority of any legislative act, resolution or rule or any order or decree of any Court or governmental board, agency or officer having jurisdiction, a receiver, trustee or liquidator shall take possession or control of all or substantially all of the property of CONTRACTOR, and such possession or control shall continue in effect for a period of sixty (60) calendar days; or

17.1.4 CONTRACTOR has defaulted, by failing or refusing to pay in a timely manner the liquidated damages or other monies due CITY and said default is not cured within thirty (30) calendar days of receipt of written notice by CITY to do so; or

17.1.5 CONTRACTOR has defaulted by allowing any final judgment for the payment of an award of which would impede the CONTRACTOR'S ability to fulfill this contract to stand against it unsatisfied and said default is not cured within thirty (30) calendar days of receipt of written notice by CITY to do so; or

17.1.6 In the event that monies due CITY under Section 17.1.4 or an unsatisfied final judgment under Section 17.1.5 is the subject of a judicial

proceeding, CONTRACTOR shall not be in default if the sum of money is bonded. All bonds shall be in the form acceptable to the City Attorney; or

17.1.7 CONTRACTOR has defaulted, by failing or refusing to perform or observe the terms, conditions or covenants in this Agreement or any of the rules and regulations promulgated by CITY pursuant thereto or has wrongfully failed or refused to comply with the instructions of the City Representative relative thereto and said default is not cured within thirty (30) calendar days of receipt of written notice from CITY to do so, or if by reason of the nature of such default, the same cannot be remedied within thirty (30) calendar days following receipt by CONTRACTOR of written demand from CITY to do so, CONTRACTOR fails to commence the remedy of such default within said thirty (30) calendar days following such written notice or having so commenced shall fail thereafter to continue with diligence the curing thereof (with CONTRACTOR having the burden of proof to demonstrate (a) that the default cannot be cured within thirty (30) calendar days, and (b) that it is proceeding with diligence to cure said default, and such default will be cured within a reasonable period of time).

However, notwithstanding anything contained herein to the contrary, for the failure of CONTRACTOR to provide SFD Solid Waste Collection Services for a period of three (3) consecutive Work Days, CITY may secure CONTRACTOR's records and SFD Solid Waste Collection Services equipment on the fourth (4th) Work Day in order to provide interim SFD Solid Waste Collection Services until such time as the matter is resolved and CONTRACTOR is again able to perform pursuant to this Agreement; provided, however, if CONTRACTOR is unable for any reason or cause to resume performance at the end of thirty (30) calendar days, all liability of CITY under this Agreement to CONTRACTOR shall cease and this Agreement may be deemed terminated upon notice by the City Manager. In the event CITY secures CONTRACTOR's equipment in order to provide interim services, ownership of such equipment shall remain with CONTRACTOR and shall not transfer to CITY, but CITY shall be obligated to make the outstanding debt payments, if any, on such equipment attributable to the interim period and CITY shall make all payments that would otherwise have been made by CONTRACTOR for vehicle operations (including insurance, fuel and repairs) required to comply with CONTRACTOR's debt obligation to CONTRACTOR's lenders. CITY's responsibility for such outstanding debt payments and other payments shall end at such time as CITY ceases use of such equipment to provide interim services. In the event CITY secures CONTRACTOR's equipment, CITY may utilize CONTRACTOR's office, corporation yard and other facilities on the same terms as for the use of CONTRACTOR's equipment.

17.2 Violations.

Notwithstanding the foregoing and as supplemental and additional means of termination of this Agreement under this Article, in the event that CONTRACTOR's record of performance shows that CONTRACTOR has frequently, regularly or repetitively defaulted in the performance of any of the covenants and conditions required herein to be kept and performed by CONTRACTOR, in the opinion of the City Manager and regardless of whether CONTRACTOR has corrected each individual condition of default, CONTRACTOR shall be deemed a "habitual violator", shall be deemed to have waived the right to any further notice or grace period to correct, and all of said defaults shall be considered cumulative and collectively shall constitute a condition of irredeemable default. The City Manager shall thereupon issue CONTRACTOR a final warning citing the circumstances therefore, and any single default by CONTRACTOR of whatever nature, subsequent to the occurrence of the last of said cumulative defaults, shall be grounds for immediate termination of this Agreement. In the event of any such subsequent default, the City Manager may terminate this Agreement upon giving of written final notice to CONTRACTOR, such termination to be effective upon the date specified in the City Manager's written notice to CONTRACTOR. Upon such termination, all contractual fees due hereunder plus any and all charges and interest, if any, shall be payable to the date of termination, and CONTRACTOR shall have no further rights hereunder. Immediately upon the specified date in such final notice CONTRACTOR shall cease any further performance of SFD Solid Waste Collection Services, as specified in the City Manager's notice, under this Agreement.

17.3 Effective Date of Termination.

In the event of the aforesaid events specified in Sections 17.1 and 17.2 above, and except as otherwise provided in said Sections, termination shall be effective upon the date specified in the City Manager's written notice to CONTRACTOR and upon said date this Agreement shall be deemed immediately terminated and upon such termination all liability of CITY under this Agreement to CONTRACTOR, other than payment of moneys due, shall cease, and CITY shall have the right to call the Performance Bond and shall be free to negotiate with other contractors for the performance of the services specified in this Agreement. In the event of CONTRACTOR's failure to perform, CONTRACTOR shall reimburse CITY for all direct and indirect costs of providing interim SFD Solid Waste Collection Services.

17.4 Immediate Termination.

The CITY may terminate this Agreement immediately upon written notice to CONTRACTOR in the event CONTRACTOR fails to provide and maintain the Performance Bond as required by this Agreement, CONTRACTOR fails to obtain or maintain insurance policies endorsements as required by this Agreement, CONTRACTOR fails to provide the proof of insurance as required by this Agreement, or

CONTRACTOR offers or gives any gift prohibited by Chapter 12.08 of the San José Municipal Code.

17.5 Termination Cumulative.

CITY's right to terminate this Agreement is cumulative to any other rights and remedies provided by law or by this Agreement.

ARTICLE 18. NONDISCRIMINATION, WAGE POLICY

18.1 Nondiscrimination.

In the performance of all work and services under this Agreement, CONTRACTOR shall not discriminate against any person on the basis of such person's race, sex, color, national origin, religion, marital status or sexual orientation or disability. CONTRACTOR shall comply with all applicable local, state and federal laws and regulations regarding nondiscrimination, including those prohibiting discrimination in employment.

18.2 Wage Policy.

CONTRACTOR shall pay, and shall ensure its subcontractors to pay, those employees performing work related to this Agreement those specified wage rates as set forth in Exhibit 13 ("WAGE POLICY") and shall meet the documentation and reporting requirements set forth therein.

ARTICLE 19. FINANCIAL ASSURANCE

19.1 Performance Bond.

CONTRACTOR shall keep current a performance bond in a form substantially as set forth in Exhibit 12 ("FORM OF PERFORMANCE BOND") to this Agreement or in such other form as is acceptable to the City Attorney, for the faithful performance of this Agreement and all obligations arising hereunder in the following amounts:

19.1.1 From the Effective Date through June 30, 2021, an amount not less than Four Million Two Hundred Ninety Thousand Dollars (\$4,290,000).

19.1.2 Beginning July 1, 2021 through the remaining term of this Agreement, an amount not less than Five Million Two Hundred Ninety Thousand Dollars (\$5,290,000).

19.2 Licensed Surety.

The performance bond shall be executed by a surety company licensed to do business in the State of California; having an "A-" or better rating by A. M. Best or Standard and Poors; and included on the list of surety companies approved by the Treasurer of the United States. If the term of the performance bond is shorter than the term of this Agreement, CONTRACTOR shall submit proof of renewal or extension at least thirty (30) calendar days prior to the performance bond expiration date.

19.3 Indemnification.

CONTRACTOR shall indemnify and hold harmless CITY, CITY's contractors, and CITY's public officials, officers, directors, employees, agents and other contractors of each of them, from and against any and all claims, costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals as well as all Court or other dispute resolution costs), liabilities, expenditures or causes of action of any kind (including negligent, reckless, willful or intentional acts or omissions of CONTRACTOR, any subcontractor, any supplier, or any person or organization directly or indirectly employed by any of them to perform or furnish any services or anyone for whose acts any of them may be liable), arising from, relative to or caused by the performance of the services under this Agreement. This indemnity includes but is not limited to claims attributable to bodily injury, sickness, disease or death and to injury or destruction of tangible property. CONTRACTOR agrees, at CONTRACTOR's expense, after written notice from the City Attorney, to defend any action against CITY that falls within the scope of this indemnity, or CITY, at CITY's option, may elect not to tender such defense and may elect instead to secure its own attorneys to defend any such action and the reasonable costs and expenses of such attorneys incurred in defending such action shall be payable by CONTRACTOR. Additionally, if CONTRACTOR, after receipt of written notice from the CITY, fails to make any payment due under this Agreement to CITY, CONTRACTOR shall pay any

reasonable attorneys' fees or costs incurred by CITY in securing any such payment from CONTRACTOR. Payment of any amount due pursuant to the foregoing indemnity shall, after receipt of written notice by CONTRACTOR from CITY that such amount is due, be made by CONTRACTOR prior to CITY being required to pay same, or in the alternative, CITY, at CITY's option, may make payment of an amount so due and CONTRACTOR shall promptly reimburse CITY for same. CONTRACTOR's indemnification in connection with the California Integrated Waste Management Act of 1989 shall be subject to Public Resources Code Section 40059.1.

CONTRACTOR's obligations under this Section 19.3 includes the defense of any action against the CITY or the payment of any fines or penalties imposed on the CITY as a result of: (i) CONTRACTOR's failure to meet its obligations under this Agreement, or (ii) due to CONTRACTOR's delay in providing information that prevents CONTRACTOR or CITY from submitting timely reports as required by law.

19.4 Consideration.

It is specifically understood and agreed that the consideration inuring to CONTRACTOR for the execution of this Agreement includes the promises, payments, covenants, rights and responsibilities contained in this Agreement.

19.5 Obligation.

The execution of this Agreement by CONTRACTOR shall obligate CONTRACTOR to comply with the foregoing indemnification provision; however, the collateral obligation of providing insurance must also be complied with as set forth in Article 20.

19.6 Subcontractors.

CONTRACTOR shall require all subcontractors to enter into a contract containing the provisions set forth in Section 19.3 in which contract the subcontractor fully indemnifies CITY in accordance with this Article.

19.7 Exception.

Notwithstanding Sections 19.3, 19.4 and 19.5 above, CONTRACTOR's obligation to indemnify, hold harmless and defend CITY, its officers and employees shall not extend to any loss, liability, penalty, complaint, damage, action or suit arising or resulting from acts or omissions constituting willful misconduct or gross negligence on the part of CITY, its officers or employees.

19.8 Damage by CONTRACTOR.

If CONTRACTOR's employees or subcontractors cause any injury, damage or loss to CITY property, including but not limited to CITY streets or curbs (excepting normal wear and tear), CONTRACTOR shall reimburse CITY for CITY's cost of repairing such injury, damage or loss. Such reimbursement is not in derogation of any right of CITY to be indemnified by CONTRACTOR for any such injury, damage or loss. With the

RD:MJV:KML
01/21/2020

prior written approval of the Director, CONTRACTOR may repair the damage at CONTRACTOR's sole cost and expense.

ARTICLE 20. INSURANCE

20.1 Insurance Policies.

CONTRACTOR shall secure and maintain throughout the term of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with CONTRACTOR's performance of work or services under this Agreement. CONTRACTOR's performance of work or services shall include performance by CONTRACTOR's employees, agents, representatives and subcontractors.

20.2 Minimum Scope of Insurance.

There shall be no endorsement reducing the scope of the coverage required below unless approved by the CITY's Risk Manager. Insurance coverage shall be at least as broad as:

- 20.2.1 The coverage provided by Insurance Office Commercial General Liability coverage ("occurrence" form CG 0001); and
- 20.2.2 The coverage provided by Insurance Services Office Form No. CA 0001 covering Automobile Liability. Coverage shall be included for all owned, non-owned and hired automobiles; and
- 20.2.3 Workers' Compensation insurance as required by the California Labor Code and Employers Liability Insurance; and
- 20.2.4 Umbrella Liability per occurrence policy follow form for scheduled underlyers; Commercial General Liability, Auto Liability, Employer's Liability. Umbrella policy is required to have all scheduled underlyers identified; and
- 20.2.5 Hazardous Waste and Environmental Impairment Liability Insurance.

20.3 Minimum Limits of Insurance.

CONTRACTOR shall maintain insurance limits no less than:

- 20.3.1 Commercial General Liability: \$3,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement or the general aggregate limit shall be \$5,000,000; and
- 20.3.2 Automobile Liability: \$3,000,000 combined single limit per accident for bodily injury and property damage; and
- 20.3.3 Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of \$3,000,000 per accident; and

20.3.4 Umbrella Liability: \$10,000,000 per occurrence, with the Commercial General Liability, Automobile Liability, and Employer's Liability all listed on the policy as scheduled underlayers; and

20.3.5 Hazardous Waste and Environmental Impairment Liability: \$3,000,000 per occurrence; and

20.3.6 Crime Coverage: A Combination Crime policy with minimum limits not less than \$1,000,000 per occurrence for Employee Dishonesty (Form A); Forgery or Alteration (Form B); Theft, Disappearance, Destruction Inside/Outside Premises (Form C); and Robbery and Safe Burglary Inside/Outside of Premises (Form D).

20.4 Deductibles and Self-Insured Retention.

Any deductibles or self-insured retention must be declared to, and approved by, CITY's Risk Manager. At the option of CITY, either: the insurer shall reduce or eliminate such deductibles or self-insured retention as respects CITY, its officers, employees, agents and contractors; or CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by CITY's Risk Manager.

20.5 Endorsements.

The General Liability and Automobile Liability Coverage policies are to contain, or be endorsed to contain, the following provisions:

20.5.1 The City of San José, its officers, employees, agents and contractors are to be covered as additional insured as respects: Liability arising out of activities performed by, or on behalf of, CONTRACTOR; products and completed operations of CONTRACTOR; premises owned, leased or used by CONTRACTOR; and automobiles owned, leased, hired or borrowed by CONTRACTOR. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, employees, agents and contractors.

20.5.2 CONTRACTOR's insurance coverage shall be primary insurance as respects CITY, its officers, employees, agents and contractors. Any insurance or self-insurance maintained by CITY, its officers, employees, agents or contractors shall be in excess of CONTRACTOR's insurance and shall not contribute with it.

20.5.3 Any failure to comply with reporting provisions of the policies shall not affect coverage provided to CITY, its officers, employees, agents, or contractors.

20.5.4 Coverage shall state that CONTRACTOR's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

20.5.5 Coverage shall contain a waiver of subrogation in favor of CITY, its officials, employees, agents and contractors.

The Workers' Compensation and Employers' Liability Coverage shall contain waiver of subrogation in favor of the City of San José, its officers, employees, agents and contractors.

20.6 All Coverages.

Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in limits except after thirty (30) days prior written notice has been given to CITY's Risk Manager, except that ten (10) days prior written notice shall be required in the event of cancellation for non-payment of premium.

20.7 Acceptability of Insurers.

Insurance is to be placed with insurers acceptable to CITY's Risk Manager.

20.8 Verification of Coverage.

CONTRACTOR shall furnish CITY with certificates of insurance and with original endorsements affecting coverage required by this Agreement. The certificates and endorsement for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. CONTRACTOR shall furnish CITY with a new certificate of insurance and endorsements on each renewal of coverage or change of insurers.

Proof of insurance shall be either emailed in an electronic format to: Riskmgmt@sanjoseca.gov with a copy to the City Representative, or mailed to the following postal address (or any subsequent email or postal address as may be directed in writing by the Risk Manager):

CITY OF SAN JOSE – Finance Department
Risk Management
200 East Santa Clara Street, 14th Floor Wing
San José, California 95113-1905

20.9 Subcontractors.

CONTRACTOR shall include all subcontractors as insured under its policies or shall obtain separate certificates and endorsements for each subcontractor.

20.10 Modification of Insurance Requirements.

The insurance requirements provided in this Agreement may be modified or waived by CITY's Risk Manager, in writing, upon the request of CONTRACTOR if the CITY's Risk Manager determines such modification or waiver is in the best interest of CITY considering all relevant factors, including exposure to CITY.

20.11 Rights of Subrogation.

All required insurance policies shall preclude any underwriter's rights of recovery or subrogation against CITY with the express intention of the parties being that the required insurance coverage protects both parties as the primary coverage for any and all losses covered by the above-described insurance. CONTRACTOR shall ensure that any companies issuing insurance to cover the requirements contained in this Agreement agree and shall provide waiver of subrogation endorsements in favor of the City. The clauses "Other Insurance Provisions" and "Insured Duties in the Event of an Occurrence, Claim or Suit" as it appears in any policy of insurance in which CITY is named as an additional insured shall not apply to CITY.

ARTICLE 21. MISCELLANEOUS PROVISIONS

21.1 Modifications.

CITY shall have the power to make changes in this Agreement as the result of changes in law, changes in the City of San José Municipal Code, or both, to impose new rules and regulations on CONTRACTOR under this Agreement relative to the scope and methods of providing SFD Solid Waste Collection Services as shall from time-to-time be necessary and desirable for the public welfare. CITY shall give CONTRACTOR notice of any proposed change and an opportunity to be heard concerning those matters. The scope and method of providing SFD Solid Waste Collection Services as referenced herein shall also be liberally construed to include, but is not limited to the manner, procedures, operations and obligations, financial or otherwise, of CONTRACTOR.

21.2 Change in Law.

CITY and CONTRACTOR understand and agree that the California Legislature has the authority to make comprehensive changes in Solid Waste Management legislation and that these and other changes in law in the future which mandate certain actions or programs for counties or municipalities may require changes or modifications in some of the terms, conditions or obligations under this Agreement. CONTRACTOR agrees that the terms and provisions of the San José Municipal Code, as it now exists or as it may be amended in the future, shall apply to all of the provisions of this Agreement and the Service Recipients of CONTRACTOR located within the Service Districts. In the event any future change in the San José Municipal Code materially alters the obligations of CONTRACTOR, then the affected service rates, as established in Exhibit 1A and 1B of this Agreement shall be adjusted. Nothing contained in this Agreement shall require any party to perform any act or function contrary to law. CITY and CONTRACTOR agree to enter into good faith negotiations regarding modifications to this Agreement which may be required in order to implement changes in the interest of the public welfare or due to change in law. When such modifications are made to this Agreement, CITY and CONTRACTOR shall negotiate in good faith, a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of CONTRACTOR due to any modification in the Agreement under this Article. CITY and CONTRACTOR shall not unreasonably withhold agreement to such compensation adjustment.

21.3 Senate Bill 1383.

CONTRACTOR is aware that Senate Bill (SB) 1383, establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants, became law in 2016. CONTRACTOR agrees that the passage of this law and the regulations implemented under it will not present a Change in Law. The

CITY and CONTRACTOR will provide for the program support and reporting required by SB 1383 and its regulations, and CONTRACTOR shall comply with all regulations adopted pursuant to SB 1383, and as each may be amended. If CONTRACTOR is required to provide significant changes to services in response to SB 1383, CITY and CONTRACTOR will mutually agree to the appropriate scope and compensation for such services, subject to appropriation of funds.

21.4 Exempt Waste.

CONTRACTOR shall not be required to collect Exempt Waste but may offer such services to Service Recipients. Collection and disposal of Exempt Waste is not regulated under this Agreement, but if provided by CONTRACTOR shall be in strict compliance with all federal, state and local laws and regulations.

21.5 Independent Contractor.

In the performance of services pursuant to this Agreement, CONTRACTOR shall be an independent contractor and not an officer, agent, servant or employee of CITY. CONTRACTOR shall have exclusive control of the details of the services and work performed and over all persons performing such services and work. CONTRACTOR shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any. Neither CONTRACTOR nor its officers, employees, agents, contractors or subcontractors shall obtain any right to retirement benefits, Workers' Compensation benefits, or any other benefits which accrue to CITY employees and CONTRACTOR expressly waives any claim it may have or acquire to such benefits.

21.6 Law To Govern.

The law of the State of California shall govern the rights, obligations, duties and liabilities of CITY and CONTRACTOR under this Agreement and shall govern the interpretation of this Agreement.

21.7 Venue.

Any litigation between CITY and CONTRACTOR concerning or arising out of this Agreement shall be filed and maintained exclusively in the Superior Courts of Santa Clara County, State of California, or in the United States District Court for the Northern District of California to the fullest extent permissible by law. Each party consents to service of process in any manner authorized by California law.

21.8 Assignment.

No assignment of this Agreement or any right occurring under this Agreement shall be made in whole or in part by CONTRACTOR without the express written consent of the Director. CITY shall have full discretion to approve or deny, with or without cause, any proposed or actual assignment by CONTRACTOR. Any assignment of this Agreement made by CONTRACTOR without the express written consent of the Director

shall be null and void and shall be grounds for CITY to declare a default of this Agreement and immediately terminate this Agreement by giving written notice to CONTRACTOR, and upon the date of such notice this Agreement shall be deemed immediately terminated, and upon such termination all liability of CITY under this Agreement to CONTRACTOR, other than the payment of moneys due as of the date of termination, shall cease, and CITY shall have the right to call the performance bond and shall be free to negotiate with other contractors, CONTRACTOR, or any other person or company for the services which are the subject of this Agreement. In the event of any assignment, the assignee shall fully assume all the liabilities of CONTRACTOR.

21.9 Subcontractors.

The use of a subcontractor to perform services under this Agreement shall not constitute delegation of CONTRACTOR's duties provided that CONTRACTOR has received prior written authorization from the Director to subcontract such services and the Director has approved a subcontractor who will perform such services. CONTRACTOR shall be responsible for directing the work of CONTRACTOR's subcontractors and any compensation due or payable to CONTRACTOR's subcontractor(s) shall be the sole responsibility of CONTRACTOR. The Director shall have the right to require the removal of any approved subcontractor for reasonable cause. The subcontractors listed in Exhibit 7 ("APPROVED SUBCONTRACTORS") to this Agreement, are hereby approved by CITY as to the scope of work specified in Exhibit 7 for each such subcontractor. Additional subcontractors may be used upon the written approval of the Director in accordance with this Section.

21.10 Compliance with Laws.

In the performance of this Agreement, CONTRACTOR shall comply with all applicable laws, regulations, ordinances and codes of the federal, state and local governments, including without limitation the Charter of the City of San José and the San José Municipal Code.

21.11 Amendments to Municipal Code.

CITY shall provide written notice to CONTRACTOR of any planned amendment to Chapter 9.10 of the San José Municipal Code that would substantially affect the performance of CONTRACTOR's services pursuant to this Agreement. Except in the case of an amendment determined by the City Council to be an urgency measure, such notice shall be provided at least thirty (30) calendar days prior to the City Council's approval of such an amendment.

21.12 Permits and Licenses.

CONTRACTOR shall obtain, at its own expense, all permits and licenses required by law or ordinance and maintain same in full force and effect throughout the term of this Agreement. CONTRACTOR shall provide proof of such permits, licenses or

approvals and shall demonstrate compliance with the terms and conditions of such permits, licenses and approvals upon the request of the City Representative.

21.13 Ownership of Written Materials.

All reports, documents, brochures, public education materials, and other written, printed, electronic or photographic materials developed by CITY or CONTRACTOR in connection with the services to be performed under this Agreement or in connection with the Recycle Plus Program, whether developed directly or indirectly by CITY or CONTRACTOR shall be and shall remain the property of CITY without limitation or restrictions on the use of such materials by CITY. CONTRACTOR shall not use such materials in connection with any project not connected with this Agreement without the prior written consent of the City Representative. This Section does not apply to ideas or concepts described in such materials and do not apply to the format of such materials.

21.14 Waiver.

The waiver by CITY or CONTRACTOR of any breach for violation of any term covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or any subsequent breach or violation of the same or of any other term, covenant or condition. The subsequent acceptance by CITY of any fee, tax, or any other monies which may become due from CONTRACTOR to CITY shall not be deemed to be a waiver by CITY of any breach for violation of any term, covenant or condition of this Agreement.

21.15 Prohibition Against Gifts.

CONTRACTOR represents that CONTRACTOR is familiar with CITY's prohibition against the acceptance of any gift by a CITY officer or employee, which prohibition is found in Chapter 12.08 of the San José Municipal Code. CONTRACTOR shall not offer any CITY officer or employee any gift prohibited by said Chapter. The offer or giving of any gift prohibited by Chapter 12.08 shall constitute a material breach of this Agreement and, in addition to any other remedy CITY may have in law or in equity, CITY may terminate this Agreement for such breach as provided in Section 17.4 of this Agreement.

21.16 Disqualification of Former Employees.

CONTRACTOR represents that CONTRACTOR is familiar with the provisions of Chapter 12.10 of the San José Municipal Code relating to the disqualification of former officers and employees of CITY in matters that are connected with former duties or official responsibilities ("Revolving Door Ordinance"). CONTRACTOR shall not utilize, either directly or indirectly, any officer, employee, or agent of CONTRACTOR to perform services under this Agreement, if in the performance of such services the officer, employee or agent would be in violation of the Revolving Door Ordinance.

21.17 Point of Contact.

The day-to-day dealings between CONTRACTOR and CITY with respect to this Agreement shall be between CONTRACTOR's General Manager and the City Representative.

21.18 Notices.

Except as otherwise provided in this Agreement, whenever either party desires to give notice to the other, the notice must be in writing and given as provided in this Section. For the present, the parties designate the following as the respective persons and places for giving of notice:

To CITY:

Director
Department of Environmental Services
200 East Santa Clara Street, 10th Floor
San José, CA 95113
Fax: (408) 292-6212

With a copy to:

City Representative
Recycle Plus Program
Department of Environmental Services
200 East Santa Clara Street, 10th Floor
San José, CA 95113
Fax: (408) 292-6212

To CONTRACTOR:

General Manager
Garden City Sanitation, Inc.
1080 Walsh Avenue
Santa Clara, CA 95050
Fax: (408) 330-7199

Notices shall be effective when deposited in the U. S. mail, postage prepaid, or when personally delivered to the address specified above or to such other address as designated by a party by providing written notice of a change in address. Notice may also be sent by electronic mail and shall be effective when received, provided that electronic mail received after 4:30 p.m. or on weekends or holidays, will be deemed received on the next Work Day. The original of items that are transmitted by electronic mail must also be mailed or personally delivered as provided above within three (3) Work Days of the electronic mail transmittal.

21.19 Request for Additional Services.

If requested by the CITY, CONTRACTOR shall take over other Recycle Plus services from other providers. If CITY makes such a request, CITY and CONTRACTOR

will negotiate in good faith to determine appropriate compensation for such additional services, subject to appropriation of funds.

21.20 Transition to Next Contractor.

In the event CONTRACTOR is not awarded an agreement to continue to provide SFD Solid Waste Collection Services following the expiration or early termination of this Agreement, CONTRACTOR shall cooperate fully with CITY and any subsequent contractor(s) to assure a smooth transition of services described in this Agreement. Such cooperation shall include but not be limited to transfer of computer data, files and tapes; providing routing information, route maps, vehicle fleet information, and list of Service Recipients; providing applicable detailed Service Recipient information, including but not limited to Service Unit, account and billing information; not less than one hundred twenty (120) calendar days prior to the termination of this Agreement, providing a list of workers who will be displaced by the transfer of services to a successor contractor; making employees reasonably available for interviews and training by the new contractor provided the request is consistent with the bargaining agreement; providing a complete inventory of all Garbage Carts; providing adequate labor and equipment to complete performance of all SFD Solid Waste Collection Services required under this Agreement; taking all actions necessary to transfer ownership of Garbage Carts, as appropriate, to CITY; including transporting such containers to a location designated by the City Representative; removing containers in accordance with a schedule approved by the City Representative; coordinating collection of materials set out in new containers if new containers are provided for a subsequent Agreement and providing other reports and data required by this Agreement.

21.20.1 Temporary Leasing of Facility and Rental of Collection Fleet.

In order to transition services to another contractor, the CITY reserves the right to lease any facilities and rent collection vehicles used to provide services under this Agreement. The terms and conditions of the lease and rental shall be set forth in a written agreement no later than six (6) months prior to the termination of this Agreement. The collection vehicle rental price shall be the actual cost to provide a vehicle, or the reasonable comparable cost to provide a vehicle in this geographic service area, whichever is less. The maximum rate for renting the collection vehicle shall not exceed the Renting Collection Vehicle rate in Exhibits 1A and 1B. The terms and conditions of the rental shall be those customary in the rental of solid waste collection equipment.

21.21 Use of Recycled Products.

For services rendered pursuant to this Agreement, CONTRACTOR shall use recycled paper for all printed material such as brochures, reports, studies, and promotional literature, that exceeds ten (10) pages, or if the cumulative total number of pages per document or printed material times the number of copies made is in excess of ten (10) pages.

21.21.1 For the purposes of this Section, “recycled paper” means a paper or wood pulp product with not less than fifty percent (50%) off its total weight consisting of secondary and post-consumer waste and with not less than thirty percent (30%) of its total weight consisting of post-consumer waste. “Post-consumer waste” means a finished material that would normally be disposed of as a solid waste, having completed its life cycle as a consumer item. “Secondary waste” means fragments of products or finished products of a manufacturing process that has converted a virgin resource into a commodity of real economic value and includes post-consumer waste but does not include fibrous waste generated during the manufacturing process such as fibers recovered from waste water or trimmings of paper machine rolls (mill broke), wood slabs, chips, sawdust, or other wood residue from a manufacturing process.

21.21.2 CONTRACTOR may request an exemption from the requirements of this Section by submitting such request in writing to the Director. Such a request may be approved or denied, in whole or in part, at said Director’s sole discretion. CONTRACTOR shall not use, in the performance of services under this Agreement, any product or material that does not meet the standards set forth above without the prior written approval of said Director.

21.22 Entire Agreement.

This Agreement and the Exhibits attached hereto constitute the entire agreement and understanding between the parties hereto, and this Agreement shall not be considered modified, altered, changed or amended in any respect unless in writing and signed by the parties hereto. This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained in this Agreement and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms of this Agreement shall be predicated upon any prior representations or agreements, whether oral or written.

21.23 Severability.

If any provision of this Agreement or the application of it to any person or situation shall to any extent be held invalid or unenforceable, the remainder of this Agreement and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable, shall not be affected, shall continue in full force and effect, and shall be enforced to the fullest extent permitted by law.

21.24 Right to Require Performance.

The failure of CITY at any time to require performance by CONTRACTOR of any provision hereof shall in no way affect the right of CITY thereafter to enforce same. Nor

shall waiver by CITY of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

21.25 Headings.

Headings in this document are for convenience of reference only and are not to be considered in any interpretation of this Agreement.

21.26 Exhibits.

Each Exhibit referred to in this Agreement forms an essential part of this Agreement and is incorporated by this reference into this Agreement. In the event of any conflict or inconsistency between the Agreement and the Exhibits, however, such conflict or inconsistency will be resolved by giving precedence to the Agreement unless otherwise stated.

21.27 Execution in Counterparts.

This Agreement may be executed in any number of counterparts and by each party in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute one and the same instrument.

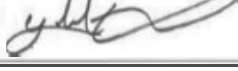
IN WITNESS WHEREOF, CITY and CONTRACTOR have executed this Agreement on the respective date(s) below each signature.

APPROVED AS TO FORM



MARK VANNI
Deputy City Attorney

CITY OF SAN JOSE, a municipal corporation

By: 

LELAND WILCOX,
Chief of Staff, Office of the City Manager

Date: 6/22/2020

GARDEN CITY SANITATION, INC., a
California corporation

By: 

LOUIE PELLEGRINI, JR.
President

Date: 4/17/2020

IN WITNESS WHEREOF, CITY and CONTRACTOR have executed this Agreement on the respective date(s) below each signature.

APPROVED AS TO FORM


CITY OF SAN JOSE, a municipal corporation

MARK VANNI
Deputy City Attorney

By: _____
DAVID SYKES
City Manager

Date: _____

GARDEN CITY SANITATION, INC., a
California corporation

By: 

LOUIE PELLEGRINI, JR.
President

Date: 4/17/2020

EXHIBIT 1A

COMPENSATION THROUGH JUNE 30, 2021

Beginning the Effective Date of this Agreement through June 30, 2021, CITY shall compensate CONTRACTOR for services performed in accordance with this Agreement at the following rates:

I. SFD SOLID WASTE COLLECTION SERVICES

MONTHLY RATES PER SFD SOLID WASTE SERVICE UNIT	
	Districts A / C
A. BASE SERVICE RATE	
1. SFD Solid Waste Service ¹	\$11.64 /Unit/Month
B. ADDITIONAL SERVICE RATES	
1. Subscription SFD Solid Waste On-Premises Service ²	\$11.68 /Unit/Month
2. Excess Cart Exchanges ³	\$57.07 /Occurrence
3. Hard to Serve Premises	TBD /Unit/Month
4. Tagged Garbage Bag Collection	\$3.27 /Bag Collected

¹ For an SFD Solid Waste Service Unit that consists of a combination of Dwelling Units that receives Garbage collection services from shared Garbage carts, CONTRACTOR's compensation for SFD Solid Waste Collection Service is the number of Garbage carts at the SFD Service Unit multiplied by the applicable compensation rate.

² This rate will be added to the SFD Solid Waste Service line A.1. of the Base Service Rate on Service Units receiving On-Premises SFD Solid Waste Services. This rate also applies to on-premise shared carts.

³ CONTRACTOR will not be compensated for (1) customer initiated Garbage Cart exchanges for District A between 0.254% and 5.039% of the average number of households in a fiscal year, and (2) customer initiated Garbage Cart exchanges for District C between 0.155% and 3.904% of the average number of households in a fiscal year. Garbage cart exchanges below or above these ranges shall be compensated by the CITY in the June invoice. Cart exchange counts shall be rounded to the nearest whole number.

EXHIBIT 1A

COMPENSATION THROUGH JUNE 30, 2021

II. EXCESS CART EXCHANGE CALCULATION EXAMPLES

Garbage Cart exchanges in **District A** will be paid for up to 0.254% and over 5.039% of the average housecounts.

Average housecounts is the sum of the housecounts from the monthly invoices divided by twelve. $\frac{\text{Jul housecounts} + \text{Aug housecounts} + \text{Sep housecounts} + \text{Jun housecounts}}{12}$

Example: total exchanges = 4,800 average housecount = 93,600

Exchanges will be paid for, **up to** 0.254% of 93,600 = .00254 x 93,600 = 238 exchanges
Exchanges will be paid for, **over** 5.039% of 93,600 = .05039 x 93,600 = 4,717 exchanges

Pay up to 238 exchanges		pay	238
Pay over 4,717	→ total exchanges (4,800) – 4717 = 83		+83

Total paid		=	321 exchanges
Payment = 321 exchanges x \$57.07/exchange		=	\$18,319.47

Garbage Cart exchanges in **District C** will be paid for up to 0.155% and over 3.904% of the average housecounts.

Average housecounts is the sum of the housecounts from the monthly invoices divided by twelve. $\frac{\text{Jul housecounts} + \text{Aug housecounts} + \text{Sep housecounts} + \text{Jun housecounts}}{12}$

Example: total exchanges = 2,300 average housecount = 67,000

Exchanges will be paid for, **up to** 0.155% of 67,000 = .00155 x 67,000 = 104 exchanges
Exchanges will be paid for, **over** 3.904% of 67,000 = .03904 x 67,000 = 2,616 exchanges

Pay up to 104 exchanges		pay	104
Pay over 2,616	→ total exchanges (2,300) – 2,616 = -316	+ 0	none over

Total paid		=	104 exchanges
Payment = 104 exchanges x \$57.07/exchange		=	\$5,935.28

EXHIBIT 1A

COMPENSATION THROUGH JUNE 30, 2021

III. PROGRAM SAVINGS AND INVOICE ADJUSTMENTS

CONTRACTOR shall reimburse CITY for program cost savings in the amount of \$2,650,000 for each Fiscal Year through Fiscal Year 2020-2021. These savings shall be deducted from each month's invoice in the amount of \$220,834; or remitted as an annual payment on or before July 1 of each year in the amount of \$2,650,000. The method of recognizing these savings shall be determined by the CONTRACTOR in coordination with the City Representative.

IV. EMERGENCY SERVICES RATES

Labor Position or Equipment Type	Districts A and C Hourly Rate
Automated Garbage Collection (includes labor)	\$215.10
Flatbed with Liftgate (includes labor)	\$174.39
Renting Collection Vehicle (Section 21.20.10)	\$215.10

EXHIBIT 1B

COMPENSATION FROM JULY 1, 2021 THROUGH JUNE 30, 2036

Beginning July 1, 2021 through June 30, 2036, CITY shall compensate CONTRACTOR for services performed in accordance with this Agreement at the following rates. The rates set forth in this Exhibit 1B are in Fiscal Year 2019-2020 dollars and shall be adjusted annually by the RRI methodology set forth in Exhibit 2B.

I. SFD SOLID WASTE COLLECTION SERVICES

MONTHLY RATES PER SFD SOLID WASTE SERVICE UNIT	
	Districts A / C
A. BASE SERVICE RATE	
1. SFD Solid Waste Service ¹	\$11.18 /Unit/Month
B. ADDITIONAL SERVICE RATES	
1. Subscription SFD Solid Waste On-Premises Service ²	\$11.68 /Unit/Month
2. Excess Cart Exchanges ³	\$57.07 /Occurrence
3. Hard to Serve Premises	TBD /Unit/Month
4. Tagged Garbage Bag Collection	\$3.27 /Bag Collected

1 For an SFD Solid Waste Service Unit that consists of a combination of Dwelling Units that receives Garbage collection services from shared Garbage carts, CONTRACTOR's compensation for SFD Solid Waste Collection Service is the number of Garbage carts at the SFD Service Unit multiplied by the applicable compensation rate.

2 This rate will be added to the SFD Solid Waste Service line A.1. of the Base Service Rate on Service Units receiving On-Premises SFD Solid Waste Services. This rate also applies to on-premise shared carts.

3 CONTRACTOR will not be compensated for (1) customer initiated Garbage Cart exchanges for District A between 0.254% and 5.039% of the average number of households in a fiscal year, and (2) customer initiated Garbage Cart exchanges for District C between 0.155% and 3.904% of the average number of households in a fiscal year. Garbage cart exchanges below or above these ranges shall be compensated by the CITY in the June invoice. Cart exchange counts shall be rounded to the nearest whole number.

EXHIBIT 1B

COMPENSATION FROM JULY 1, 2021 THROUGH JUNE 30, 2036

II. EXCESS CART EXCHANGE CALCULATION EXAMPLES

Garbage Cart exchanges in **District A** will be paid for up to 0.254% and over 5.039% of the average housecounts.

Average housecounts is the sum of the housecounts from the monthly invoices divided by twelve. $\frac{\text{Jul housecounts} + \text{Aug housecounts} + \text{Sep housecounts} + \text{Oct housecounts} + \text{Nov housecounts} + \text{Dec housecounts} + \text{Jan housecounts} + \text{Feb housecounts} + \text{Mar housecounts} + \text{Apr housecounts} + \text{May housecounts} + \text{Jun housecounts}}{12}$

Example: total exchanges = 4,800 average housecount = 93,600

Exchanges will be paid for, **up to** 0.254% of 93,600 = .00254 x 93,600 = 238 exchanges
 Exchanges will be paid for, **over** 5.039% of 93,600 = .05039 x 93,600 = 4,717 exchanges

Pay up to 238 exchanges		pay	238
Pay over 4,717	→ total exchanges (4,800) – 4717 = 83		+83

Total paid	=		321 exchanges
Payment = 321 exchanges x \$57.07/exchange	=		\$18,319.47

Garbage Cart exchanges in **District C** will be paid for up to 0.155% and over 3.904% of the average housecounts.

Average housecounts is the sum of the housecounts from the monthly invoices divided by twelve. $\frac{\text{Jul housecounts} + \text{Aug housecounts} + \text{Sep housecounts} + \text{Oct housecounts} + \text{Nov housecounts} + \text{Dec housecounts} + \text{Jan housecounts} + \text{Feb housecounts} + \text{Mar housecounts} + \text{Apr housecounts} + \text{May housecounts} + \text{Jun housecounts}}{12}$

Example: total exchanges = 2,300 average housecount = 67,000

Exchanges will be paid for, **up to** 0.155% of 67,000 = .00155 x 67,000 = 104 exchanges
 Exchanges will be paid for, **over** 3.904% of 67,000 = .03904 x 67,000 = 2,616 exchanges

Pay up to 104 exchanges		pay	104
Pay over 2,616	→ total exchanges (2,300) – 2,616 = -316	+ 0	none over

Total paid	=		104 exchanges
Payment = 104 exchanges x \$57.07/exchange	=		\$5,935.28

EXHIBIT 1B

COMPENSATION FROM JULY 1, 2021 THROUGH JUNE 30, 2036

III. EMERGENCY SERVICES

	Districts A and C
Labor Position or Equipment Type	Hourly Rate
Automated Garbage Collection (includes labor)	\$216.04
Flatbed with Liftgate (includes labor)	\$175.15
Renting Collection Vehicle (Section 21.20.10)	\$216.04

EXHIBIT 2A

RATE ADJUSTMENTS – REFUSE RATE INDEX THROUGH JUNE 30, 2021

Beginning the Effective Date of this Agreement through June 30, 2021, the “Refuse Rate Index” adjustment will be calculated as follows:

1. The expenses of the collection services for the designated fiscal period shall be prepared in the format set forth in the Operating Cost Statement – Description on the following page of this Exhibit.
2. The expenses of the collection services shall be broken down into the following six cost categories: Labor; Diesel Fuel; Natural Gas; Vehicle Replacement; Vehicle Maintenance and Other Operating Expenses. Each cost category is assigned a weighted percentage factor on that cost category’s proportionate share of the total of the costs shown for all cost categories.
3. With the exception for Natural Gas, which is based on rates published by the Pacific Gas and Electric Company (PG&E), the following indices published by the United States Department of Labor, Bureau of Labor Statistics (BLS), are used to calculate the adjustment for each cost category. The change in each index is calculated on a twelve-month fiscal period in accordance with the terms of the Agreement. In the event any index is discontinued, a successor index shall be selected by CITY. Successor indices shall be those indices that are most closely equivalent to the discontinued indices as recommended by the BLS.

Cost Category

Index

Labor	Series ID: cis201s000000000i Service-Producing Industries
Diesel Fuel	Series ID: WPU057303; Commodity Code 0573-03, #2 Diesel Fuel
Natural Gas	PG&E Gas Schedule G-NGV1; Natural Gas Service for Compression on Customer’s Premises for use as a motor-vehicle fuel
Vehicle Replacement	Series ID: WPU141301; Group: Transportation Equipment; Item: Truck and bus bodies sold separately
Vehicle Maintenance	Series ID: WPU11440378 Group: Machinery and equipment; Item: Parts and attachments for industrial trucks and tractors
Other Operating Expenses	Seventy-five percent (75%) of Consumer Price Index, Series ID: CUUR0000SA0, CPI-All Urban Consumers, All Items

4. The percentage weight for each cost category is multiplied by the change in each appropriate index to calculate a weighted percentage for each cost category. The weighted percentage changes for each cost category are added together to calculate the Refuse Rate Index (see Example).

EXHIBIT 2A

RATE ADJUSTMENTS – REFUSE RATE INDEX THROUGH JUNE 30, 2021

Operating Cost Statement – Description

Labor:	List all administrative, officer, operation and maintenance salary accounts. List payroll tax accounts directly related to the above salary accounts.
Diesel Fuel:	List all diesel fuel accounts.
Natural Gas:	List all natural gas accounts for motor vehicle fuel.
Vehicle Replacement:	List all collection and collection related vehicle depreciation accounts. List all vehicle lease or rental accounts related to collection or collection related vehicles.
Vehicle Maintenance:	List all collection or collection related vehicle parts accounts.
Other Operating Expenses:	List all other operating expense accounts related to the services provided under this Agreement. This category includes all insurance including general liability, fire, truck damage, extended coverage and employee group medical and life; rent on property, truck licenses and permits; real and personal property taxes; telephone and other utilities; employee uniforms; safety equipment; general yard repairs and maintenance; non-diesel fuel; office supplies; postage; trade association dues and subscription; advertising; employee retirement or profit sharing contributions; and miscellaneous other expenses.

EXHIBIT 2A

RATE ADJUSTMENTS – REFUSE RATE INDEX THROUGH JUNE 30, 2021

Example

Item #	Category	Data Source	Percentage Change ⁽¹⁾	Operating Costs	Item Weight ⁽²⁾	Weighted Percentage Change ⁽³⁾
1	Labor	Monthly Labor Review Series ID: cis201s000000000i Service-Producing Industries	1.28%	\$4,772,000	47.72%	0.61%
2	Diesel Fuel	Producer Price Index Series ID: WPU057303 Commodity Code 0573-03 #2 Diesel Fuel	22.08%	\$17,000	0.17%	0.04%
3	Natural Gas	PG&E Schedule G-NGV1 Natural Gas Vehicle 1 Uncompressed	6.7%	\$137,000	1.37%	0.09%
4	Vehicle Replacement	Producer Price Index Series ID: WPU141301 Industry: Transportation Equipment Product: Truck and bus bodies sold separately	-1.53%	\$592,000	5.92%	-0.09%
5	Vehicle Maintenance	Producer Price Index Series ID: WPU11440378 Group: Machinery and equipment; Item: Parts and attachments for industrial trucks and tractors	6.21%	\$556,000	5.56%	0.35%
6	Other Operating Expenses	Monthly Labor Review Series ID: CUUR0000SA0 75% of CPI-All Urban Consumers All Items	2.04%	\$3,926,000	39.26%	0.80%
Refuse Rate Index				\$10,000,000	100.00%	1.80%

- (1) Assume these are the percentage changes in the indices from year to year.
- (2) Assume the categories represent these percentages as a total of CONTRACTOR's operating costs.
- (3) Represents the product of Percentage Change x Item Weight.
- (4) The Other Operating Expenses category excludes Billing Services expenses.

In this example, the Refuse Rate Index is 1.80%.

EXHIBIT 2B

RATE ADJUSTMENTS – REFUSE RATE INDEX FROM JULY 1, 2021 THROUGH JUNE 30, 2036

From July 1, 2021 through June 30, 2036, the “Refuse Rate Index” adjustment will be calculated as follows:

1. The expenses of the collection services for the designated fiscal period shall be prepared in the format set forth in the Operating Cost Statement – Description on the following page of this Exhibit.
2. The expenses of the collection services shall be broken down into the following six cost categories: Labor; Diesel Fuel; Natural Gas; Vehicle Replacement; Vehicle Maintenance and Other Operating Expenses. Each cost category is assigned a weighted percentage factor on that cost category’s proportionate share of the total of the costs shown for all cost categories.
3. With the exception for Natural Gas, which is based on rates published by the Pacific Gas and Electric Company (PG&E), the following indices published by the United States Department of Labor, Bureau of Labor Statistics (BLS), are used to calculate the adjustment for each cost category. The change in each index is calculated on a twelve-month fiscal period in accordance with the terms of the Agreement. In the event any index is discontinued, a successor index shall be selected by CITY. Successor indices shall be those indices that are most closely equivalent to the discontinued indices as recommended by the BLS.

Cost Category

Index

Labor	Series ID: CIU20100000000LKA Not seasonally adjusted
Diesel Fuel	Series ID: WPU057303; Commodity Code 0573-03, #2 Diesel Fuel
Natural Gas	PG&E Gas Schedule G-NGV1; Natural Gas Service for Compression on Customer’s Premises for use as a motor-vehicle fuel
Vehicle Replacement	Series ID: WPU141301; Group: Transportation Equipment; Item: Truck and bus bodies sold separately
Vehicle Maintenance	Series ID: WPU11440378 Group: Machinery and equipment; Item: Parts and attachments for industrial trucks and tractors
Other Operating Expenses	Seventy-five percent (75%) of Consumer Price Index, Local Series ID: CUURS49BSA0, CPI-All Urban Consumers, All Items in San Francisco-Oakland-Hayward, CA Area

4. The percentage weight for each cost category is multiplied by the change in each appropriate index to calculate a weighted percentage for each cost category.

EXHIBIT 2B

RATE ADJUSTMENTS – REFUSE RATE INDEX FROM JULY 1, 2021 THROUGH JUNE 30, 2036

The weighted percentage changes for each cost category are added together to calculate the Refuse Rate Index (see Example).

Operating Cost Statement – Description

Labor:	List all labor-related costs, including wages, benefits, payroll taxes, workers compensation, health and welfare, employee retirement or profit-sharing contributions. List all administrative, officer, operation and maintenance salary accounts. List payroll tax accounts directly related to the above salary accounts.
Diesel Fuel:	List all diesel fuel accounts.
Natural Gas:	List all natural gas accounts for motor vehicle fuel.
Vehicle Replacement:	List all collection and collection related vehicle depreciation accounts. List all vehicle lease or rental accounts related to collection or collection related vehicles.
Vehicle Maintenance:	List all collection or collection related vehicle parts accounts.
Other Operating Expenses:	List all other operating expense accounts related to the services provided under this Agreement. This category includes all insurance including general liability, fire, truck damage, extended coverage and employee group medical and life; rent on property, truck licenses and permits; real and personal property taxes; telephone and other utilities; employee uniforms; safety equipment; general yard repairs and maintenance; non-diesel fuel; office supplies; postage; trade association dues and subscription; advertising; and miscellaneous other expenses.

EXHIBIT 2B

**RATE ADJUSTMENTS – REFUSE RATE INDEX FROM JULY 1, 2021 THROUGH
JUNE 30, 2036**

Example

Item #	Category	Data Source	Percentage Change ⁽¹⁾	Operating Costs	Item Weight ⁽²⁾	Weighted Percentage Change ⁽³⁾
1	Labor	Employment Cost Index (NAICS) Series ID: CIU20100000000LKA Not Seasonally adjusted San Jose-San Francisco-Oakland, CA CSA Periodicity: 12-month percentage change	3.10%	\$4,772,000	47.72%	1.48%
2	Diesel Fuel	Producer Price Index Series ID: WPU057303 #2 Diesel Fuel	22.08%	\$17,000	0.17%	0.04%
3	Natural Gas	PG&E Schedule G-NGV1 Natural Gas Vehicle 1 Uncompressed	6.70%	\$137,000	1.37%	0.09%
4	Vehicle Replacement	Producer Price Index Series ID: WPU141301 Industry: Transportation Equipment Product: Truck and bus bodies sold separately	-1.53%	\$592,000	5.92%	-0.09%
5	Vehicle Maintenance	Producer Price Index Series ID: WPU11440378 Group: Machinery and equipment; Item: Parts and attachments for industrial trucks and tractors	6.21%	\$556,000	5.56%	0.35%
6	Other Operating Expenses	Series ID: CUURS49BSA0 75% of CPI-All Urban Consumers All Items in San Francisco-Oakland-Hayward, CA Area	2.04%	\$3,926,000	39.26%	0.80%
Refuse Rate Index				\$10,000,000	100.00%	2.66%

(1) Assume these are the percentage changes in the indices from year to year. The Labor category will be calculated based on the average change of the four quarters of the calendar year, not the actual indices.

EXHIBIT 2B

RATE ADJUSTMENTS – REFUSE RATE INDEX FROM JULY 1, 2021 THROUGH JUNE 30, 2036

- (2) Assume the categories represent these percentages as a total of CONTRACTOR's operating costs.
- (3) Represents the product of Percentage Change x Item Weight.

In this example, the Refuse Rate Index is 2.66%.

EXHIBIT 3

WORK PLANS

The WORK PLANS included below have been updated from the September 2, 2011 Agreement. Where conflicts exist between the Plans and this Agreement, this Agreement shall prevail. CONTRACTOR is not required to submit updated plans, but the parties may agree to update the plans.

- 3A – Public Education and Outreach Plan
- 3B – Customer Service and Reporting Plan
- 3C – Collection Operations Plan
- 3D – Collection Equipment Plan
- 3E – Employee and Labor Relations Plan
- 3F – Diversion Plan

EXHIBIT 3

WORK PLANS

3A – PUBLIC EDUCATION AND OUTREACH PLAN

Community Involvement

CONTRACTOR seeks to remain an active member of the community. Doing so will help us reach out to all program participants. We will continue to disseminate information pertaining to the program and its goals.

To this end, we will continue to participate in many public presentations along with the City and its other haulers, as appropriate.

COOPERATION

Maintaining the recycling participation rate for residents is a priority. CONTRACTOR's is committed to working closely with City staff as well as representatives from the City's other hauling companies and other important groups (those handling the household hazardous waste program for example). We hope to remain a united front that gives the public one consistent message. Hence, CONTRACTOR is looking forward to regular coordinating meetings.

Outreach: The City will be responsible for outreach activities associated with the Recycle Plus program. The City intends to invest significant resources to these outreach activities. City will develop meaningful performance metrics, with input from all Recycle Plus contractors, to ensure the effectiveness of these outreach efforts.

EXHIBIT 3

WORK PLANS

3B – CUSTOMER SERVICE AND REPORTING PLAN

CONTRACTOR is committed to providing services of the highest quality. Also, the Company intends to deliver those services with pride and professionalism. Furthermore, CONTRACTOR understands and keeps in mind that service is all it has to offer. Not only that, but none of the affiliate companies would have been in business as long as they have if rendering excellent service weren't such a high priority.

The objective of this section is to relay to the City a customer service philosophy, staffing and training information, and pre-plan that exemplifies what this company is really all about. Here is how the section is organized:

I	Customer Service Philosophy CONTRACTOR' simple approach to maintaining customer satisfaction.
II	Staffing and Training Explanation of how CONTRACTOR will prepare for start of operations.
III	Customer Service Operations Daily management of common customer service matters.

I. Customer Service Philosophy

Customer Satisfaction: Overall customer satisfaction is a high priority for CONTRACTOR now and in the future. Per the Agreement, overall customer satisfaction will be measured on an ongoing basis.

These are the core concepts of CONTRACTOR'S customer service program:

- **First impressions matter**: Whether the first impression that registers with a customer is a phone call with one of our customer service representatives, or the observation of CONTRACTOR service performance or driver mannerisms, or the appearance of collection vehicles: friendliness, neatness, simplicity, appropriateness, reliability, caring, and concern are all attributes that either help or hinder ongoing customer relations. Milliseconds count. CONTRACTOR will therefore always keep this in mind and try to make an excellent first impression.

EXHIBIT 3

WORK PLANS

- **Courtesy counts:** Most people are very decent. It is CONTRACTOR'S experience that even if a customer is angry, when they are allowed to vent their frustrations and feel as though they were treated with respect, they will usually become calm and offer a "thank you" at the end of a call. If this can be accomplished, the customer has been won over, and the employee feels relieved. CONTRACTOR'S goal will always be to make the best effort to have customer interactions begin and end on a positive note.
- **Attitude makes a measurable difference in outcome:** Customers can tell when a Company representative is indifferent, insincere, or unwilling to do what it takes to resolve an issue. CONTRACTOR will create a work environment for its customer service representatives and frontline workers that recognize and supports a good attitude.
- **Doing the right thing is always most rewarding:** CONTRACTOR will encourage doing the right thing by reviewing problematic situations/posing hypothetical problem situations at training or coordination meetings and asking: "What was the right thing to do?" First, if an employee knows issues will be constructively reviewed they will put more effort into managing customer interaction correctly because they will know their performance is monitored and does matter. Second, CONTRACTOR believes that most people know what the right thing to do is, but often either do not feel empowered to do the right thing, or have had past experiences where their good decisions and actions were not acknowledged. The Company will make the effort to recognize good customer service and will always review challenging situations—even when they were perfectly managed—such that the entire customer service staff can benefit from the experience.

II. Staffing and Training

The training will include the following components:

- **Employee Packets:** A review of the Company's *Employee Documentation Packets* and all materials contained therein.
- **Operations Overview:** A general review of garbage collection operations. CSRs will observe collection in progress, become familiar with collection vehicles and operations, cart sizes, numbering and tracking, and operations, and solid waste program guidelines.
- **City Participation:** The Company will invite the City Representative to be present during all training sessions, but in particular would like the City to communicate directly with the new CSRs the importance of their jobs, as well as City expectations

EXHIBIT 3

WORK PLANS

and duties. The City can also explain what their CSRs do at the City Offices prior to the call or work order coming to CONTRACTOR.

- **Introductions:** A “meet and greet” session with CONTRACTOR managers and key personnel will be arranged. The General Manager, Operations Manager, and Field Service Supervisors will be asked to briefly discuss their particular rolls with the CSRs, and to convey to them what they could do to make things run smoothly from the beginning.
- **Technical Training:** Technical training on the Company’s computer system and interface with the City, telephone equipment, and other office equipment will be conducted.
- **Resource Manual:** A training guide detailing common questions, appropriate responses, and the corresponding action to take in the computer system will be created and reviewed extensively. The Customer Service Manager will pose challenging questions for role play during training.
- **General Customer Service Training:** Traditional customer service training material that focuses on creating positive interactions and outcomes with our customers will be reviewed. Topics such as establishing rapport, basic tenants of effective and positive communications, the importance of listening, identifying customer needs, and making customers feel valued will be covered at least.
- **Confirmation of Knowledge and Skills:** Some form of final testing will be conducted as a means of creating a benchmark and developmental objectives for each employee. Certificates of completion for the orientation training will be distributed to all CSRs after successful testing.

CONTRACTOR will take each of the above bulleted items and fully develop into the CSR training program, and will produce and/or procure all relevant training materials.

III. Customer Service Operations

Business office: CONTRACTOR will maintain a business office within Santa Clara County. It is the Company’s intention to locate the business office at the operations base. As per the Agreement, the office will be open during normal business hours, defined as 8:00am to 6:00 pm on all work days—which will be Monday through Friday except on Thanksgiving Day, Christmas Day, and New Year’s Day.

EXHIBIT 3

WORK PLANS

Telephone: The Company will equip itself with an excellent telephone system that will handle at least 15 incoming phone lines at one time. Phone calls will be answered within five rings. CSRs will be equipped with high quality headsets. An answering device or service will be utilized to record telephone messages when the office is closed. The telephone procedure documented in the Agreement will be followed in utilizing the voicemail system. The Customer Service Manager will accomplish this by developing a system to ensure calls are retrieved and responded to regularly and promptly. Furthermore, the company will contract with a multilingual/TDD service in order to respond to calls in the languages specified in the Agreement should that language not be spoken by any CSR.

Service Complaints: Service complaints, such as those relating to missed collections, will be handled thoroughly, promptly, and in accordance with CONTRACTOR'S *Customer Service Philosophy* stated at the beginning of this section, and in strict compliance with the Agreement. CONTRACTOR will make certain that CSRs know and understand the seriousness of proper handling of service complaints.

Again, it is one of CONTRACTOR'S goals to provide quality performance in all areas of operations in San José, and realizes excellent customer service is paramount in achieving that goal. Respect, tolerance, and good will toward customers must be demonstrated by every company employee—not just CSRs—at all times.

EXHIBIT 3

WORK PLANS

3C – COLLECTION OPERATIONS PLAN

I. Collection Methodology, Approach, and Preliminary Assumptions

Collection Methodology

Collection of solid waste from SFD customers in District(s) A/C will be performed utilizing a standard straight frame automated side-loading collection vehicle. There is great flexibility with the specified arm since it has the ability to empty carts from a stowed position—that is from a starting position where the arm is tight to the body. This feature improves collections in tight spots, reducing the need for the driver to operate the equipment in a semi-automated fashion using the outside controls—thereby creating greater safety and efficiency. These combined features are necessary to accommodate various patterns of on-street parking and other collection obstructions found in Districts A and C.

CONTRACTOR will continue to purchase and inventory collection carts of the same manufacturer, type, size and capacities as are utilized in the existing program. The manufacturers warranty remains the same also.

Approach to Initiating Collection Operations

Delivery guarantee letters from equipment manufacturers can be reviewed indicating production time has been reserved for equipment required under this contract specifically for CONTRACTOR.

In developing the set of assumptions, discussed below, which also drove the costing of this proposal, a line of reasoning and ideas relative to collection operations emerged. A couple of collection methods were tested against contract parameters, relevant local collection history and known preferences, City of San José objectives, labor union involvement, the density and geography of Districts A and C, as well as the inherent requisites of the Company's commitment to its current business structure. A tremendous amount of consideration was given to the current rate structure such that the collection system chosen was most safe, efficient, and appropriate to the work done, and also reasonably priced. Finally, the above collection system was chosen.

EXHIBIT 3

WORK PLANS

Collection route auditing and development: CONTRACTOR is fully committed to maintaining route boundary days. The Company will, however, ensure routes are balanced and then equalized within those day boundaries. To achieve balance, house counts or pass-byes will be tabulated; to achieve equalization other factors will be calculated in, such as travel times from the yard to the route and from the route to the landfill, speed limits, and other roadway restrictions. The goal is to ensure that each CONTRACTOR driver is assured that the length of their work day matches that of other drivers. This, of course, will contribute to peace in the workforce.

Routes will then be checked during normal collection hours on assigned collection days in order to verify the following information:

- Number of service units per route;
- Number of solid waste carts set out per route (participation);
- Cart size/corresponding service address;
- Number of carts in need of repair or replacement/corresponding service address.

Also, managers will drive routes and document travel paths within them. Routes will be timed based on published productivity estimates provided by the truck manufacturer for the specific collection vehicle and automated arm purchased. To increase safety and efficiency, managers will specify right hand turns in as many cases as possible. Special notice and treatment will be given to areas where children are frequently present: schools, playgrounds, parks, community centers, and libraries. Depending on where these facilities are situated, the Company will either route collection vehicles in a way that they are in and out of the immediately adjacent areas in the early morning before school starts, or during hours where children are in the classroom.

Routes will then be and mapped and turned over to the City for review. Once routes are finalized, drivers will receive not only a route boundary map indicating travel paths, but they will also receive turn by turn travel directions.

EXHIBIT 3

WORK PLANS

Annual Collection Route Audits: CONTRACTOR has agreed to conduct informal waste audits on 2 routes (1500 homes) each, the waste assessments must be pre-approved by the City Representative, 2 times each year for both Districts A & C. Just as it is helpful to perform annual route audits to maintain route efficiency and database accuracy, there may also be benefits to conducting an annual waste characterization study. CONTRACTOR will be finalizing selection of recording equipment that will either be mounted on one or more units, or can be placed on different trucks daily, that will record the cart contents being dumped into the hopper to identify those areas that routinely throw recyclables into the garbage, In particular, it may help the City mount its challenge of greater diversion by becoming more familiar with its SFD waste stream components by service area.

Employee Documentation and Packages: Employee documentation, as stated in the *Master Implementation Schedule*, includes at least: *Employee Guidelines, Injury and Illness Prevention Program, Training and Reference Materials, and Job Descriptions.*

EXHIBIT 3

WORK PLANS

Preliminary Assumptions

In developing the approach to initiating District(s) A/C SFD solid waste collection operations, CONTRACTOR took the following steps:

- Service address data was taken from the CD entitled *Service Locations by Collection Day*
- This data was plotted onto a map using mapping software.
- Route/day boundaries were added.

With physical locations plotted and house counts matching previous data exactly, CONTRACTOR then deducted time spent on activities other than servicing customers, such as:

- Time taken for pre- and post-trip vehicle inspections and for fueling;
- Travel time to the route from the proposed general location for the operations base, from the route to the landfill, and time spent dumping at the landfill; and
- Time for two 15-minute work breaks and one 30-minute lunch.

In District(s) A/C, given the above factors that are strictly beyond the contractor's control, the average optimal number of hours that could be spent performing collection duties is 4.27. This fact alone caused CONTRACTOR to realize it makes no sense to make more than one trip to the landfill per day, otherwise there would be no productive time remaining in the eight-hour-period, meaning that any additional productive time necessitates significant driver overtime.

Of that 4.27 hours, when collection system productivity data is factored in, and tonnage figures are backed into the equation, the bottom line is that to provide the level of quality service the City expects without compromising safety or creating an unrelenting work environment for drivers and customer service personnel, the following conclusions were made:

- Since route day boundaries must be maintained, then the maximum number of households served on any given route is the number of pass-bys that must be used to calculate the optimal payload and find a piece of equipment that could legally accept that amount of material in one load. That number is 818 houses or pass-bys per day maximum, with the average number of houses/day being 776.
- Given average current total tonnage and pounds/household/week of garbage generated, the maximum number of tons per route/day is 12.

EXHIBIT 3

WORK PLANS

This made equipment selection easy, since there are few collection vehicles that have the capacity to carry that payload legally, and have all the other features CONTRACTOR desires. However, the collection vehicle chosen does have 4 axles (one of them a tag axle associated with the tailgate, adding an extra four cubic yards of capacity).

II. Collection Standards

CONTRACTOR will perform District(s) A/C solid waste collection activities in a manner that is representative of its core values. A high level of professionalism and reliability will pervade collection activities as well. Collection standards will be included in the driver's training materials.

General Standards: First, CONTRACTOR understands it is to provide weekly garbage collection to all residents. When a service day falls on Thanksgiving Day, Christmas Day, or New Year's Day, the collection schedule for that week will slide out one day for the remainder of the week, ending on Saturday for work normally scheduled for Friday. Collections will occur on currently assigned collection days; and CONTRACTOR commits that no routing changes will be proposed requiring a service day change. Collections will occur between the hours of 6:00 a.m. and 6:00 p.m. Monday through Friday. CONTRACTOR also understands that collections will be made with as little disturbance to residents as possible. Collection vehicle noise levels will be as indicated in the Agreement, and the equipment specified functions comfortably below that threshold. Commingling of residential solid waste and recyclable materials is strictly prohibited, and as noted earlier in this section, CONTRACTOR'S proposed collection methodology nearly eliminates the risk of commingling. The will, however, stress to drivers that tolerance for commingling of materials is zero.

Neatness: As required, CONTRACTOR will make every effort to avoid litter spillage during collection and transport activities as possible, and the Company believes the proposed collection vehicle arm will decrease incidents of litter spillage since the arm can operate from a stowed position—allowing drivers to navigate closer to carts where access is more obstructed. However, if spillage does occur, CONTRACTOR will immediately and completely clean up such spillage, as dictated in of the Agreement. Additionally, no material is to be left inside or around garbage carts.

EXHIBIT 3

WORK PLANS

CONTRACTOR will also ensure carts are returned to the setout location in an upright position after servicing. In the case of on-premise collection, CONTRACTOR will return carts to the back or side yards exactly where they were found.

Drivers will always use sidewalks and walkways when providing service and will avoid crossing over landscaping in performing collection activities.

Collection conditions: CONTRACTOR is in agreement with the Agreement that states that service will be provided to all service units when the material is properly contained—either in garbage carts or tagged garbage bags—and set out within three feet of the curb, roadway, paved surface, or swale, as long as the set out location is safe to access. CONTRACTOR knows and understands that missed collections simply result in a return to the service unit. This being so, the Company places a high priority on making the collection the first time, and this will be the constant message to CONTRACTOR drivers.

The Company notes that as per the Agreement, it is not required to collect garbage set out in untagged garbage bags or tagged garbage bags weighing over 60 pounds. It is also stated that collection of garbage carts is not required when the contents exceed the cart's volume, such that the lid cannot close. In either event the Company will do as directed and affix a corrective action ("non-collection") notice to the bag or cart, and checking off the reason for leaving the set-out.

A courtesy notice will be affixed to the garbage cart when the cart or garbage bag is positioned in such a way that requires the driver to move it in order to provide collection services. In this case, service is still provided, however, customers are asked to properly set out the garbage cart or bags the next time.

On-premises service: It is understood and accepted that those households where all adult residents are disabled and therefore cannot bring their garbage cart to the curb for collection will receive on-premises service at no extra charge ("non-subscription on-premise collection"). CONTRACTOR understands that eligibility is determined by the City, and that the Company may ask the City to verify eligibility for non-subscription on-premise collection on any service unit up to twice per year. No additional money is due the Company for this type of service. The Company has noted that the average number of service units in District(s) A/C receiving this type of service at any given time. This

EXHIBIT 3

WORK PLANS

figure is relatively insignificant, however, it was taken into account in productivity assumptions and the lack of corresponding revenue for the extra labor factored in.

Otherwise, CONTRACTOR understands that residents may elect to pay for and receive on-premises collection. The Company has noted the average number of service recipients subscribing to on-premises collection at any given time in District(s) A/C.

Contaminated Holiday Tree Collection: As stated above, CONTRACTOR will collect—without additional compensation—contaminated holiday trees. Garden City Sanitation has received the past procedures documents from ESD staff used to address the contaminated tree collection criteria and we understand the policy. CONTRACTOR will gladly provide the service, and has several spare rear-load collection vehicles in its reserve fleet that will be utilized for this purpose.

Processing: SFD solid waste collected under this contract will be transported and offloaded at GreenWaste Recovery’s facility for processing, or other facility as directed by the CITY.

A Word About Safety and Quality Performance While Making Collections....

- *CONTRACTOR will provide comprehensive driver training on an ongoing basis. Safety and quality service will be emphasized.*
- *Drivers will receive extensive training about emergency protocol: such as what to do in case of a hydraulic leak, spillage of universal or hazardous waste, or truck fire (hot load).*
- *Route sizes are realistic, allowing drivers the time to ensure there is no litter spillage, that carts are replaced in an upright position, and corrective action and courtesy notices are left as appropriate. Reasonable route sizes decreases the likelihood of injury and illness.*
- *New equipment assures a higher level of route safety and efficiency—with fewer disturbances to customers. Greater capacity limits landfill trips to one per route, which is best for the environment.*

III. Staffing Requirements

The objective of this section is to relay operations staffing requirements. As per the Agreement, CONTRACTOR will employ only qualified personnel to perform all duties associated with the Agreement. The chart below represents preliminary staffing requirements. Operations personnel are highlighted.

EXHIBIT 3

WORK PLANS

DISTRICT(S) A/C		
Position	AC	Comment
General Manager	1	➤ Sal San Filippo
		➤
Field Service Supervisors	3	➤ Reports to Sal San Filippo
Dispatcher	3	➤ Reports to Sal San Filippo
Safety Manager	1	➤ Sal San Filippo
Drivers	45	➤ Report directly to Field Service Supervisors
Cart Delivery/ Maintenance	2	➤ Report to Sal San Filippo
Maintenance Manager	1	➤ Louie La Magra ➤ Reports to Sal San Filippo
Maintenance Technicians	6	➤ Reports to Maintenance Mgr.
Routing Specialist	1	➤ Alex Button ➤ Reports to Sal San Filippo ➤ Annually for route auditing only
Controller, IT Manager	1	➤ Kent Kenney, Curtis Olliff ➤ Reports directly to the General Manager and Board of Directors
Accounting Personnel	3	➤ TBD

EXHIBIT 3

WORK PLANS

			➤ Reports to Kent Kenney
Customer Service Manager	1		<ul style="list-style-type: none"> ➤ Nick Dunlop ➤ Reports to both Sal San Filippo and Kent Kenney
Customer Service Representatives	6		➤ Report to Nick Dunlop
Public Outreach Specialist	1		<ul style="list-style-type: none"> ➤ Teresa Montgomery ➤ Reports directly to Sal San Filippo
Total Staffing Requirement	74		<ul style="list-style-type: none"> ➤ For planning purposes only ➤ Subject to change

Alcohol and Drug Testing

CONTRACTOR will perform alcohol and drug testing per the Department of Transportation's testing procedures under the following circumstances:

- **Pre-Employment Testing:** CONTRACTOR will require alcohol and drug testing after hiring and prior to commencement of work.
- **Post-Accident Testing:** Alcohol and drug testing is required as soon as possible after any accident involving any employee. The Company reserves the right to continue testing attempts up to 32 hours after the time the accident occurred.
- **Random Testing:** All employees who drive company vehicles are subject to random alcohol and drug testing.
- **Reasonable Suspicion Testing:** CONTRACTOR will require alcohol and drug testing based on a supervisor's personal observations of the employee's appearance, behavior, speech, performance, manner, and/or body odor. Likewise, CONTRACTOR provides training for managers and supervisors on identification of symptoms and behaviors of alcohol and/or controlled substance use or abuse.
- **Return-to-Work Testing:** In the case where an employee has taken a leave of absence to participate in an approved drug or alcohol abuse rehabilitation program, the employee must submit to alcohol and drug testing prior to returning to work.

EXHIBIT 3

WORK PLANS

Because CONTRACTOR is highly committed to maintaining safe working conditions for all employees, refusal to submit to alcohol and drug testing may result in immediate termination. Testing is contracted to and managed by an outside firm. Exact tolerances, consequences, and remedies cannot be further discussed since they are largely dependent upon the employee's union contract. However, CONTRACTOR commits to keeping an open dialog with the City regarding all employment practices.

Physical Examinations

Physical examinations are required for driver medical certificates which drivers holding a commercial driver's license must have. Medical certificates are valid for two years, and in that sense a physical examination is required. Medical certificates are downloaded into the Department of Motor Vehicles database. This process is familiar to union drivers.

Driver Appearance, Conduct, Compliance

Drivers will wear a clean, company-issued uniform daily. They will have on their persons at all times a valid California Class A or B driver's license, will act in a professional and responsible manner, and will comply with all applicable local, state, and federal laws and regulations.

IV. Operations Facility

CONTRACTOR operates at a facility in service of this contract. The location of the facility is 1080 Walsh Road, in the City of Santa Clara.

EXHIBIT 3

WORK PLANS

V. Vehicle Operations and Maintenance

Vehicle Operations and Training:

CONTRACTOR'S *Injury and Illness Prevention Program* includes some basic training sign-off forms. CONTRACTOR will have a similar appendix and training sign-off forms in its program documentation. Additionally, the Company will have specific training forms such as a *Driver Training Guide*. Other training documentation will include knowledge tests, such as an *Exam for Frontend Loader Drivers*. These types of materials will be included in the *Employee Documentation Packages*.

Safety will be emphasized as the Company's highest priority relative to driving positions. When a driver is safe they are accountable, respectful, and are demonstrating quality performance—all core Company values.

Furthermore, environmental issues will be covered in depth during driver training, such as spill response procedures. Not only will procedures be reviewed in detail, but drivers will receive an explanation of what happens when environmental hazards are not appropriately responded to, such that they have an adequate frame of reference for the material. This will aid in their assimilation and recall of the procedures.

Maintenance: Vehicles will be maintained at CONTRACTOR'S operations base in Santa Clara. The Company's rigorous preventive maintenance program complies with regulatory standards and manufacturer specifications. CONTRACTOR'S goal is to always keep its equipment running safely, efficiently, looking clean and new.

In maintaining new equipment, only re-refined motor oil and re-refined hydraulic fluid will be used in service of this *Recycle Plus* contract. All Best Management Practices (BMPs) as relative to heavy-duty vehicle maintenance facilities will be standard procedure. CONTRACTOR'S in-house environmental specialist will conduct routine checks of the maintenance facility during yard inspections and storm catch basin monitoring. Any deviation from BMPs will be corrected by the end of that business day.

Key to the preventive maintenance program is the daily completion of the vehicle inspection report. This is done by the collection vehicle's assigned driver. The driver checks fluid levels and indicates on the form any defects or deficiencies found that day.

EXHIBIT 3

WORK PLANS

Shop personnel review the report and check any items marked by the driver as being questionable. Mechanics then make any needed repairs before the vehicle goes back onto the route. Furthermore, each vehicle undergoes different inspections on varies intervals including a 90-day full inspection by shop personnel. Interior and exterior safety devices are checked—such as instruments and mirrors; the engine and electrical system are checked. Air and fuel lines, the engine and transmission, brake system, and chassis components—such as the drive shaft and universal joints.

CONTRACTOR affiliated companies have excellent vehicle maintenance track records. Peninsula Sanitary Service, one example of high vehicle maintenance standards, has passed its California BIT inspection for the last 12 consecutive years. A maintenance log, as dictated in the Agreement, Section 9.3.12 will be maintained by the Company and available for a City representative to inspect at any time on-line.

It is a well-known fact that clean-looking vehicles are often assumed to be well-maintained vehicles. This is because of the positive impression a clean vehicle gives off. CONTRACTOR will wash its vehicles weekly with recycled water as specified in the Agreement. During washing, only effective, biodegradable cleansing products will be used, along with a brush. Truck washings will comply with Best Management Practices guidelines as specified in *Storm Water Best Management Practices Handbook for Industrial/Commercial*, a publication of the Regional Water Quality Control Board.

Reserve Collection Equipment: CONTRACTOR purchased a total of 50 collection vehicles—that is five more than necessary to perform daily route collections in Districts A and C. The five extra vehicles are ample for a fleet of 45 vehicles in case of breakdown or minor seasonal fluctuations—as is the case during the holidays. Spare equipment will be dispatched immediately upon request of a driver, field service supervisor, or the operations manager.

In addition to spare collection equipment, the Company purchased two new cart delivery vehicles, which will be more than adequate for this contract. However, several additional similar vehicles exist throughout the fleets of related companies. These are available to CONTRACTOR in case of higher than average requests for cart exchanges or breakdowns of frontline equipment.

All reserve equipment can be dispatched immediately and underway to the route or wherever the breakdown occurred within one hour.

EXHIBIT 3

WORK PLANS

VI. Container Operations and Maintenance

CONTRACTOR will purchase carts to provide a sufficient inventory for ongoing customer needs for the life of this *Recycle Plus* contract. These carts will be produced by the same manufacturer and are identical in every way to the ones currently in use and that have been in use since the first generation *Recycle Plus* contract took effect in 1992. CONTRACTOR understands that the City will grant ownership of carts currently in use at SFD residential premises in the service district(s) as of the commencement date of the *Agreement* to CONTRACTOR. All carts acquired during the term of the *Agreement* will be the property of the Company. At the expiration of the term of the *Agreement*, CONTRACTOR will transfer ownership of all carts in possession of a SFD service unit in the service district(s) to the City of San José.

Container Operations: Containers will be delivered to customers under the following circumstances:

- The service recipient's cart is lost, stolen, or destroyed, or the service recipient requests an exchange. The Company understands all SFD customers are entitled to replacement garbage carts during the term of the *Agreement*. Repeated cart requests or abuse of carts will be charged to the customer per rates to be established by City Council. Replacements must be completed within five days of notification to CONTRACTOR by either the City or the customer.
- A new service unit is added to the service district(s). CONTRACTOR will deliver the size garbage cart(s) requested within five days notice from the City or service recipient.

Whenever a cart is delivered to a customer, regardless of the situation, it will be clean and in excellent working condition. The cart will be hot stamped or labeled as per the City's specifications.

Whenever a broken cart can be repaired it will be such that it can continue or be returned to service. CONTRACTOR understands the City expects it to repair at least the following broken parts: hinged lids, wheels, and axles. It is the Company's experience that these items are in fact, the most common cart failures. Therefore, the Company will keep an extra inventory of lids, wheels, and axles. When a repair can be made on the route, it will be. If the repair is extensive or the cart is in overall very poor condition, another cart will be assigned to the customer and the old cart brought back either for

EXHIBIT 3

WORK PLANS

repairs or recycling. CONTRACTOR understands it has ten days from time of notification to the Company by either the City or the service recipient to either make the repair or replace the cart for the customer.

To facilitate cart operations, CONTRACTOR will purchase two new flatbed trucks. Two cart delivery/maintenance employees will be assigned to manage garbage cart deliveries, replacements, and repairs in District(s) A/C.

VII. Emergency Services, Contingency Plan, and Special Projects

Emergency Services

Contact: As per the Agreement, CONTRACTOR will provide the City Representative with emergency contact information. Heading the list will be the General Manager; however, the list will also include the Field Service Supervisors. Whenever the General Manager will be unavailable for any period of time such as when he is on vacation—he will give the City notice of such and delegate authority as contract manager to one or two others in his absence.

Natural Disaster: In case of an act of God/natural disaster CONTRACTOR will immediately, or as soon as possible, survey the service district(s), travel routes from the yard to the service area and from there to the landfill.

- Variances: Should routes need to be varied to any degree CONTRACTOR will contact the City Representative and immediately go about documenting proposed temporary variances. Maps will be redrawn, as necessary.
- Special collection services: The Company has considerable reserve equipment to put into service for special clean-ups, if requested by the City or coordinating agency. Per the Agreement CONTRACTOR will be compensated per rates established by *Exhibit 1A and 1B* of the Agreement.

EXHIBIT 3

WORK PLANS

Contingency Plan

In case of unfortunate/unforeseen events of a large magnitude—such as the situation highlighted in the paragraph above, or due to unanticipated vehicle delivery delays, or even due to a large-scale natural disaster, the Company is prepared to respond with reserve equipment.

All reserve equipment is registered, licensed, insured and ready to put into service within one hour. There is considerably more capacity than is necessary to service Districts A and C completely. Approximately 1650 cubic yards of capacity is needed daily to cover these two districts. Total capacity of the reserve fleet is at least 2370 cubic yards.

Because of the active status of CONTRACTOR Directors/Shareholders, the Company has many friends—independent hauling companies—in the industry, from which CONTRACTOR has the ability to rent collection vehicles and other types of equipment.

Special Projects

CONTRACTOR is prepared to assist the City with special projects in any way it can, and feels it has the depth of experience to provide valuable input into projects that may arise.

- **Special Route Audits:** CONTRACTOR will make itself available at any time to conduct or assist with any other kind of route audit at any time. One example may be a route audit in a new housing development, to confirm service unit counts and addresses; or in a targeted area where there are numerous mixed-use dwellings to ensure adequate garbage capacity.
- **City-Conducted Route Audits:** In case the City decides to conduct its own route audit, CONTRACTOR will fully cooperate in any way the City requests, such as allowing City staff or consultants to ride along with the drivers on collection routes.
- **Waste Characterization Studies:** Should the City desire to perform a waste characterization study, CONTRACTOR will gladly assist as directed by the City, or if the City so desires the Company will produce a cost proposal to conduct the study on its own. CONTRACTOR outlined an idea for an annual waste characterization study to coincide with the annual route audit, to help the City set its outreach goals and objectives for the following calendar year.

EXHIBIT 3

WORK PLANS

- **Pilot Programs:** CONTRACTOR related companies have participated in many pilot programs in the past. Perhaps more well known in City of San José history is the *Multi-Unit Recycling Pilot Program (MURPP)*, which charted a successful course for multi-family recycling collection in the Cities of San José and Sunnyvale in the late 1980's early 1990's. The Company will assist the City with pilot programs to test variables to the collection method used, or service schedule changes, set-out configuration, and so forth, under the terms and conditions specified in the Agreement.
- **Holiday Contingency Plan:** As specified in the Agreement, CONTRACTOR will submit a holiday contingency plan each year on or before September 30 that will detail collection strategies for the usual increased tonnages associated with the fall holiday season. The plan will include how the company will deal with potential fluctuations in the labor force during that time period as well.
- **Other Programs and Services:** If requested by the City, CONTRACTOR will take over other Recycle Plus services from other providers as requested by City. If such a request occurs, City and CONTRACTOR will meet to determine appropriate compensation for such services.

EXHIBIT 3

WORK PLANS

3D – COLLECTION EQUIPMENT PLAN

CONTRACTOR will use a straight-frame automated side-loader for SFD solid waste collection. The collection vehicle will be used with garbage carts produced by the same manufacturer as are the carts currently in service in San José, with the exact same specifications. CONTRACTOR maintains a fleet of 50 collection vehicles of the same make and model for Districts A/C. These figures include 5 spare trucks to substitute for regular route vehicles when they are out of service. A cart inventory of approximately two to ten percent of the total carts currently in service will be ordered to provide enough replacements and expansion capacity for the term of the Agreement. Cart sizes ordered will be per a percentage allocation applied to the entire order. The allocation is based on historical cart purchase and service order data.

Collection Vehicles

Only collection vehicles that meet all standards set forth in this Agreement will be purchased. For next fleet replacement, scheduled to occur after July 1, 2021, all of CONTRACTOR's fleet serving the City will be fueled by Compressed Natural Gas (CNG). The bodies will be mounted on approved standard entry cabs and chassis.

Collection Carts

Collection carts will be manufactured to specifications set forth in this Agreement. The excellent reliability of these injection-molded carts is well documented, since they have been used in the City of San José since the first generation of the City's *Recycle Plus* contract in 1992. These collection carts meet all specification listed in *Exhibit 11* of the Agreement.

Other Vehicles

Two cart delivery vehicles will be purchased. These will be flatbed trucks equipped with lift gates. The exact make and model have not been determined. The cost has been factored into the cost proposal. The company will also purchase a 1-ton service vehicle.

EXHIBIT 3

WORK PLANS

3E – EMPLOYEE AND LABOR RELATIONS PLAN

The objective of this section is to relay CONTRACTOR' history as an employer as well as its commitment to the individuals the company will employ. As of the date of submission of this proposal, CONTRACTOR has no payroll. However, employer history can still be relayed since affiliate companies have been in business for many decades and generations.

History

CONTRACTOR affiliate companies employ hundreds of employees, with impressively high retention. No lawsuit has been brought by any employee against the companies. There has been no litigation. Many drivers and customer service representatives have been with their companies 20 years and more. Affiliate companies value their employees, providing them with coaching and mentoring, as well as opportunities to exercise their judgment. With each success, employer/employee trust is built. Over time, employees begin to feel they have a comfortable amount of authority within their position, hence they feel essential and respected, and they stay. Low employee turnover is good for everyone and keeps morale high.

Commitment to a Positive Work Environment

As reflected in the Company's *Ethics Statement* CONTRACTOR is committed to maintaining a positive work environment. This involves two things: a) setting a high standard for a positive environment, and b) keeping obstructions to a positive environment at bay. CONTRACTOR' vision is an environment that is fair to all employees in every way, where employees can find the support to evolve in their careers if they so choose, and where diversity is embraced. This means that discrimination and harassment, unsafe practices such as drug or alcohol use, violence, and intimidation of any sort—verbal or physical—will not be tolerated. Health and safety is of the highest importance to CONTRACTOR and is reflected throughout this proposal. CONTRACTOR insists on mutual respect between all employees at all times.

The company seeks to supply fair working conditions to all employees, and complies with all federal, state, and local regulations and requirements in order to remain in excellent standing as an Equal Opportunity Employer in the eyes of its employees and the community it serves.

EXHIBIT 3

WORK PLANS

The Company will pay prevailing wages. The Company provides excellent benefits. CONTRACTOR does not ask employees to pay a portion of their premiums as is standard practice today. Instead, the company pays 100 percent of the premium for the employee and family members. Also, CONTRACTOR will ensure employees have the right equipment and tools with which to perform their jobs optimally and safely. In turn, the company expects that its equipment and tools are treated with respect at all times, and only used in the manner intended.

Furthermore, the company respects the privacy of its employees, using employee information only for valid purposes and as the law permits. Company employees with access to confidential or proprietary information must prohibit such information from improper disclosure, which will be treated as the serious abuse that it is. By the same token, CONTRACTOR expects reciprocity in that employees will not misuse the proprietary nature of certain Company information—such as business systems and processes, cost data, or customer data—inappropriately or for personal gain.

Labor Peace

While the concept of “labor peace” is still emerging in California and nationwide, CONTRACTOR believes the spirit of labor peace—especially as it may apply to this *Recycle Plus* contract—is to provide for a neutral work environment with for organized employees by forbidding anti-union comments or campaigning by company management. Traditionally, such an agreement has two parts, with an agreement by the union not to use disruptive and economically damaging tactics—such as labor strikes—to accomplish union objectives.

CONTRACTOR wants to reassure the City that the Memorandum of Understanding *has* been signed by the Company and the union. The company accepts and is fully prepared to employ displaced unionized workers. Several CONTRACTOR affiliate company employees have union representation, and in each situation, there exists *Collective Bargaining Agreement* between the union and the Company recognizing the union. Extensive resources go into managing union relations, and the companies take interactions seriously.

Based on the experience of CONTRACTOR affiliate companies that manage union-related processes, prevailing wages, and benefits, below is a list of commitments the Company is willing to make that it believes will achieve labor peace and protect against

EXHIBIT 3

WORK PLANS

labor discord (which are essentially one and the same and are achieved through following the same set of guidelines):

- CONTRACTOR has honored the Memorandum of Understanding with the union.
- The Company has signed the *Collective Bargaining Agreement* inclusive of the period through June 30, 2023 such that all parties are aware of wage increases through June 30, 2023.
- The Company will respect, at all times, the employee's right to union representation by forbidding anti-union remarks or campaigning of any sort.
- To the greatest extent possible, CONTRACTOR will ensure the processes documented in the *Collective Bargaining Agreement* to be adopted will be strictly, objectively, and uniformly adhered to.

The Company believes its plan for labor peace; its commitment to providing a positive work environment, safety, quality performance; and its core values as expressed through its mission and ethics statements provide the best possible scenario for displaced workers.

EXHIBIT 3

WORK PLANS

3F – DIVERSION PLAN

CONTRACTOR will have an aggressive internal recycling program at its facility per the city of Santa Clara standards. It will collect paper, metals, glass and anything else it produces that can be reasonably diverted.

Informal Waste Can Audits on Route

At no additional cost to the City, CONTRACTOR will perform a minimum of two (2) informal waste characterizations per Fiscal Year. The waste assessments must be pre-approved by the City Representative and each assessment will cover approximately two routes (1,500 homes).

CONTRACTOR will target areas of the city identified as missing opportunities to recycle simple materials. During this transition time we will work with ESD staff to fully understand the needs and expectations, within the guidelines agreed to on this item during the negotiations for the MOU. CONTRACTOR is not required to retroactively perform waste audits that have not been approved or requested by the CITY in any given Fiscal Year.

Informal Waste Can Audit Procedures, Forms and Verbiage

CONTRACTOR will work with the ESD staff to create the matrix we will use in the waste audits. This matrix will describe the size of sort, materials pulled, weighing method and the multiplier. We will jointly establish the forms to be used during the audits and the words, terms and report structure.

EXHIBIT 4

RECYCLE PLUS SERVICE DISTRICTS

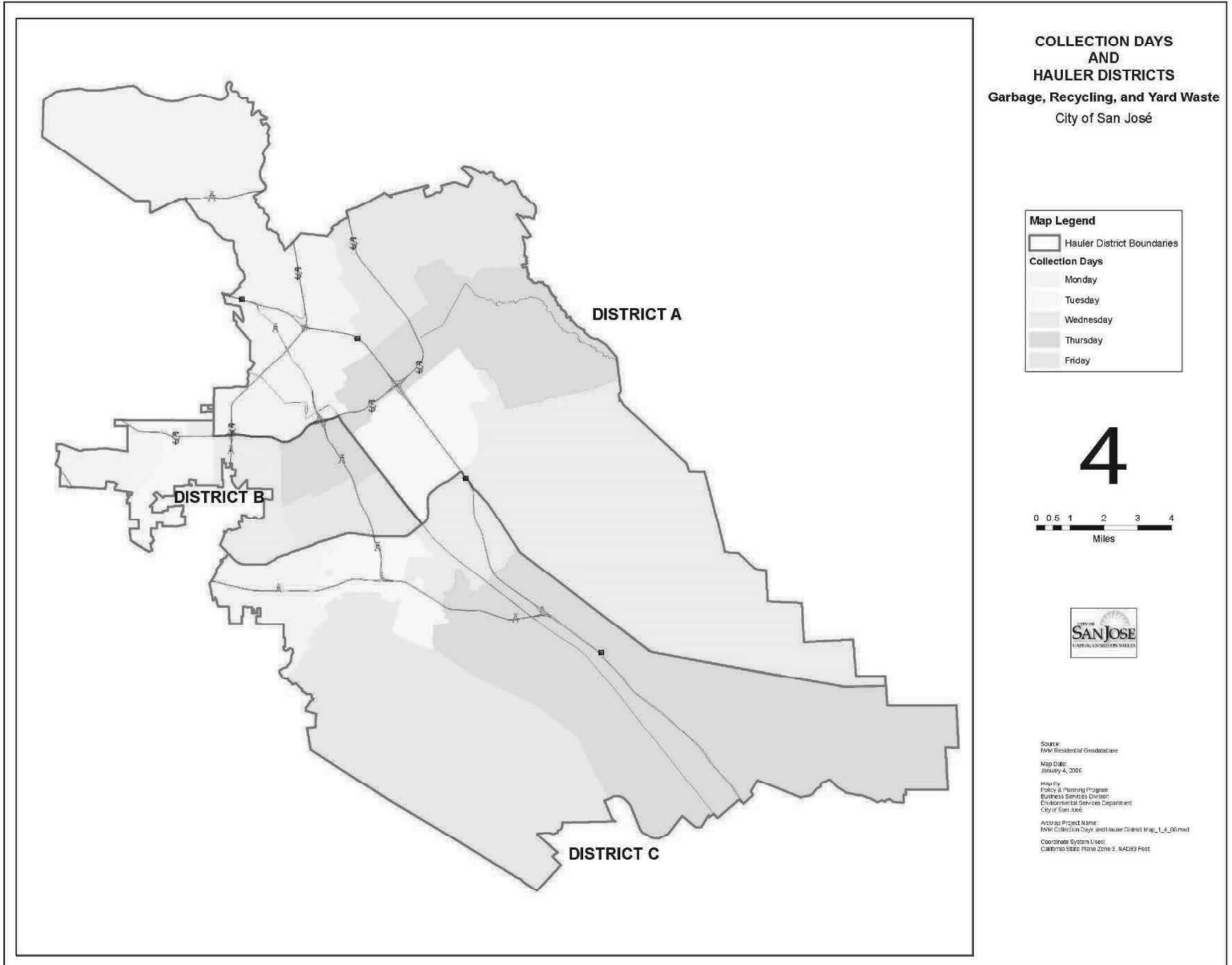


EXHIBIT 5

CENTRAL BUSINESS DISTRICT AND TRANSIT MALL ZONE

Central Business District

The boundaries of the Central Business District are as follows: Commencing at Market and Julian Streets; east on Julian to Fourth Street; then south on Fourth Street to San Salvador; then west on San Salvador to South Market Street; then northwest on Market Street to San Carlos Street; then west on San Carlos to Almaden Boulevard; then north on Almaden Boulevard to Santa Clara Street; then east on Santa Clara Street to Market Street; then north on Market Street to West Julian Street, the point of beginning. Premises on both sides of the boundary streets shall be included in the Central Business District.

Solid waste, recyclables, and yard trimmings collections from premises located within the Central Business District shall take place within the hours required by the San José Municipal Code and shall be completed the same day except within the Transit Mall Zone.

Transit Mall Zone

The boundaries of the Transit Mall Zone are as follows: Commencing at Market and Julian Streets; then east on Julian Street to Third Street; then south on Third Street to San Carlos Street; then west on San Carlos Street to Market Street; then north on Market Street to Julian Street, the point of beginning; but excluding any premises which face Julian, Third, San Carlos, or Market Streets.

Solid waste collections from premises located within the Transit Mall Zone shall take place within the hours required by the San José Municipal Code. Solid waste collection regulations for the Transit Mall Zone are contained in the San José Municipal Code.

EXHIBIT 5

CENTRAL BUSINESS DISTRICT AND TRANSIT MALL ZONE



EXHIBIT 6

SMALL CIVIC SERVICE UNITS

CONTRACTOR shall provide SFD Recycling Collection Services at the Small Civic Service Units listed in Service Districts A and C.

Department	Facility Name	Facility Address	Facility ZIP	District
DOT	City Parking Garage	50 N. 4 th St	95113	A
Fire	Station 7	800 Emory St	95126	A
Fire	Station 8	802 E. Santa Clara St	95112	A
Fire	Station 11	2840 The Villages Parkway	95135	A
Fire	Station 19	3292 Sierra Rd	95132	A
Fire	Station 23	1771 Via Cinco De Mayo	95132	A
Fire	Station 25	5125 Wilson Way	95002	A
Fire	Station 31	3100 Ruby Ave	95135	A
Fire	Station 12	5912 Cahalan Ave	95123	C
Fire	Station 17	5170 Coniston Way	95118	C
Fire	Station 22	6461 Bose Ln	95120	C
Fire	Station 27	6027 San Ignacio Rd	95119	C
Fire	Station 28	19911 McKean Rd	95120	C
Fire	Station 35	135 Poughkeepsie Rd	95123	C

CITY may add or delete Small Civic Service Units to the list above upon written notice to CONTRACTOR, or as updated in the CIS.

EXHIBIT 7

APPROVED SUBCONTRACTORS

The subcontractors listed below are hereby approved by CITY as to the scope of work specified for each listed subcontractor. CONTRACTOR may employ additional subcontractors only with the prior written approval of the Director as to the subcontractor(s) and the scope of work to be performed by the subcontractor(s).

Name of Company/Firm	Address	Area of Responsibility
N/A	N/A	N/A

EXHIBIT 8

DATA AND REPORTING

CONTRACTOR shall provide data in the format approved or provided by the City Representative.

I. DAILY COLLECTION DATA

CONTRACTOR shall compile data on a daily basis and accurately report the following information monthly by electronic format within ten (10) calendar days of the end of each calendar month following the month in which the service was completed.

A. Load Data for Solid Waste

CONTRACTOR shall provide data for each load collected and delivered to the Disposal Facility. CONTRACTOR may use an electronic transfer method with the approval of the City Representative. Data shall include, at a minimum, the following information:

1. Name of Disposal Facility receiving load
2. Weight tag number (unique, non-repeating number)
3. Date of collection
4. Day of week collected
5. Date delivered to Disposal Facility
6. Time of arrival at facility
7. Truck number
8. Net weight of load (in tons)
9. Route number(s)
10. District serviced
11. Number of set-outs
12. Time on route(s) (collection, transport, and downtime)

B. Non-Collection Notices Data

CONTRACTOR shall provide data for each non-collection notice issued. Data shall include, at a minimum, the following information:

1. Date issued
2. Day of the week issued
3. Route number
4. Service Recipient address
5. Service District
6. Reason for Non-Collection (codes and definitions of codes to be provided by CITY)

C. Courtesy Notice Data

CONTRACTOR shall provide data for each Courtesy Notice issued. Data must include, at a minimum, the following information:

EXHIBIT 8

DATA AND REPORTING

1. Date issued
2. Total number of notices issued

D. MISSED COLLECTIONS

CONTRACTOR shall provide data for all reported and non-reported missed pickups for each service type (garbage). Data shall include, at minimum, the following information:

1. Address of each missed collection. If half-street or whole street missed collection, contractor shall provide a starting and ending range of addresses for each street missed
2. Date of each missed collection
3. Date collection was completed
4. Quantity of missed collections (per address or address range)
5. Overall missed collection rate per collection month
6. Ex: July, Garbage: 720 missed collections/720,000 monthly service opportunities= 0.10% missed collection rate (MCR)

II. CUSTOMER SERVICE PERFORMANCE

CONTRACTOR shall submit detailed performance data of customer service activity for all incoming calls to haulers customer service center per Work Day and shall include a monthly summary of all calls received with at minimum the following data:

1. Total calls received
2. Total customer service representatives available
3. Number of calls on hold for 10.0 minutes or more (cumulative hold time for call)
4. Calls abandoned after 10 minutes or more on hold
5. In-call hold abandon rate (% of calls received)
6. Average delay time (first ring until customer speaks to a Customer Service Representative in mm:ss format)

III. DATA RECONCILIATION

CONTRACTOR shall compare the CITY's Service Unit data with the CONTRACTOR's Service Unit data and resolve all discrepancies within thirty (30) calendar days. Reconciliations shall be completed annually by March 15 of each year. CONTRACTOR shall notify CITY ten (10) Work Days prior to commencing the data reconciliation, by requesting Service Unit data from the CITY's Customer Information System. The CITY shall provide data within ten (10) Work Days of the request. If a large number of discrepancies are discovered during the data comparison, the CITY may defer resolution of discrepancies until the next annual route audit. CONTRACTOR may

EXHIBIT 8

DATA AND REPORTING

choose to replace their Service Unit data with CITY Service Unit data instead of conducting a data comparison. CONTRACTOR shall replace their data with CITY provided data within five (5) Work Days of data receipt, and notify CITY when complete.

IV. REPORT REQUIREMENTS

A. Monthly Reports

CONTRACTOR shall submit Monthly Reports within ten (10) days of the end of each calendar month. The Monthly Report shall follow the report format requested by the City Representative.

B. Quarterly Reports

CONTRACTOR shall submit Quarterly Reports within thirty (30) days of the end of the previous calendar quarter. The Quarterly Report shall follow the report outline below, focusing on analysis and narrative of quarterly activity, with trend comparisons to previous quarter and same quarter of previous year, if applicable. CONTRACTOR shall include in its quarterly report to the CITY a summary of outreach activities that have taken place during the preceding quarter, the cost of those activities, and activities that are planned for the upcoming quarter. Invoices for all outreach and public education activities of the preceding quarter that were performed by persons other than CONTRACTOR's employees shall be included as part of the report.

C. Annual Reports

CONTRACTOR shall submit Annual Reports on or before February 15th for the previous calendar year. The final report covering the last six months of service under this Agreement shall be submitted by August 15th following the end of service. Annual Reports shall follow the outline below, with analysis and narrative to cover the reporting year activity.

D. On-Request Reports

1. Strike Contingency

If CONTRACTOR'S employees are represented by a collective bargaining unit, CONTRACTOR shall detail how normal operations will be maintained if a labor strike should occur. The Strike Contingency Plan shall include, but not be limited to, the steps to be taken to have replacement labor to maintain operations, to maintain facility security, to protect non-union personnel and the public, and a point of contact or spokesperson for media relations.

EXHIBIT 8

DATA AND REPORTING

2. Additional Customer and Operation Information

From time to time, CITY may request additional information in order to evaluate current Recycle Plus services and/or a potential redesign of the Recycle Plus Program services including, but not limited to the following:

a. Routes

- Number of routes per day;
- Types of vehicles;
- Crew size per route;
- Number of full time equivalent (FTE) routes; and
- Number of accounts per route.

b. Personnel

- Organizational chart;
- Job classifications and number of employees (e.g. administrative, customer service representatives, drivers, supervisors, educational staff);
- Wages by job classification;
- Number of full-time equivalents (FTE) positions for each job classification; and
- Number of hours per job classification per year.

c. Productivity Statistics

- Number of Service Units per day per route (solid waste, recyclables, and organics collection);
- Representative number of setouts per day per route (actual data or based on annual route audit); and
- Average tons per day per route.

d. Education Activities

- List of all public education efforts performed in the last 12-month period including, but not limited to: mailers, newsletters, bill inserts, and announcements on bills. For each item listed, identify the date and method of distribution, the customers or parties that received the materials, the total number distributed, and a copy of the material distributed; and
- Dates, times, and group names of meetings attended.

EXHIBIT 8

DATA AND REPORTING

- e. Christmas Tree Collection
 - Disposal tonnage;
- f. Other Information
 - Other reports and data related to Recycle Plus services

E. Report Outline for Quarterly and Annual Reports

The following provides an outline of the Quarterly and Annual Report requirements. The purpose of the reports is to provide an analysis of activities and significant events, including service delivery, CONTRACTOR performance, waste stream analysis, and community outreach and relations.

REPORT OUTLINE

SECTION I – DATA

- A. Collected Tonnage
This section shall include an analysis of tons of garbage collected and apparent trends and causes.
- B. Non-Collection and Courtesy Notices
This section shall focus on detailed analysis of Non-Collection and Courtesy Notice activity, by category and type, and apparent trends and causes.
- C. Missed Collections
This section shall focus on detailed analysis of the number missed collections, apparent trends and causes and possible remedies.
- D. Cart Activity
This section shall focus on detailed analysis of garbage cart activity, apparent trends and causes; and approximate quantities, by size, of CONTRACTOR's inventory of Garbage Carts available for deliveries, repairs and exchanges.
- E. Customer Calls
This section shall focus on detailed analysis of customer service activity, apparent trends, major issues and causes. Additional analysis shall be provided on specific service requests and complaint calls and shall include a summary of all calls received. To the extent possible, specific details on Customer Service Representative performance, training, and hiring shall be provided. CONTRACTOR shall include any trends in call center performance and actions taken to correct deficiencies.

EXHIBIT 8

DATA AND REPORTING

SECTION II – ROUTE AUDITS

In this section, CONTRACTOR shall include the route audits conducted during the quarter and the findings from the route audits. This section shall include all of the route audit information required in Section 8.3 of this Agreement.

SECTION III – VEHICLE INFORMATION

- A. Vehicle Inventory and Compliance Reports
- B. Vehicle Mileage Report
- C. Vehicle Maintenance/Preventative Maintenance Activity
- D. Status of State Inspection Requirements
- E. Alternative Fuel Vehicle AFV Usage and Performance
 1. Monthly AFV Reports shall include the following information:
 - Ultra-low sulfur diesel fuel or Natural Gas purchase documentation
 - Ultra-low sulfur diesel fuel usage information including gallons, or for Natural Gas, the gasoline gallon equivalent (GGE) used,
 - Quantity of vehicles operating on ultra-low sulfur diesel fuel or Natural Gas
 2. Quarterly AFV Reports shall include the following information:
 - Discussion of ultra-low sulfur diesel fuel or Natural Gas performance; including but not limited to, average fuel economy, issues with power and speed, and any unusual noise or fumes.
 - Operational issues
 - Maintenance issues
 - Analysis and narrative of results from testing the use of alternative fuels in collection vehicles
 - Fuel supply issues
 3. In addition to the above, Annual AFV Reports shall include:
 - Summary of Quarterly Reports
 - Emissions ratings
 - Grant status
 - Fuel purchase and delivery documentation

SECTION IV –SIGNIFICANT EVENTS

This section shall discuss any significant events occurring in the organization.

EXHIBIT 8

DATA AND REPORTING

SECTION V – CALENDAR

- A. Reports Delivered This Quarter
- B. Reports Due Next Quarter

EXHIBIT 9

RESERVED

EXHIBIT 10

RESERVED

EXHIBIT 11

CONTAINER SPECIFICATIONS AND PERFORMANCE CRITERIA

CONTRACTOR shall provide Garbage Carts that meet the following specifications and minimum performance criteria.

Specifications and Performance Criteria For 20-, 32-, 64-, and 96-Gallon Capacity	
Volumetric Capacity – Garbage Carts	<ul style="list-style-type: none"> • 32-gallons +/- 10%, 64-gallons +/- 10%, and 96-gallons +/- 10%, excluding volume resulting from a crowned lid in the closed position
Minimum Load Rating	<ul style="list-style-type: none"> • 20-gal: 80 lb. • 32-gal: 100 lb. • 64-gal: 175 lb. • 96-gal: 250 lb.
Compatibility	<ul style="list-style-type: none"> • Compatible with commercially available fully automated lifting mechanisms that are or will be used in San José
Standards of Design	<ul style="list-style-type: none"> • Designed to meet all relevant sections of American National Standards Institute (ANSI) Z245.30-1999 and Z245.60-1999 • Designed such that wastes flow freely out of the cart when dumped by a fully automated lifting mechanism
Materials of Construction & Recycled Content	<ul style="list-style-type: none"> • Body of cart: HDPE • At least 20% post-consumer recycled content
Dimensions & Design	<ul style="list-style-type: none"> • Maximum width of 31” including lid and wheels • Leak proof
Lid	<ul style="list-style-type: none"> • Manufactured from the same material as the body of the cart. • Rotate at least 270 degrees • Watertight, must prevent rain entry when closed, with or without latches • Snug-fitting and must overlap the cart rim • Self-draining
Handle	<ul style="list-style-type: none"> • Handle mounts must either: <ol style="list-style-type: none"> 1. be an integrally molded part of the cart body; or 2. if bolt-on handle mounts are used, they must be designed such as to prevent them from working loose over the active life of the cart

EXHIBIT 11

CONTAINER SPECIFICATIONS AND PERFORMANCE CRITERIA

Specifications and Performance Criteria For 20-, 32-, 64-, and 96-Gallon Capacity	
Wheels	<ul style="list-style-type: none">• Minimum tire diameter: 10 inches for 64- and 96-gal carts, 8 inches for 32-gal carts• Minimum tread width: 1.5 inches• Tire material must be natural rubber or polymeric compound• Each wheel must be rated for the minimum load rating of the carts and not deform plastically when subjected to the rated load of the carts• Axle must pass through the cart body outside of the area for waste storage• Wheels must have a locking device to secure them to the cart axle
Fasteners	<ul style="list-style-type: none">• No fasteners are to penetrate the body of the cart where waste will be contained• All fasteners are to be corrosion resistant and free of sharp edges
Finish Surfaces	<ul style="list-style-type: none">• Interior surface must be smooth with a semi- or high-gloss finish• Exterior surface must be suitable for hot stamping on lid and body• Exterior must be free of sharp edges and corners, protrusions, or other structures that could pose a nuisance or hazard to humans
Assembly	<ul style="list-style-type: none">• Carts must be easy to assemble• Nuts must be self-locking• Nuts and/or rivets must be designed such that they cannot be removed with ordinary tools by the public

EXHIBIT 11

CONTAINER SPECIFICATIONS AND PERFORMANCE CRITERIA

Specifications and Performance Criteria For 20-, 32-, 64-, and 96-Gallon Capacity	
Performance	<ul style="list-style-type: none"> • Carts must pass ANSI standards 245.30-1999, clauses 7.2.4.2 (testing requirements for two-wheeled carts) for the following parameters: <ol style="list-style-type: none"> 1. volumetric loading capacity 2. slope stability 3. durability during pulling 4. loading and unloading (cycle test) 5. center of balance position 6. force to tip cart 7. lid (collapse) • All metal components of the cart must meet the corrosion resistance requirements of 500 hours of salt spray exposure as described in ASTM B117 • Carts must pass the Leakage performance test (Appendix A) • Full and Empty carts must pass the Wind Stability performance test (Appendix A)
Testing	<ul style="list-style-type: none"> • Performance testing of production samples shall be conducted at a frequency of 3 per 1000 units manufactured
Environmental	<ul style="list-style-type: none"> • Ultra-violet stability: All plastic components must contain UV inhibitors and the cart must maintain performance during the warranty period when exposed to ultra-violet radiation of the sun • Temperature stability: Cart must not plastically deform when subjected to temperatures in the range of 25 deg F to 170 deg F and a compressive load of 200 lb
Identification & Markings	<ul style="list-style-type: none"> • The following must be hot-stamped on the lid: <ol style="list-style-type: none"> 1. facing street arrow • The following must be hot-stamped on the cart body: <ol style="list-style-type: none"> 1. City's logo 2. serial number (sequentially numbered) 3. production batch number and date 4. maximum load weight rating 5. cart type, per clause 4.2.1f of ANSI Z245.30-99
Color	Garbage: Black body with black lid Insert: Black

EXHIBIT 11

CONTAINER SPECIFICATIONS AND PERFORMANCE CRITERIA

Specifications and Performance Criteria For 20-, 32-, 64-, and 96-Gallon Capacity	
Warranty	<ul style="list-style-type: none">• Minimum 10 years for all parts of cart; not prorated; any failure under warranty shall be replaced with a newly manufactured whole cart, which is defined to be the body of the cart, wheel, lid, handles, other ancillary features and fasteners

EXHIBIT 11

CONTAINER SPECIFICATIONS AND PERFORMANCE CRITERIA

Appendix A

PERFORMANCE TESTS

Wind Stability

This test is designed to assure that a cart will remain stationary and in the upright position under severe wind conditions. The cart must be able to remain upright and stationary in a wind flow of 25 mph. The test surface shall be a flat finished asphalt surface. Place one sidewall of cart perpendicular to a horizontal flow of air at 25 mph for one minute. Record whether or not the cart tips over and distance, if any, the cart slides or rolls. Repeat the test for each of the other sides. To pass this test, the cart shall not tip over, or slide or roll more than 6.0 in., in any of the tests.

Leakage

The purpose of this test is to determine if the cart is designed to minimize leakage.

The cart shall be filled with water to a level within 8 in. from the inside bottom of the container. The container shall be covered with its own lid. The filled container shall then be placed in a covered area over a dry drip pan to collect any leakage and allowed to stand for a period of 24 hours exposed to temperatures within the range of 65 to 75 F. The water level within the container after the test shall be measured and recorded to within the nearest 0.1 in. The results of the test shall be reported in terms of final water level, ambient temperature, visible leakage, and quantity of water collected in the drip pan. Containers that exhibit any leakage shall fail the test.

EXHIBIT 12

FORM OF PERFORMANCE BOND

RECYCLE PLUS SFD SOLID WASTE SERVICES
FOR THE
CITY OF SAN JOSE, CALIFORNIA

KNOW ALL MEN BY THESE PRESENTS: that

Garden City Sanitation, Inc.

as Principal, hereinafter called CONTRACTOR, and,

(Name of insurer)

as Surety, hereinafter called Surety, are held firmly bound unto the CITY OF SAN JOSE, CALIFORNIA as Obligee, hereinafter called the City, in the amount of **[CONTRACTOR to insert amount per Agreement (\$X,XXX,XXX.XX)]** for the payment whereof CONTRACTOR and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, CONTRACTOR has by written agreement dated _____, **[insert year]**, entered into an Agreement with the City for providing (to be inserted) Services in accordance with the Agreement of the CITY OF SAN JOSE, CALIFORNIA, which Agreement is by reference made a part hereof, and is hereinafter referred to as the Agreement.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if CONTRACTOR shall promptly and faithfully perform said Agreement, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the City.

Whenever CONTRACTOR shall be, and declared by the City to be in default under the Agreement, the City having performed the City's obligations thereunder, the Surety may promptly remedy the default, or shall promptly perform one of the following:

1. Complete the Agreement in accordance with its terms and conditions.

EXHIBIT 12

FORM OF PERFORMANCE BOND

2. Obtain a bid or bids for completing the Agreement in accordance with the terms and conditions, and upon determination by the Surety of the lowest responsible bidder, or if the City elects, upon determination by the City and the Surety jointly of the lowest responsible bidder, arrange for an agreement between such bidder and the City, and make available as work progresses (even though there should be a default or a succession of defaults under the Agreement or Agreements of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Agreement price; but not exceeding, including costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the Agreement price," as used in this paragraph, shall mean the total amount payable by the City to CONTRACTOR under the Agreement and any amendments thereto, less the amount properly paid by the City to CONTRACTOR.

Any suit under this bond must be instituted before the expiration date of the Agreement or if extended for an additional term by the City, the expiration of the extended term.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the City named herein or the executor, administrator or successors of the City of San José, California.

Signed and sealed this ____ day of _____, **[insert year]**.

(Principal) (Seal)

(Witness)

(Title)

Surety (Seal)
(Name of Insurer)

(Witness)

By:

(Attorney-in-Fact)

EXHIBIT 13

WAGE POLICY

CONTRACTOR and any of CONTRACTOR's subcontractors shall be obligated to pay not less than the wages as set forth in this Exhibit.

A. PREVAILING WAGE

California Labor Code and/or Resolutions of the City of San José require the payment of not less than the general prevailing rate of per diem wages and rates for holiday and overtime and adherence to all labor standards and regulations.

Prevailing Wages established by the California Department of Industrial Relations shall be the General Prevailing Wage Determination made by the Director of Industrial Relations pursuant to California Labor Code Part 7, Chapter 1, Article 2, Sections 1770, 1773 and 1773.1. The General Prevailing Wage Rates may be adjusted throughout the term of this Agreement.

Prevailing Wages established by the City of San José shall mean the wages paid under a collective bargaining agreement between CONTRACTOR and a recognized union representing workers who perform services pursuant to this Agreement; or, if there is no collective bargaining agreement, not less than the prevailing rate of per diem wages for the employee craft/classification as determined by the City of San José's Office of Equality Assurance.

The City Prevailing Wage will be subject to annual adjustment on the first day of each July during the term of this Agreement. Adjustments will be based on the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index, All Items, for all Urban Consumers [CPI-U] for San Francisco-Oakland-San José).

B. LIVING WAGE

CONTRACTOR shall pay individuals not less than the hourly wage rate set forth herein if the individual is: (1) performing work under this Agreement, (2) not subject to a collective bargaining agreement, and (3) are in the following job classifications: (a) customer service representatives (CSRs), and (b) mechanics (collectively referred to as "Covered Workers").

For purposes of this Agreement, the hourly living wage rate paid to Covered Workers will be referred to as the "Modified Living Wage" or the "MLW." CONTRACTOR agrees that Covered Workers will be paid at least the following hourly Modified Living Wage rate:

- If the Covered Worker receives health benefits, as determined by the City's Office of Equality Assurance, the hourly Modified Living Wage rate is the sum of the following 2 amounts:

EXHIBIT 13

WAGE POLICY

1. 45.71% of the Fiscal Year 2019 living wage rate established by the City’s Office of Equality Assurance for employees receiving health benefits, plus
 2. 54.29% of the Fiscal Year 2019 minimum wage rate established by the City’s Office of Equality Assurance.
- If the Covered Worker does not receive health benefits, as determined by the City’s Office of Equality Assurance, the hourly Modified Living Wage rate is the sum of the following 2 amounts:
 1. 45.71% of the Fiscal Year 2019 living wage rate established by the City’s Office of Equality Assurance for employees who do **not** receive health benefits, plus
 2. 54.29% of the Fiscal Year 2019 minimum wage rate established by the City’s Office of Equality assurance.

The MLW will automatically adjust each Fiscal Year to reflect the changes in the living wage and minimum wage rates as made by the City’s Office of Equality Assurance.

Notwithstanding the foregoing, the increase in the **total** MLW rate for any single Fiscal Year is capped at 5% with no carryover (see example below).

Example of MLW rate change with 5% cap (numbers provided for illustrative purposes)

FY 2019 - 2020			FY 2020 - 2021					FY 2021 - 2022				
Living & Minimum Wages	Calculated MLW	Effective MLW	Living & Minimum Wages	Calculated MLW	Increase	Eligible Increase	Effective MLW	Living & Minimum Wages	Calculated MLW	Increase	Eligible Increase	Effective MLW
\$22.68	\$10.37	\$18.51	\$25.42	\$11.62			\$19.43	\$25.42	\$11.62			\$19.93
\$15.00	\$8.14	\$15.00	\$15.00	\$8.14	6.77%	5.00%	\$15.30	\$8.31	\$8.31	2.57%	2.57%	\$19.93
	\$18.51			\$19.76					\$19.93			

As long as CONTRACTOR is paying the then-current effective MLW rate for Covered Workers, CONTRACTOR shall be in compliance even if CONTRACTOR’s then-current MLW wage rate is lower than the MLW rate calculated because the rate was capped at 5%. If the 5% cap is reached in any Fiscal Year, the difference between the wages that would have been paid to Covered Workers under the calculated MLW rate and the wages paid to Covered Workers under the capped rate will not be carried over or owed to Covered Workers in future Fiscal Years.

EXHIBIT 13

WAGE POLICY

If tonnages of San José Material processed by CONTRACTOR change by more than 20% or if the CITY later contracts with a new processing facility for the Recycle Plus Program that is not providing services to the City as of the Effective Date of the Agreement, CITY and CONTRACTOR will negotiate in good faith to modify the methodology for calculating the MLW rate and associated compensation paid to CONTRACTOR for implementing the MLW. Under no circumstances, however, will a renegotiated methodology result in the lowering of the MLW rate established in this Agreement or result in the reduction of any Covered Worker's wage. Any modification to the MLW methodology will require City Council approval.

C. DOCUMENTATION OF COMPLIANCE

The following requirements will be referred to collectively as the "Documentation Provision."

The Office of Equality Assurance will monitor the payment of wages by requiring CONTRACTOR and all subcontractors to file a Payroll Summary Report and any supporting documentation with the Office of Equality Assurance at the beginning of each Fiscal Year. CONTRACTOR shall also submit all such reports as requested by the Office of Equality Assurance.

CONTRACTOR and covered subcontractors shall also report such other additional information, including certified payrolls, as requested by the Director of Equality Assurance to ensure adherence to the Policy.

EXHIBIT 13

WAGE POLICY

All documents must be delivered to:

City of San José
Office of Equality Assurance
200 East Santa Clara Street
Fifth Floor
San José, CA 95113
Phone: 408.535-8430

D. EMPLOYMENT OF DISPLACED WORKERS

Upon termination of this Agreement, CONTRACTOR shall fully cooperate with all CITY requests regarding contacts with CONTRACTOR's employees to enable a transition in the workforce to a new service provider.

E. LABOR PEACE

CITY's Office of Equality Assurance has determined that the level of vulnerability of the Agreement to service or labor disputes is sufficient to warrant that labor peace is essential to the propriety interests of CITY. Therefore, CONTRACTOR shall at all times comply with the provisions of CONTRACTOR's Employee and Labor Relations Plan set forth in Exhibit 3 ("WORK PLANS") to this Agreement.

F. ENFORCEMENT

1. General

CONTRACTOR acknowledges it has read and understands that, pursuant to the terms and conditions of this Agreement, it is required to pay, individuals in the listed job classifications that are performing work under this Agreement not less than the amounts set forth in Sections I (Prevailing Wage) and II (Living Wage) (collectively "Wage Provision") and to comply with the Documentation Provision. CONTRACTOR further acknowledges that CITY has determined that the Wage Provision promotes each of the following (collectively "Goals"):

- a) It protects job opportunities and stimulates CITY's economy by reducing the incentive to recruit and pay a substandard wage to labor from distant, cheap-labor areas.
- b) It benefits the public through the superior efficiency of well-paid employees, whereas the payment of inadequate compensation tends to negatively affect the quality of services to CITY by fostering high turnover and instability in the workplace.
- c) Paying individuals a wage that enables them not to live in poverty is

EXHIBIT 13

WAGE POLICY

beneficial to the health and welfare of all citizens of San José because it increases the ability of such workers to attain sustenance, decreases the amount of poverty and reduces the amount of taxpayer funded social services in San José.

- d) It increases competition by promoting a more level playing field among contractors with regard to the wages paid to workers.

2. Remedies for CONTRACTOR's breach of prevailing wage/living wage provisions

- a) **Suspension or termination:** suspend and/or terminate the Agreement;
- b) **Restitution:** require CONTRACTOR to pay any amounts underpaid in violation of the required payments and CITY's administrative costs and liquidated damages.
- c) **Debarment:** debar CONTRACTOR in accordance with Chapter 4.10 of the San José Municipal Code.
- d) **Withholding of payment:** CONTRACTOR agrees that the Documentation Provision is critical to CITY's ability to monitor CONTRACTOR's compliance with the Wage Provision and to ultimately achieve the Goals. CONTRACTOR further agrees its breach of the Documentation Provision results in the need for additional enforcement action to verify compliance with the Wage Provision. In light of the critical importance of the Documentation Provision, CITY and CONTRACTOR agree that CONTRACTOR's compliance with this provision, as well as the Wage Provision, is an express condition of CITY's obligation to make each payment due to CONTRACTOR pursuant to this Agreement. CITY is not obligated to make any payment due to CONTRACTOR until CONTRACTOR has performed all of its obligations under these provisions. Any payment by CITY despite CONTRACTOR's failure to fully perform its obligations under these provisions shall not be deemed to be a waiver of any other term or condition contained in this Agreement nor a waiver of the right to withhold payment for any subsequent breach of the Wage Provision or the Documentation Provision.
- e) **Liquidated damages for breach of wage provision:** CONTRACTOR agrees its breach of the Wage Provision would cause CITY damage by undermining the Goals, and CITY's damage would not be remedied merely by CONTRACTOR's

EXHIBIT 13

WAGE POLICY

payment of restitution to the workers who were paid a substandard wage. CONTRACTOR further agrees that such damage would increase the greater the number of employees not paid the applicable prevailing wage and the longer the amount of time over which such wages were not paid. CITY and CONTRACTOR mutually agree that making a precise determination of the amount of CITY's damages as a result of CONTRACTOR's breach of the Wage Provision would be impractical and/or extremely difficult. Therefore, the parties agree that, in the event of such a breach, CONTRACTOR shall pay to CITY as liquidated damages the sum of three (3) times the difference between the actual amount of wages paid and the amount of wages that should be paid.

G. AUDIT RIGHTS

All records or documents required to be kept pursuant to this Agreement to verify compliance with the Wage Provision shall be made available for audit at no cost to CITY, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such records or documents shall be provided to CITY for audit at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records or documents shall be available at CONTRACTOR's address indicated for receipt of notices in this Agreement.

H. COEXISTENCE WITH ANY OTHER EMPLOYEE RIGHTS

These provisions shall not be construed to limit an employee's ability to bring any legal action for violation of any rights of the employee.

EXHIBIT 13

WAGE POLICY

**WAGE DETERMINATION
FOR CITY CONTRACTED SOLID WASTE SERVICES**

**A. Prevailing Wage Rate
EFFECTIVE DATE: July 1, 2019**

Classification	Basic Hourly Pay Rate	Fringe Benefits	Total Hourly Pay*
Garbage Driver	\$35.29	\$14.49	\$47.91

Breakdown of Benefits		
Paid Vacation Days	After 1 year	7 Days – 56 Hours
	After 5 years	15 Days – 120 Hours
	After 10 years	20 Days – 160 Hours
	After 15 years	25 Days – 200 Hours
	After 20 years	30 Days – 240 Hours
	After 25 years	35 Days – 280 Hours
	After 30 years	40 Days – 320 Hours
Paid Sick Leave	Eleven (11) paid Sick Days	
Paid Holidays	Twelve (12) paid Holidays	
NOTE: Pursuant to the Labor Code and/or City Resolution, the awarding body is responsible for determining classifications to be used on Construction, Maintenance, Service and other contracts subject to prevailing wage and/or living wage requirements. Upon award of contract, the successful contractor/service provider will be required to submit: Payroll Summary Report with supporting documentation. As a condition of its contract, this firm may also be required to complete and file certified payrolls as requested by the Office of Equality Assurance.		

EXHIBIT 13

WAGE POLICY

Determination Notes

*The full amount of the total hourly wage must be paid directly to the worker, UNLESS the Contractor is making payments to a benefit plan. If the Contractor is making payments to a benefit plan but the benefits being paid do not add up to the full amount of benefits identified, the Contractor must pay the difference directly to the worker.

**B. Modified Living Wage Rate
EFFECTIVE; July 1, 2019**

All Covered Workers shall be paid no less than the following:

MODIFIED LIVING WAGE WITH HEALTH BENEFITS	MODIFIED LIVING WAGE WITHOUT HEALTH BENEFITS
\$18.51 per hour	\$19.08 per hour

Subject to any limitations in Section II of this Exhibit, Modified Living Wage rates will be adjusted each Fiscal Year on July 1 to reflect any changes in the City's Living Wage Rate and the City's Minimum Wage Rate.

C. Hours and Days of Work

(Industrial Welfare Commission Order No. 16-2001)

Employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1 ½) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

One and one-half (1 ½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including 12 hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek; and

Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) on the seventh (7th) consecutive day of work in a workweek.

EXHIBIT 14

SERVICE DATA INTERFACE TECHNICAL SPECIFICATIONS

I. Requirements

Customers contact the haulers to initiate service level changes – such as cart upsizes and downsizes. When changes occur, the CITY billing records must be updated to match CONTRACTOR service level data for each SFD account. This is done through an internal process using an import file, which CONTRACTOR shall submit as described below, for changes occurring in the previous calendar month.

The CITY maintains a Customer Information System (CIS) for billing and customer service. In CIS the ACCOUNT is connected to the service location address and is independent from the customer. It is identified as a 10-digit numeric field, not packed with leading zeros.

Timing

By the 5th day of each month, the hauler will send all current item type information for ACCOUNTS that have changes in service effective the first business day of the previous month through the last business day of the previous month.

File Type

Files shall be submitted as a comma-separated value file (.csv) as specified in the File Layout below. File naming convention shall be the hauler 2 digit alpha value followed by the month and year in MMY format. The hauler will submit the file via email or electronic format specified by CITY.

Hauler	File Name Format
Garden City Sanitation	GCMYY

File Processing

For any ACCOUNT in the data file, all service level (item type) information of this ACCOUNT in CIS will be removed. The listed item type for that account will be added if the count is greater than zero. All active services must be provided in the file for the account that has had a change in service.

II. File Layout

Import Field Name	Field Type/Size	For example
Hauler Code	Char(2)	GC (required text, must be on every record)
ServiceArea	Char(1)	A or C (Hauler District)
Account	Char(10)	1234567890
ItemType	Char(10)	CRS096

EXHIBIT 14

SERVICE DATA INTERFACE TECHNICAL SPECIFICATIONS

Import Field Name	Field Type/Size	For example
Count	Integer(4)	20
EffectiveDate	Date(10) Format: MM/DD/YYYY Y	08/01/2019 (with leading zeros)

III. List of Item Types: SFD

Item Type	Description
CR032	RP SFD-GB 32 gallon
CR032DP	RP SFD-GB 32 gallon Disabled
CR032OP	RP SFD-GB 32 gallon On Premise
CR064	RP SFD-GB 64 gallon
CR064DP	RP SFD-GB 64 gallon Disabled
CR064OP	RP SFD-GB 64 gallon On Premise
CR096	RP SFD-GB 96 gallon
CR096DP	RP SFD-GB 96 gallon Disabled
CR096OP	RP SFD-GB 128 gallon On Premise
CR128	RP SFD-GB 128 gallon
CR128DP	RP SFD-GB 128 gallon Disabled
CR128OP	RP SFD-GB 128 gallon On Premise
CR160	RP SFD-GB 160 gallon
CR160DP	RP SFD-GB 160 gallon Disabled
CR160OP	RP SFD-GB 160 gallon On Premise
CR192	RP SFD-GB 192 gallon
CR192DP	RP SFD-GB 192 gallon Disabled
CR192OP	RP SFD-GB 192 gallon On Premise
CR224	RP SFD-GB 224 gallon
CR224DP	RP SFD-GB 224 gallon Disabled
CR224OP	RP SFD-GB 224 gallon On Premise
CRS064	RP SFD-GB 64 gallon Shared
CRS064P	RP SFD-GB 64 gallon Shared On Prem
CRS096	RP SFD-GB 96 gallon Shared
CRS096P	RP SFD-GB 96 gallon Shared On Prem
CRSG192P	RP SFD-GB 192 gallon Shared On Prem

TABLE OF CONTENTS

Article 1.	DEFINITIONS.....	3
Article 2.	TERM OF AGREEMENT	9
Article 3.	REPRESENTATIONS AND WARRANTIES OF CONTRACTOR.....	10
Article 4.	GENERAL SERVICES	12
Article 5.	SERVICE UNITS.....	15
Article 6.	SFD SOLID WASTE COLLECTION SERVICES	17
Article 7.	ADDITIONAL SERVICES	23
Article 8.	COLLECTION ROUTES	26
Article 9.	EQUIPMENT, PERSONNEL, AND FACILITIES.....	30
Article 10.	DISPOSAL.....	35
Article 11.	RESERVED.....	37
Article 12.	COLLECTION SERVICE	38
Article 13.	REPORTING AND RECORDKEEPING	46
Article 14.	FUND APPROPRIATION.....	48
Article 15.	COMPENSATION	49
Article 16.	QUALITY OF PERFORMANCE OF CONTRACTOR	55
Article 17.	DEFAULT OF AGREEMENT	60
Article 18.	NONDISCRIMINATION, WAGE POLICY	64
Article 19.	FINANCIAL ASSURANCE	65
Article 20.	INSURANCE	68
Article 21.	MISCELLANEOUS PROVISIONS.....	72

EXHIBIT LIST

- EXHIBIT 1A COMPENSATION THROUGH JUNE 30, 2021
- EXHIBIT 1B COMPENSATION FROM JULY 1, 2021 THROUGH JUNE 30, 2036
- EXHIBIT 2A RATE ADJUSTMENTS - REFUSE RATE INDEX THROUGH JUNE 30, 2021
- EXHIBIT 2B RATE ADJUSTMENTS – REFUSE RATE INDEX FROM JULY 1, 2021 THROUGH JUNE 30, 2036
- EXHIBIT 3 WORK PLANS
- EXHIBIT 4 RECYCLE PLUS SERVICE DISTRICTS
- EXHIBIT 5 CENTRAL BUSINESS DISTRICT AND TRANSIT MALL ZONE
- EXHIBIT 6 SMALL CIVIC SERVICE UNITS
- EXHIBIT 7 APPROVED SUBCONTRACTORS
- EXHIBIT 8 DATA AND REPORTING
- EXHIBIT 9 RESERVED
- EXHIBIT 10 RESERVED
- EXHIBIT 11 CONTAINER SPECIFICATIONS AND PERFORMANCE CRITERIA
- EXHIBIT 12 FORM OF PERFORMANCE BOND
- EXHIBIT 13 WAGE POLICY
- EXHIBIT 14 SERVICE DATA INTERFACE TECHNICAL SPECIFICATIONS