



"Gateway to the Santa Monica Mountains National Recreation Area"

June 12, 2017

Waste Management/G. I. Industries
Attn: Michael Smith, Market Area Manager
195 West Los Angeles Avenue
Simi Valley, CA 93094

Subject: Franchise Agreement

Enclosed, please find one fully executed conformed copy of the original Franchise Agreement, for integrated exclusive residential waste management services, for the City of Agoura Hills.

Also enclosed is a certified copy of Resolution No. 16-1832 (approving the Franchise Agreement for integrated residential waste management services and establishing limitations on the rates that may be charged).

Should you have any questions or concerns regarding this agreement, please contact Louis Celaya, Deputy City Manager at (818) 597-7314.

Sincerely,

Kimberly M. Rodrigues, MPPA, MMC
City Clerk

Enclosure

cc: Louis Celaya, Deputy City Manager



Office of the City Clerk
30001 Ladyface Court
Agoura Hills, CA 91301

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF AGOURA HILLS)

I, Kimberly M. Rodrigues, City Clerk of the City of Agoura Hills, California, do hereby certify that the attached two (2) pages of **Resolution No. 16-1832**; *A Resolution of the City Council of the City of Agoura Hills, California, Approving the Franchise Agreement for Integrated Residential Waste Management Services between the City of Agoura Hills and G. I. Industries, Inc., a Utah Corporation, and Establishing Limitations on the Rates that may be Charged*; are a full, true and correct copy of the Resolution adopted by the City Council at its Regular Meeting held at 6:00 p.m. on Wednesday, December 14, 2016, and is a duplicate original of the resolution on file and of record in the Office of the City Clerk.



Kimberly M. Rodrigues, MPPA, MMC
City Clerk

Dated: June 12, 2017

RESOLUTION NO. 16-1832

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, APPROVING THE FRANCHISE AGREEMENT FOR INTEGRATED RESIDENTIAL WASTE MANAGEMENT SERVICES BETWEEN THE CITY OF AGOURA HILLS AND G.I. INDUSTRIES, INC., A UTAH CORPORATION, AND ESTABLISHING LIMITATIONS ON THE RATES THAT MAY BE CHARGED

A. Recitals.

- (i) The City of Agoura Hills ("City") and G.I. Industries, Inc., a Utah Corporation ("GI Industries"), desire to enter into a franchise agreement for the provision of integrated exclusive residential waste management services (the "Agreement").
- (ii) The Agreement includes limitations on the rates that GI Industries may charge for services provided pursuant to the Agreement.
- (iii) The City and Hillside Rubbish Company, GI/USA's predecessor-in-interest, entered into that certain Agreement for Residential Solid Waste and Recyclable Materials Collection Services dated November 17, 1993, which was subsequently amended on September 6, 1995, and further amended on December 18, 2000, which agreement expired on December 1, 2007.
- (iv) The City and GI/USA Waste of California entered into that certain Agreement for Residential Solid Waste and Recyclable Materials Collection Services dated July 1, 2007, which was subsequently amended on July 1, 2013, which agreement was scheduled to expire on June 30, 2016, and has been extended on a month-to-month basis since that date
- (v) The City Council considered this matter on December 14, 2016, in the City Council Chambers in the course of a regularly scheduled City Council meeting. After receiving all written and oral testimony and deliberating on such evidence, this City Council has concluded that the Agreement will ensure that the reasonable and necessary levels of service are maintained, and permit a fair cost for the users of such services and a reasonable rate for the service provider.
- (vi) All prerequisites to the adoption of this resolution have occurred as required.

B. Resolution.

NOW, THEREFORE, the City Council does hereby find, determine and resolve as follows:

Section 1. This City Council finds as true and adopts as findings the information set forth in Part A, Recitals, of this Resolution. The agenda report to the City Council dated December 14, 2016 is hereby incorporated to this Resolution by reference and adopted as findings.

Section 2. This City Council finds that the California Environmental Quality Act of 1970, as amended ("CEQA") does not apply to the adoption of this Resolution, pursuant to the general exception for projects that do not have the potential for causing a significant effect on the environment, as set forth in Section 15061 of Article 18 of chapter 3 of Title 14 of the California Code of Regulations.

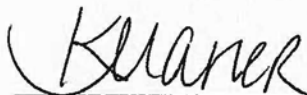
Section 3. The City Council hereby approves the Franchise Agreement For Integrated Exclusive Residential Waste Management Services Between The City Of Agoura Hills And G.I. Industries, Inc., a Utah Corporation, in the form attached to the staff report that accompanied this item, including the limitations on the rates that GI Industries may charge, as set forth in Exhibit 1 to the Agreement.

Section 4. The City Clerk shall certify to the adoption of this Resolution.

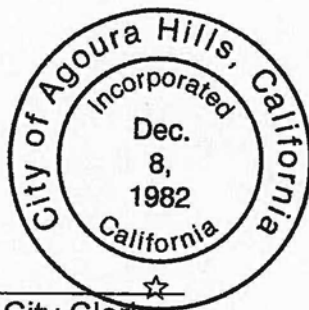
PASSED, APPROVED, AND ADOPTED this 14th day of December, 2016, by the following vote to wit:

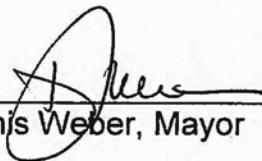
AYES:	(5) Weber, Koehler, Buckley Weber, Schwarz
NOES:	(0)
ABSTAIN:	(0)
ABSENT:	(0) Northrup

ATTEST:



Kimberly M. Rodrigues, City Clerk




Denis Weber, Mayor

FRANCHISE AGREEMENT
between the
CITY OF AGOURA HILLS
and
G.I. INDUSTRIES, a Utah Corporation
for
INTEGRATED EXCLUSIVE RESIDENTIAL WASTE
MANAGEMENT SERVICES

*** * ***

January 1, 2017

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Exhibits

Exhibit 1 – Initial Maximum Rates

Exhibit 2 – Corporate Guaranty

Exhibit 3 – Faithful Performance Bond

Exhibit 4 – Affidavit Regarding Process Integrity and Noncollusion

FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT FOR INTEGRATED RESIDENTIAL WASTE MANAGEMENT SERVICES ("Agreement") is effective as of the 14th day of December 2016 ("Effective Date"), and is entered into by the City of Agoura Hills ("City") and G.I. Industries, a Utah corporation ("Company").

RECITALS:

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (the "Act", California Public Resources Code Sections 40000 et seq.) has declared that it is in the public interest to require local agencies to make adequate provision for solid waste handling within their jurisdictions to meet the goals and objectives of the Act.

B. In accordance with the Act, City is required to implement its Source Reduction and Recycling Element ("SRRE") in order to maintain the diversion of fifty percent (50%) of solid waste collected in City from landfill disposal.

C. In accordance with California Public Resources Code Section 40059(a)(2) and 49300 et seq., City has determined that the public health, safety, and welfare require that an exclusive franchise be awarded to a qualified solid waste enterprise for the collection, transportation, recycling, processing, and disposal of residential solid waste, and for other related services, to meet the goals and objectives of the Act.

D. City and Hillside Rubbish Company, Company's predecessor-in-interest, entered into that certain Agreement for Residential Solid Waste and Recyclable Materials Collection Services dated November 17, 1993, which was subsequently amended on September 6, 1995, and further amended on December 18, 2000 (as amended, the "1993 Agreement").

E. On July 1, 2007, G.I. Industries and USA Waste of California, Inc. entered into an agreement with City for the provision of Residential Solid Waste and Recyclable Services, which was scheduled to expire on June 30, 2016 (the "2007 Agreement"). By letter of the City Manager dated June 21, 2016, the 2007 Agreement has been extended on a month-to-month basis pending completion of this Agreement.

F. Company agrees to properly dispose of all solid waste collected for residential accounts in City pursuant to the terms of this Agreement.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

ARTICLE 1. DEFINITIONS

1.1 Definitions. Whenever any term used in this Agreement has been defined by the provisions of Article V, Chapter 3 of the Agoura Hills Municipal Code, or by Division 30, Part 1, Chapter 2 of the California Public Resources Code, the

definitions in the Municipal Code or the Public Resources Code will apply unless the term is otherwise defined in this Agreement, in which case this Agreement will control. The following capitalized words and terms have the following meanings:

1.1.1 Act

"Act" means the California Integrated Waste Management Act of 1989 (California Public Resources Code Sections 40000 et seq.), commonly referred to as "AB 939", and implementing regulations of the California Department of Resources Recycling and Recovery (Title 14 and Title 27 of the California Code of Regulations), as they may be amended from time to time.

1.1.2 Activation Fee

"Activation Fee" means a fee charged by Company to compensate it for expenses incurred where re-establishing service following a suspension of service due to non-payment.

1.1.3 Administrative Fee

"Administrative Fee" shall have the meaning ascribed in Section 5.5.2.

1.1.4 Applicable Law

"Applicable Law" means all laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirement of any governmental agency having jurisdiction over the collection and disposition of Solid Waste and Recyclable Materials that are in force on the Effective Date and as they may be enacted, issued or amended during the term of this Agreement.

1.1.5 Bulky Waste

"Bulky Waste" means discarded furniture (including chairs, sofas, mattresses, and rugs); appliances (including refrigerators, ranges, washers, dryers, water heaters, dishwashers, plumbing, small household appliances, and other similar items, commonly known as "white goods"); wood waste, tree trunks, and large branches if no longer than two (2) feet in diameter and four (4) feet in length; scrap wood, rocks, sod and earth, in the aggregate not exceeding one (1) cubic yard per collection; clothing; and tires. Bulky Wastes do not include such things as car bodies or construction and demolition waste, or any other items that cannot be handled by two (2) persons.

1.1.6 Business Days

"Business Days" means days Agoura Hills City Hall is open for business.

1.1.7 CalRecycle

"CalRecycle" means the California Department of Resources, Recycling and Recovery (CalRecycle), or its successor agency.

1.1.8 City

"City" means the City of Agoura Hills, a municipal corporation, and all the territory lying within the municipal boundaries of City as presently existing or as these boundaries may be modified during the term of this Agreement.

1.1.9 City Facilities

"City Facilities" means all real property and improvements owned or operated by City, now and in the future, including but not limited to, City Hall, City offices, the Recreation and Event Center, Historic Reyes Adobe, parks, and City yard.

1.1.10 City Manager

"City Manager" means the City Manager of the City of Agoura Hills or his/her designee.

1.1.11 Collection

"Collection" means the act of collecting Solid Waste, Recyclable Materials, Organic materials, Construction and Demolition waste, and other materials at the place of generation in City pursuant to this Agreement.

1.1.12 Company

"Company" means G.I. Industries, a Utah corporation, and its officers, directors, employees, agents, subsidiaries, and subcontractors. G.I. Industries is a wholly-owned subsidiary of Western Waste Industries, a California corporation, which is a wholly-owned subsidiary of Waste Management Holdings, Inc., a Delaware corporation.

1.1.13 Complaint

"Complaint" means a grievance, criticism, or objection in the form of written letter, email or telephone call either to City or Company regarding Company's performance of its duties under the terms of this Agreement. Complaints concern missed pick-ups, property damage caused by Company, tardy service, unresponsiveness to requests, billing problems, and similar issues. Complaints exclude normal or standard service requests (e.g., exchanging a Cart or Bin), and criticisms directed at City's solid waste ordinance and its provisions.

1.1.14 Composting and Compost

"Composting" and "Compost" shall have the meanings ascribed in the Act.

1.1.15 Construction and Demolition Waste

"Construction and Demolition Waste" means used or discarded construction materials removed from premises during the construction or demolition of a structure. This includes but is not limited to building waste materials, asphalt, concrete, drywall, metals, roofing materials, soils, wood, packaging, and rubble resulting from construction, remodeling, repair and demolition operations on driveways, residential houses, and multi-family residential properties.

1.1.16 Contamination Fee

"Contamination Fee" means an amount charged by Company to residential accounts to recover costs for separating solid waste placed in recyclable materials or green waste/organics waste containers, or for arranging special, unscheduled collections due to placement of Solid Waste in Recyclable Materials or Green Waste/Organics waste containers.

1.1.17 Disposal Site

"Disposal Site" means any solid waste handling facility or facilities used for the final disposal of solid waste collected by Company.

1.1.18 Effective Date

"Effective Date" means the date set forth in the first paragraph of this Agreement.

1.1.19 Environmental Laws

"Environmental Laws" means all federal and state statutes, county and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC § 9601 et seq.; the Resource Conservation and Recovery Act, 42 USC § 6902 et seq.; the Federal Clean Water Act, 33 USC § 1251 et seq.; the Toxic Substances Control Act, 15 USC § 1601 et seq.; the Occupational Safety and Health Act, 29 USC § 651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code Section 25100 et seq.; the California Toxic Substances Control Act, California Health and Safety Code Section 25300 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code Section 13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code Section 25249.5 et seq.; as currently in force or as later amended, and all rules and regulations promulgated thereunder.

1.1.20 E-Waste

"E-Waste" means electronic products as defined in 22 CCR § 66273.9, including but not limited to computers, televisions, VCRs, stereos, copiers, fax machines and other "covered electronic device" as defined in Public Resources Code Section 42463.

1.1.21 Food Waste

"Food Waste" means compostable organic materials, excluding Green Waste, including but not limited to: (i) all food (including fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese and eggshells); (ii) food-soiled paper (including napkins, paper towels, paper plates); (iii) tea bags, coffee grounds and filters; and (iv) animal or vegetable waste that is generated during or results from the storage, preparation, cooking or handling of food stuffs.

1.1.22 Green Waste

"Green Waste" means organic materials generated from residential and commercial residential premises associated with landscaping and no longer useful or wanted. Items include, but are not limited to leaves, grass, weeds, and wood materials from trees and shrubs, and similar materials that fit within a cart and are generated at any premises. Yucca leaves, palm fronds, tree stumps and tree roots are not considered Green Waste. Green Waste is a subset of Organic Waste.

1.1.23 Hazardous Substance

"Hazardous Substance" means any of the following: (a) any substances defined, regulated or listed (directly or by reference) as "hazardous substances", "hazardous materials", "hazardous wastes", "toxic waste", "pollutant," "toxic substances," or similarly identified as hazardous to human health or the environment, in or pursuant to (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC § 9601 et seq. (CERCLA); (ii) the Hazardous Materials Transportation Act, 49 USC § 1802, et seq.; (iii) the Federal Resource Conservation and Recovery Act, 42 USC § 6901 et seq.; (iv) the Clean Water Act, 33 USC § 1251 et seq.; (v) California Health and Safety Code Sections 25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USC § 7901 et seq.; or (vii) California Water Code § 13050; (viii) any amendments, rules or regulations promulgated under those specified statutes or acts that are currently existing or may later be enacted; and (ix) any other substance, material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any other applicable federal, state or local environmental laws currently existing or later enacted, including, without limitation, friable asbestos, polychlorinated biphenyls ("PCBs"), petroleum, natural gas, synthetic fuel products, and by-products.

1.1.24 Hazardous Waste

"Hazardous Waste" means all substances that are defined as hazardous waste, acutely hazardous waste, or extremely hazardous waste by the State of California in Health and Safety Code Sections 25110.02, 25115, and 25117 and Public Resources Code Section 40141, or in any future amendments to or recodifications of these statutes, or identified and listed as hazardous waste by the U.S. Environmental Protection Agency ("EPA"), pursuant to the Federal Resource Conservation and Recovery Act (42 USC § 6901 et seq.), all future amendments thereto, and all rules and regulations promulgated thereunder.

1.1.25 Holiday

"Holiday" shall mean:

New Years Day
Memorial Day
Independence Day
Labor Day
Veterans' Day (if Landfill is closed)
Thanksgiving Day
Christmas Day

"Holiday" shall also mean any other day designated as such by City and Company.

1.1.26 Household Hazardous Waste

"Household Hazardous Waste" means Hazardous Waste generated at a Single family and Multi-family residential premises.

1.1.27 Material Recovery Facility

"Material Recovery Facility" means a facility licensed or permitted in accordance with the Act which separates secondary materials and processes them for sale to end users.

1.1.28 Operative Date

"Operative Date" has the meaning ascribed in Section 2.3.

1.1.29 Organic Waste

"Organic Waste" or "Organics" means Green Waste, Food Waste, manure, and any other organic waste material which is acceptable to be delivered to an Organics processing facility such as an anaerobic digester or composting facility.

1.1.30 Processing

“Processing” shall mean the reduction, separation, recovery, conversion or Recycling of solid waste.

1.1.31 Rate Schedule

“Rate Schedule” means the maximum rates authorized by this Agreement. The initial Rate Schedule is set forth in Exhibit 1. The Rate Schedule may be adjusted pursuant to Section 5.3.

1.1.32 Recyclable Materials

“Recyclable Materials” means the following materials generated in or emanating from residential or commercial premises and no longer useful or wanted thereon: glass jars and bottles; steel, bi-metal, and tin cans; empty aerosol containers; PET plastic; HDPE plastic; plastics types 3 – 7; plastic bags, shrink wrap, plastic toys and tools, and other plastic materials (if readily identifiable as being recyclable and delivered to a drop-off center); juice boxes and milk cartons (aseptic packaging, Tetra Pak® and waxed cardboard); scrap metal, coat hangers and metal foil; newspaper; mixed paper (e.g., ledger, computer, junk mail, magazines, paperback books, cereal boxes, envelopes, paper shopping bags and non-metallic wrapping paper); and telephone books, and such additional materials as the City Council may designate from time to time. City and Company agree to meet from time to time as needed to discuss additions or deletions from the list of Recyclable Materials. Company may request removal of Recyclable Materials materials due to market limitations; any such action requires the prior written approval of the City Manager.

1.1.33 Recyclable Materials Container

“Recyclable Materials Container” means a container provided by Company for use in collecting and moving Recyclable Materials to curbside for collection by Company. The Recyclable Materials container shall have a minimum capacity of sixty-four (64) gallons. The container shall indicate the type of material that can be placed in the container and be identified as a Recyclable Materials container with a Recycling logo. The type, color and design of the container shall be subject to approval by the City Manager.

1.1.34 Recycling

“Recycling” means any process by which materials that would otherwise become solid waste are collected (whether source-separated, co-mingled, or as mixed waste), separated or processed and returned to the economic mainstream in the form of raw materials or products or materials that are salvaged or recovered for reuse.

1.1.35 Residential Account

"Residential Account" means an account for solid waste collection and Recyclable Materials services provided to any Residential Premises.

1.1.36 Residential Householder

"Residential Householder" means any person holding and/or occupying Residential Premises, whether or not the owner, singly, or with his or her family, in City.

1.1.37 Residential Premises

"Residential Premises" means all property which is used for residential purposes within the City, including single-family premises, multi-family premises, apartment houses, condominiums, mixed condominiums and rental housing, senior citizen housing complexes, mobile home parks, and trailer parks.

1.1.38 Solid Waste

"Solid Waste" has the meaning defined in Public Resources Code Section 40191, including all putrescible and nonputrescible solid and semi-solid waste, generated in or upon, related to the occupancy or, remaining in or emanating from residential premises or commercial premises, including Recyclable Materials, Green Waste, Organic Waste, garbage, trash, refuse, paper, rubbish, ashes, industrial waste, demolition and construction wastes, discarded home and industrial appliances, manure, vegetable or animal solid wastes, other solid and semi-solid waste, excluding liquid wastes, abandoned vehicles, hazardous and medical waste.

1.1.39 Solid Waste Container

"Solid Waste Container" means a cart made of metal, hard rubber or plastic with handles and with a capacity no less than thirty five (35) gallons and no greater than ninety-five (95) gallons, having a hinged lid and wheels, that is serviced by an automated or semi-automated side-loading truck for standard curbside residential collection. Cart size is plus/minus ten percent (10%) depending on manufacturer. Carts shall be made from a minimum of fifteen percent (15%) recycled content plastic. For multi-unit residential premises where carts for individual units are not feasible, metal bins sized from one (1) to six (6) cubic yards may be used. Bins shall have hinged lids and wheels. Lids are to remain closed at all times. Bins are serviced by front loading trucks.

1.1.40 Solid Waste Handling

"Solid Waste Handling" or "Handling" means the collection, transportation, storage, transfer, or processing of solid wastes.

1.1.41 Solid Waste Handling Services

"Solid Waste Handling Services" means the collection, transportation, storage, transfers, or processing of solid wastes for residential users or customers.

1.1.42 Special Waste

"Special Waste" means solid waste that is a "designated waste" under applicable law, is required to be accompanied by a written manifest or shipping document describing the waste under applicable law, or requires special handling at any processing facility or disposal site.

1.1.43 Universal Waste

"Universal Waste" means waste materials that are conditionally exempt from classification as hazardous waste pursuant to Title 22 of the California Code of Regulations (22 CCR), Section 66261.9, including but not limited to batteries, computers and peripherals, printers, CRT monitors, televisions, electronic equipment, and cathode ray tubes.

ARTICLE 2.

GRANT AND ACCEPTANCE OF FRANCHISE

2.1 Grant and Acceptance of Franchise; Termination of Prior Agreements

- A. Subject to the terms and conditions of this Agreement, City grants to Company an exclusive franchise to collect, transfer, transport, recycle, process, and dispose of all solid waste generated at all Residential Premises.
- B. Company accepts the franchise on the terms and conditions set forth in this Agreement.
- C. The parties agree that, upon the Operative Date, this Agreement supersedes all prior agreements related to the subject matter hereof, including but not limited to the 2007 Agreement, and that all such prior agreements are of no further force or effect, except for indemnity obligations arising under the prior agreement before the Operative Date.

2.2 Exclusive Nature of Franchise

- A. During the term of this Agreement, except as otherwise provided in Section 2.7, or as may otherwise be provided by federal or state law, the rights granted to Company under this Agreement will be exclusive to Company.
- B. City will protect Company's exclusive rights by appropriate ordinances and by reasonable enforcement of those ordinances. If, at the request of

Company, City takes administrative, law enforcement, or other legal action against any person who infringes on Company's exclusive rights, Company shall reimburse City for its reasonable administrative, law enforcement, or legal costs related to any such action. Nothing herein precludes Company from taking such legal action against third parties as it deems appropriate to protect its rights under this Agreement.

2.3 Operative Date

The operative date of this Agreement is January 1, 2017. The Operative Date is the date upon which Company shall commence to provide the integrated residential waste management services that are authorized by this Agreement.

2.4 Term of Agreement

2.4.1 Term

The term of this Agreement commences on the Operative Date and expires on June 30, 2023, unless earlier terminated pursuant to Article 8 or otherwise, or unless extended pursuant to subsection 2.4.2.

2.4.2 Optional Extension

Upon the mutual agreement of the parties and expressed in a writing executed by both parties, the term of this Agreement may be extended for four (4) additional years, commencing on July 1, 2023 and terminating on June 30, 2027.

2.5 Conditions to Effectiveness of Agreement

The effectiveness of this Agreement and the performance of City's obligations, are subject to the satisfaction of all conditions set out below, any of which may be waived by City in whole or in part:

- A. **Accuracy of Representations.** Representations and warranties made by Company in this Agreement are true and correct as of the Operative Date.
- B. **Furnishing of Insurance, Bonds, and Guaranty.** Company has furnished evidence satisfactory to the City Manager of the insurance and bonds required by Article 7, and the guaranty required by Section 7.9, together with evidence satisfactory to the City Attorney that the person(s) executing the bonds and guaranty are authorized to do so and to bind the principal, surety, and guarantor, as the case may be.
- C. **Furnishing of Noncollusion Affidavit.** Company has furnished the Affidavit Regarding Process Integrity and Noncollusion attached hereto as Exhibit 4.

- D. **Effectiveness of the City Council Action.** City's resolution approving this Agreement has become effective under California law prior to the Operative Date of this Agreement.

2.6 Delegation of Authority

The administration of this Agreement by City will be under the supervision and direction of the City Manager. Any and all actions specified in this Agreement, unless otherwise stated, will be taken by the City Manager.

2.7 Limitations on Scope of Franchise

- A. The franchise granted to Company is exclusive, except for the categories of solid waste listed in this Section 2.7. The granting of this franchise does not preclude the categories of solid waste listed below from being delivered to, collected, and transported by others, provided that no person is excused from obtaining from City any authorization that is required by law:

1. Source Separated Recyclable Materials that a customer donates or sells to other persons.
2. Solid waste, including Recyclable Materials and Green Waste, which is removed from any premises by the customer, and which is transported personally by the customer (or by the customer's full-time employees) to a processing or disposal facility.
3. Temporary Bin and Temporary Rolloff Collection Service, which is covered under a separate permit or non-exclusive agreement between City and several haulers, which may also include Company.
4. Bulky Waste removed from a Single-Family Residential Premises by a property cleanup or maintenance company as an incidental part of the total cleanup or maintenance service offered by Company rather than as a hauling service.
5. Green Waste removed from premises by a gardening, landscaping, or tree trimming company using its own equipment and employees as an incidental part of a total service offered by Company, as opposed to a hauling service.
6. Construction and Demolition Waste that is incidentally removed by a duly-licensed construction or demolition company, or as part of a total service offered by such licensed company or by City, and where the licensed company uses its own equipment and employees.
7. Solid waste, including Recyclable Materials and Green Waste from commercial and Industrial premises.

8. Animal waste and remains from any slaughterhouse or butcher shop for use as tallow.
 9. By-products of sewage treatment, including sludge, sludge ash, grit and screenings.
 10. Hazardous waste and radioactive waste, regardless of its source.
 11. The casual or emergency collection, removal, disposal, or diversion of solid waste by City through its officers or employees in the normal course of their employment.
 12. Universal Waste.
- B. Company acknowledges that City may permit other persons besides Company to collect the types of solid waste listed in this Section 2.7, including Recyclable Materials, without obtaining any approval of Company.
- C. The grant to Company of this exclusive franchise will be interpreted in a manner consistent with state and federal laws. The scope of this exclusive franchise will be limited by current and developing state and federal laws with regard to solid waste handling, control of recyclable materials, solid waste flow control, and related matters. If future interpretations of current law, or the enactment of new laws or local ordinances, limit the ability of City to lawfully provide for the scope of franchise services specifically set forth, Company agrees that the scope of the franchise will be limited to those services that may be lawfully provided, and City will not be responsible for any lost profits that may be claimed by Company. In that event, it is the responsibility of Company to minimize the financial impact to whatever extent is reasonably feasible.

2.8 City's Right to Direct Changes

2.8.1 General

City may direct Company to perform additional services (including new diversion programs, etc.) or to modify the manner in which it performs existing services or bills for services. Pilot programs and innovative services that may entail new collection methods, different kinds of services or new requirements for customers, are included among the kinds of changes that City may direct. Company will be entitled to an adjustment in its compensation for providing those additional or modified services.

2.8.2 New Diversion Programs

In conjunction with the requirements of Section 2.8.1, Company must present, within thirty (30) days of a request from City, a proposal to provide additional or

expanded diversion services. The proposal must contain a complete description of the following:

- Collection methodology to be employed (equipment, manpower, etc.).
- Equipment to be used (vehicle number, types, capacity, age, etc.).
- Labor requirements (number of employees by classification).
- Type of containers to be used.
- Program publicity, education, and marketing.
- Three (3) year projection of the financial results of the program's operations in an operating statement format, including documentation of the key assumptions underlying the projections and the support for those assumptions.

2.8.3 City's Right to Acquire Services

Company acknowledges that City may permit other persons to provide additional solid waste services not otherwise provided for in this Agreement. If Company and City cannot agree on terms and conditions for additional or expanded diversion services within ninety (90) days from the date when City first requests a proposal from Company to perform those services pursuant to Section 2.8.2, City may authorize persons other than Company to provide those services. If City exercises its right to authorize third parties to provide those services, and if that decision reduces or eliminates Company's collection services as contemplated under Company's proposal and Article 3 of this Agreement, Company will reduce its billings proportionately.

2.9 Ownership of Solid Waste

Except as otherwise provided in state law, when Solid Waste is collected from containers placed at the designated collection location, ownership and the right to possession will transfer directly from the customer to Company by operation of this Agreement. Subject to Company's obligation to meet the source reduction and Recycling goals that apply to City, and City's rights under Section 3.8.4, Company has the right to retain, recycle, process, dispose of, and otherwise use that solid waste, or any part thereof, in any lawful fashion or for any lawful purpose. Subject to the provisions of this Agreement, Company has the right to retain any benefit resulting from its right to retain, recycle, process, dispose of, or reuse the Solid Waste, Green Waste, and Recyclable Materials that it collects. City may obtain ownership or possession of Solid Waste placed for collection upon written notice of its intent to do so; however, nothing in this Agreement may be construed as giving rise to any inference that City has such ownership or possession unless written notice has been given to Company.

2.10 Company Status

Company represents and warrants that it is duly organized, validly existing, and in good standing under the laws of Utah, that it is qualified to transact business in the State of California and has all necessary licenses, permits, and certifications to provide the services required by this Agreement.

2.11 Company Authorization

Company is authorized to enter into and perform its obligations under this Agreement. The Board of Directors of Company has taken all actions required by law, the articles of incorporation, the bylaws, or otherwise, to authorize the execution of this Agreement. The persons signing this Agreement on behalf of Company have authority to do so.

2.12 Annexations

This Agreement will extend to any territory annexed to City during its term, except to the extent that collection by Company within that annexed territory would violate the provisions of Public Resources Code Section 49520. In that event, this Agreement will become effective as to that area at the earliest possible date authorized by law, and City will cooperate with Company to fulfill any requirement necessary for Company to serve the annexed area consistent with this Section.

ARTICLE 3. DIRECT SERVICES

3.1 Solid Waste Collection Services

- A. The work to be performed by Company includes, but is not limited to, the furnishing of all labor, supervision, equipment, materials, supplies, and other items necessary to perform the services required. The designation of, and specification of requirements for, particular items of labor or equipment does not relieve Company of the duty to furnish all others, as may be required, whether or not identified elsewhere in this Agreement.
- B. The work to be performed by Company will be performed in a thorough and professional manner so that customers within City are provided with reliable, courteous, and high-quality Solid Waste, Recyclable Materials and Green Waste collection services at all times during the term of this Agreement.

3.1.1 Automated Cart Service

- A. Company must collect Solid Waste delivered for collection at the curbside by residential accounts not less than once each calendar week. Not more than seven (7) days shall elapse between collections. Company shall offer residential householders service levels chosen from the following table:

Service Level	Solid Waste Cart (in Gallons)	Recycling Cart (in Gallons)	Green Waste Cart (in Gallons)
Mini-Can	32	65	95
Basic	65	65	95
Level Two	95	65	95
Level Three	2 Basic Carts	65	95
Level Four	1 Basic Cart + 1 Level 2 Cart	65	95
Level Five	2 Level 2 Carts	65	95

Company shall set the rate for the lowest level of service based on free market forces; the initial rate is set forth in Exhibit 1. The additional cost for each increased level of Solid Waste service shall be at least Five Dollars (\$5.00) per month. The additional cost for each increased level of Green Waste Service shall be at least Three Dollars and Fifty Cents (\$3.50) per month.

- B. The designated collection location of carts, if disputed by the customer or Company, will be determined by City. Additionally, if in City's opinion the existing collection location is inappropriate, City may require the customer or Company to relocate the collection location.

3.1.2 Permanent Bin Services

Company will provide permanent bin service to Residential Accounts. Company must collect and remove all Solid Waste that is placed in bins from the Residential Accounts receiving bin service at least once each calendar week or more frequently if such is required to maintain a minimum service standard of one-half (1/2) cubic yard per Residential Account per week for bin service. Special consideration will be given when determining the pick-up area to ensure that the flow of traffic is not impeded.

3.1.3 On-Call Bulky Waste Pick-up

- A. Company will provide bulky waste pick-up service to all residential accounts under this Agreement. Customers will provide Company with forty-eight (48) hours' notice, and the items will be collected on the customer's regular collection day or a scheduled appointment day. All Residential customers are entitled the following bulky waste pick-ups per year at no extra charge:

1. One (1) pick-up per calendar year with four (4) items collected, or

2. Two (2) pick-ups per calendar year with two (2) items collected per pick up.
- B. Additional pick-ups, or additional items per pick-up, may be subject to an additional fee to be charged by Company.
- C. Company shall not be required to remove any items that cannot be safely handled by two (2) persons.
- D. Bulky Waste collected by Company may not be landfilled or disposed of until the following hierarchy has been followed by Company:
 1. Reuse as is (if energy efficient).
 2. Disassemble for reuse or Recycling.
 3. Recycle (through participation of charitable organizations).
 4. Disposal.

3.1.4 Door to Door Household Hazardous/E-Waste/Universal Waste - Collection

Company must provide and conduct three (3) appointment based Household Hazardous/E-Waste/Universal Waste Collections for the collection of Household Hazardous Wastes, E-Waste, and Universal Waste from the residents of City. This program must comply with all applicable regulatory requirements and will be scheduled for April, August and December. Company will impose no additional cost upon City or service recipients. Company will be responsible for all aspects of the program, including but not limited to obtaining all applicable permits, public information, as well as collection, packing, transportation, and safe disposal of all Household Hazardous Waste, E-Waste, and Universal Waste collected. Neither City nor City residents will be designated as the generator. A report of materials collected is due within thirty (30) days after each collection. The report can be submitted electronically to reduce cost.

3.1.5 Container Service for City/Community Events/Project

- A. At the request of City, Company shall provide Solid Waste and/or Recyclable Materials container service at no cost for City and/or Community events.
- B. Rolloff Service for City Construction Projects. At the request of City, Company shall provide Solid Waste containers for City construction projects not to exceed four (4) forty (40) yard boxes in a given year. Boxes can be used either separately or as a onetime combination.

3.2 Recycling Services

3.2.1 Automated Cart Collection

- A. Company must provide weekly automated Recyclable Materials collection to all Residential Accounts on the same day as Solid Waste collection. Materials to be collected are as defined herein. Company shall provide each automated Solid Waste cart customer one (1) sixty-five (65) gallon Recyclable Materials cart. Upon request, Company shall increase the size of the Recyclable Materials cart to ninety-five (95) gallons, and then if requested provide one (1) additional Recyclable Materials cart, at no charge. Additional Recyclable Materials carts will be provided at a rate that does not exceed the maximum set forth in Exhibit 1. No discounts will be given for using smaller or no carts. Company must collect and remove all Recyclable Materials placed in Recyclable Materials carts at the curbside.
- B. Some residential accounts may not have sufficient space on-site to accommodate the storage of a ninety-six (96) or sixty-five (65) gallon Recyclable Materials cart. These space-constrained customers shall be provided with thirty-two (32) gallon Recyclable Materials carts.

3.2.2 Organics Collection

Within ninety (90) days after the Operative Date, Company shall begin the implementation of a citywide single family residential and multi-family (where greenwaste service is provided) Food Waste/Organics collection program. The program shall be facilitated by the residential collection of Food Waste which is then placed in the Green Waste carts for Company to recycle.

Food Waste for this program includes fruits, vegetables, coffee grounds, meat and bones, fat and grease, and food soiled paper. This list of items will only be modified if there are changes in the State of California requirements for permitting a compost facility that effect this program.

During the thirty (30) day implementation period, Company shall educate the residential sector by implementing an outreach/education program. At a minimum the program shall include the following: (a) develop a flyer promoting the new program, (b) develop a distribution letter introducing the new program, (c) generate a mailing list for all properties receiving the new program, and (d) distribute the letter and flyer to the community via mail.

Company shall include with the next bill to residents a bill insert promoting information on the new Organics program.

Company shall put the distribution letter and flyer on its website and provide documents for City's website.

Included with the annual report shall be an evaluation of the effectiveness of the Residential Organics Program including ways to make the program more successful. Methods of evaluation may include periodic field container reviews, load checks at the Simi Valley Landfill, and other appropriate activities.

3.2.3 Bin Service

Company agrees to provide, at no additional charge, Recyclable Materials collection service to all residential accounts receiving bin service. Company shall provide Recyclable Materials bins in sufficient quantities to these Residential Accounts to meet the Recycling needs of each customer.

3.2.4 Construction and Demolition Waste Recycling

Company shall make reasonable efforts to prevent Construction and Demolition Waste that is suitable for Recycling from being taken to a landfill by transporting it to an alternate facility where it will be processed for reuse. Such efforts shall include, but shall not be limited to, contacting and educating building contractors about available Recycling services.

3.2.5 Contaminated Recycling Containers

Company and City anticipate that Residential Premises will participate in Company's Recycling programs in a manner such that the total level of contamination in Recyclable Materials containers used at Residential Premises will not exceed thirteen and one-half percent (13.5%). As used herein, "contamination" refers to materials placed in a Recyclable Materials container other than those Recyclable Materials identified in Section 1.1.32. City and Company agree to utilize the following procedures to assist in achieving the above contamination goal:

- A. If Company documents that a particular Residential Premises has a Recyclable Materials container with excessive contamination, Company shall service the Recyclable Materials container, making whatever accommodations are necessary, such as collecting the Recyclable Materials container as Solid Waste or removing the contamination prior to collection. Company will tag the Recyclable Materials container with a notice that includes:
 1. The fact the Recyclable Materials container required special handling, and the contents could not be recycled due to the presence of inappropriate material in the Recyclable Materials container;
 2. A description of the Recyclable Materials that are appropriate for collection in the Recyclable Materials container;
 3. An explanation that a subsequent incident of excessive contamination may result in non-collection, the imposition of a

Contamination Fee, and, where warranted, requiring additional or larger-sized Solid Waste containers, or additional collections of existing containers, at an additional cost to the Residential Premises; and

4. A phone number to contact Company to obtain additional information and/or receive responses to questions the Householder may have.
- B. In the event the Householder in question continues to place Recyclable Materials containers with excessive contamination out for collection, Company may collect the Recyclable Materials container in the same manner as a Solid Waste container and charge the Residential Premises a Contamination Fee for that collection, in an amount that does not exceed that set forth in the Rate Schedule. In addition, where there have been three (3) or more instances of excessive contamination by a Residential Premises in any twelve (12) month period, Company may (with approval of the City Manager) deliver additional or larger Solid Waste containers to the Residential Premises, or require additional weekly collections as appropriate, and charge the Residential Premises for such increased or additional services at rates that do not exceed those set forth in the Rate Schedule.

3.2.6 Marketing and Sale of Recyclable Materials

Company is responsible for the marketing and sale of all Recyclable Materials collected under this Agreement.

3.3 Green Waste Program

3.3.1 Automated Collection

Company must provide weekly automated curbside collection of Green Waste to all residential cart accounts on the same day as Solid Waste and Recyclable Materials collection. Company shall issue to each customer, at no charge, one (1) ninety-five (95) gallon Green Waste cart. Company shall make available one (1) or more additional Green Waste carts at the rate that does not exceed that specified in the Rate Schedule.

3.3.2 Holiday Tree Collection Program

Company shall conduct an annual holiday tree collection program. The program will include collection from all Residential Accounts, including multi-family residences. The curbside collection period shall commence on the first collection day after December 25 and will conclude at the same time that the Los Angeles County Sanitation District ends the Christmas Tree Recycling Program at its landfills or on the second Saturday in January whichever is later. Company shall cooperate with City in the scheduling and operation of the holiday tree collection program.

3.3.3 Collection from City Facilities

Company shall collect and dispose of all Solid Waste and Organics placed in Solid Waste containers, organic containers, and recyclable material containers from City Facilities at no cost to City. Collection shall occur in accordance with a schedule which has been approved by the City Manager. Not more than seven (7) days shall elapse between collections from each City Facility.

3.3.4 End Uses for Green Waste

Company shall divert from disposal all Green Waste materials collected through curbside collection and holiday tree collections and shall provide end uses for Green Waste that maximize diversion credits for City in accordance with regulations established by CalRecycle. Per Public Resources Code Section 41781.3, Alternative Daily Cover ("ADC") will be not acceptable as a diversion credit starting January 1, 2020. Therefore, commencing January 1, 2020, Company shall not process materials from Agoura Hills as ADC, unless prior written approval is obtained from the City Manager.

3.4 Operations

3.4.1 Schedules

- A. Collection shall take place between the hours of 7:00 a.m. and 6:00 p.m. on any day of the week, except that no pick-ups shall be made on Sunday unless specifically authorized in writing by the City Manager. Hours and days of collection are subject to change by the City Council. All collections shall be made as quietly as possible, and Company shall so conduct its operations hereunder that the noise level shall not exceed seventy-five (75) decibels when measured at a distance of twenty-five (25) feet. If the regularly scheduled collection day falls on a defined Holiday, alternate collection will be performed on the following day, unless that day falls on Sunday. Alternative collection will then be performed on the following Monday. All collection days falling on other legal holidays will remain as scheduled.
- B. Company must review annually with City its operation plan outlining the collection routes, intervals of collection, and collection times for all materials collected under this Agreement, upon thirty (30) days' written notice by City requesting such review. More frequent reviews may be required if operations are not satisfactory, based on documented observations or reports of complaints. If the plan is determined by City to be inadequate, Company must modify its plan by incorporating changes into a revised plan and reviewing that revised plan with City within thirty (30) calendar days.

City may request that collection routes be coordinated with City operations (e.g., street sweeping, etc.).

3.4.2 Vehicles

- A. **General.** Company must provide collection vehicles sufficient in number and capacity to perform efficiently the work required by this Agreement in strict accordance with its terms. Any additional vehicles or routes that may be required to meet the service standards during the term of this Agreement will be at Company's exclusive expense. Company must have available on collection days sufficient back-up and auxiliary vehicles to respond to any and all complaints and emergencies. All vehicles must be in good condition and must be dust/dirt free, without peeling paint or chipping, and painted in a standard color. The corporate logo/seal must be clearly legible.
- B. **Specifications.** Company must use vehicles that comply with the South Coast Air Quality Management District's ("SCAQMD") Rule 1193, Clean On-Road Residential and Commercial Solid Waste Collection Vehicles. Except where arising from manufacturing and delivery delays beyond the control of Company (and then, only for the period of such delay), route trucks, excluding spares, shall comply with SCAQMD Rule 1193. At no time during the term of this Agreement may Company use vehicles for the collection of Solid Waste in City that are more than fifteen (15) years old. Collection vehicles refurbished in accordance with specifications approved the City Manager shall be considered new (as of the date refurbished) for purposes of the vehicle age requirement. All vehicles used by Company in providing Solid Waste collection services must be registered with the California Department of Motor Vehicles. All vehicles must have water-tight bodies designed to prevent leakage, spillage, or overflow. Company's Collection Vehicles shall comply with all rules and regulations of the SCAQMD, the Air Resources Board, and any other air-quality regulatory body that may be in authority during the term of this Agreement.
- C. **Vehicle Identification.** Company's name, local telephone number, and a unique vehicle identification number selected by Company and approved by City must be prominently displayed on all vehicles, in letters and numbers no less than three (3) inches high. Company must not place City's name or any City logos on Company vehicles.
- D. **Cleaning and Maintenance.**
1. Company must maintain all of its properties, vehicles, facilities, and equipment used or located in City in a good, safe, neat, clean, and operable condition at all times.
 2. Vehicles used in the collection of Solid Waste must be painted and thoroughly washed and steam-cleaned on a regular basis so as to present a clean appearance. City may inspect vehicles at any time to determine compliance with this Agreement. Company must also make vehicles available to the Los Angeles County Health

Department for inspection, at any frequency it requests. Company agrees to replace or repair, to City's reasonable satisfaction, any vehicle that City determines in its reasonable judgment to be of unsightly appearance, leaking oil, hydraulic and other applicable fluids, or in unsatisfactory operating condition.

3. Company must repaint any vehicle used in the collection of Solid Waste within sixty (60) days following written notice from City, if City determines in its reasonable judgment that its appearance warrants repainting.

4. Company must inspect each vehicle daily to ensure that all equipment is operating properly. Vehicles that are not operating properly, or vehicles in such a condition as to be unsafe or excessively noisy, must be removed from service until repaired and operating properly. Company must keep accurate records of all vehicle maintenance, recorded according to date and mileage (or hours of operation), and must make those records available to City upon request.

5. Company must repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown, or any other cause, so as to maintain all equipment in a safe and operable condition. Company must maintain accurate records of repair, which will include the date and mileage (or hours of operation), nature of repair, and the verification by signature of a maintenance supervisor that the repair has been properly performed.

6. Upon request by City, Company must furnish to City not later than thirty (30) days after the end of each calendar year, a written inventory of all equipment, including collection vehicles, used in providing service. The inventory must list all equipment by manufacturer, ID number, date of acquisition, type, capacity, and age.

E. Operation.

1. Vehicles must be operated in compliance with the California Vehicle Code and all applicable local ordinances. Company may not intentionally load vehicles in excess of limitations on vehicles imposed by state or local weight restrictions.

2. Equipment must comply with EPA noise emission regulations, currently codified at 40 CFR Part 205, and other applicable noise control regulations, and must incorporate noise control features throughout the vehicle. In no event may the noise level of equipment used for collection exceed seventy-five (75) decibels when

measured at a distance of twenty-five (25) feet from the vehicle and five (5) feet from the ground. Company must store all equipment located in City in safe and secure locations in accordance with City's zoning regulations.

3. Company is responsible for providing immediate notification in the event of oil, hydraulic and other applicable fluids spills from vehicles that occur within City limits.

4. Company is responsible for any damage resulting from or directly attributable to any of its operations and which it causes to City's driving surfaces, whether or not paved; associated curbs, gutters, and traffic control devices; other public improvements; and private roads and alleys, excluding normal wear and tear.

F. **City Inspection per Code.** The California Highway Patrol may cause any vehicle used in the performance of this Agreement to be inspected and tested at any commercially reasonable time and in such manner as may be appropriate to determine that the vehicle is being maintained in compliance with all applicable provisions of the State Vehicle Code, including all Vehicle Code sections regarding smog equipment requirements. City may direct the removal of any vehicle from service if that vehicle is found by the California Highway Patrol to be in nonconformance with applicable codes. No vehicle directed to be removed from service by City may be returned to service until its return to service has been approved by the California Highway Patrol.

G. **Brake Inspections.** The brake system of each vehicle used in the performance of this Agreement must be inspected and certified by a trained mechanic who is either a certified mechanic or who is under the supervision of a certified mechanic. Company's facility, used to store and maintain these vehicles used in the performance of this Agreement, must also be certified under state law by the California Highway Patrol. Notice of certification must be filed with City with the annual report required by Section 6.3.3. Failure to submit the required certification will be grounds for terminating this Agreement.

H. **Correction of Defects.** Following any inspection, the City Manager has the right to cause Company, at its sole cost and expense, to recondition or replace any vehicle or equipment found to be unsafe, unsanitary, or unsightly. This determination may be appealed to the City Council, whose decision will be final.

3.4.3 Containers

- A. **Cart Design Requirements.** The carts shall be designed and manufactured in accordance with standard industry specifications approved by City before being placed in service by Company.
- B. **Cart Ownership and Maintenance Responsibilities.** Company is responsible for cart repair and maintenance, graffiti removal, and replacing lost, stolen or damaged carts within five (5) business days at no additional charge to the customer or to City. Company may, however, charge the customer for repairing or replacing a cart if the damage is due to the customer's willful negligence or abuse. In no event may this charge be greater than Company's actual cost for replacement parts or Seventy-Five Dollars (\$75.00), whichever is less. All carts provided under this Agreement shall become the property of Company at the end of this Agreement, and City retains the right to direct Company to remove the carts at the end of the Agreement at no charge, should City so desire.
- C. **Bins.**
1. Company must provide its Residential Accounts that receive bin service with bin containers for collection of Solid Waste, and for the collection of Recyclable Materials or Green Waste, when requested. Company must maintain its containers in a clean and sound condition, free from putrescible residue. Containers must be equipped with reflectors to enhance visibility. Containers must be constructed of heavy metal, or other durable material, and must be watertight and well painted. Wheels, forklift slots, and other appurtenances, which are designed for movement, loading, or unloading of the container, must be maintained in good repair. Company must inspect, and if necessary, clean or replace all containers once each year at no charge. Company must perform cleaning or replacement of containers more frequently, if necessary, for an additional fee, to prevent a nuisance caused by odors or vector harborage. Customers may request additional cleanings at a price designated between Company and the customer. Company must remove graffiti from any container within five (5) business days of request by City or customers.
 2. Each bin placed within City by Company must have the name and phone number of Company in letters not less than three (3) inches high on the exterior of the container so as to be visible when the container is placed for use. Company must identify the bin or bins that are assigned to each Residential Account using a method that is acceptable to City. Each container must be labeled with a conspicuous warning: "Not to be used for the disposal of hazardous, electronic or universal waste."

D. **Replacement of Consolidated Services' Bins.** Company has informed City that there are 100 remaining bins in use in City designated with "Consolidated Services" identification markings. Company shall replace all remaining bins designated with "Consolidated Services" identification markings prior to conclusion of the third year of this Agreement. The replacement bins may be refurbished or new depending on the condition of the existing bins. Replacement shall occur at the following schedule:

1. By June 30, 2017: at least twenty-five percent (25%) of the bins shall be replaced.
2. By June 30 2018: a total of at least fifty percent (50%) of the bins shall have been replaced.
3. By June 30, 2019: all remaining bins designated with "Consolidated Services" identification markings shall have been replaced.

E. **Rolloff Boxes.** Company must provide clean rolloff boxes, free from graffiti and equipped with reflectors. Company must properly cover all open rolloff boxes during transport to and from the disposal site.

3.4.4 Litter Abatement

A. **Minimization of Spills.** Company must use due care to prevent Solid Waste or fluids from leaking or being spilled or scattered during the collection or transportation process. If any Solid Waste or fluids leak, or are spilled during collection, Company must promptly clean up those materials. Each collection vehicle must carry a broom and shovel at all times for this purpose. Company may not, without City's prior written consent, transfer loads from one (1) vehicle to another on any public street, unless it is necessary to do so because of mechanical failure, accidental damage to a vehicle, or a pre-approved method of Solid Waste transfer between vehicles. If Company documents three (3) instances of overloaded containers within any six (6) month period for any customer, Company may adjust the rate charged to the customer to reflect the actual amount of Solid Waste placed for collection.

B. **Clean Up.** During the collection or transportation process, Company must clean up litter in the immediate vicinity of any Solid Waste storage or collection area under its control or as a result of Company actions. If Company arrives at a residential collection area with existing litter, Company must photo document the pre-existing condition and report the condition to the City Manager. Company must identify instances of repeated spillage caused by customers and must report those instances to the City Manager. City shall attempt to rectify such situations directly with the customer, if Company has already attempted to do so without success. If Company documents three (3) instances of overloaded containers within

any six (6) month period for any customer, Company may adjust the rate charged to the customer to reflect the actual amount of Solid Waste placed for collection.

3.4.5 Personnel

- A. Company must furnish such qualified drivers, mechanical, supervisory, clerical, management and other personnel as may be necessary to provide the services required by this Agreement in a satisfactory, safe, economical, and efficient manner. All drivers must be trained, pre-screened for drug and alcohol, and qualified in the operation of vehicles they operate and must possess a valid license, of the appropriate class, issued by the California Department of Motor Vehicles.
- B. Company must establish and vigorously enforce an educational program to train Company's employees in the identification of Hazardous Waste. Company's employees must not knowingly place any Hazardous Waste in the collection vehicles, nor knowingly dispose of any Hazardous Waste at a processing facility or disposal site.
- C. Company must train its employees in customer courtesy, prohibit the use of loud or profane language, and instruct collection crews to perform all work quietly. Company must use its best efforts to assure that all employees present a neat appearance and conduct themselves in a courteous manner. If any employee is found to be discourteous or not to be performing services in the manner required by this Agreement, Company must take all necessary corrective measures including, but not limited to, transfer, discipline, or termination. If City has notified Company of a complaint related to discourteous or improper behavior, Company shall consider reassigning the employee to duties not involving contact with the public in City while Company is pursuing its investigation and corrective actions.
- D. Company must provide suitable operations, health, and safety training for all of its employees who use or operate equipment or who are otherwise directly involved in collection or related operations.

3.4.6 Identification Required.

- A. Company must provide its employees, subsidiaries, and subcontractors with identification for all individuals who may have personal contact with Residential Accounts in City. City may require Company to notify customers annually of the form of that identification. Company must provide a list of current employees, subsidiaries, and subcontractors to the City Manager upon request.
- B. City reserves the right to conduct through law enforcement agencies a security and identification check of Company, and its present and future employees, in accordance with accepted procedures established by City.

3.4.7 Fees and Gratuities.

Company may not, nor may it permit any agent, employee, or subcontractor employed by it, to request, solicit, demand, or accept, either directly or indirectly, any compensation or gratuity for the collection, transportation, processing, or disposal of Recyclable Materials or Solid Waste other than Company compensation that is normally paid.

3.4.8 Non-Discrimination.

Company may not discriminate in the provision of service or the employment of persons engaged in the performance of this Agreement on account of race, color, religion, sex, age, physical handicap or medical condition in violation of any applicable federal or state law.

3.4.9 Coordination with Street Sweeping Services.

City and Company will cooperate in coordinating route schedules with City's street sweeping schedule. Company must provide all routes and route schedules to the City Manager and work with City to resolve conflicts with street sweeping schedules.

3.4.10 Change in Collection Schedule.

- A. Company must notify City forty-five (45) days prior to, and Residential Accounts not later than fourteen (14) days prior to, any change in collection operations that results in a change in the day on which residential Solid Waste collection occurs. Company shall not cause any customer to be without service for more than seven (7) calendar days in connection with a collection schedule change. City's approval of any change in residential collection is required prior to such change. This approval shall not be unreasonably withheld.
- B. Any changes in the route map or collection schedule require the prior approval of the City Manager. City may require changes in the route map or collection schedule to improve service, to resolve complaints, or for other reasons. Route maps to be submitted with the annual report.

3.4.11 Report of Accumulation of Solid Waste; Unauthorized Dumping.

Company must direct its drivers to note the addresses of any premises at which they observe that Solid Waste is accumulating and is not being delivered for collection, and the address, or other location description, at which Solid Waste has been dumped in an apparently unauthorized manner. Company must deliver the address or description to City within five (5) business days of such observation. Company shall cooperate with City in the investigation and prosecution of any violations of the Municipal Code.

3.5 Disaster and Emergency Service.

3.5.1 Preparedness

Upon request, Company shall provide its management expertise and contribute to City's emergency preparedness planning efforts.

3.5.2 Disaster and Emergency Service

- A. In the event of an emergency or natural disaster, and when requested by the City Manager or Public Works Director, Company shall provide City with the equipment and labor required to collect, cleanup, and remove debris resulting from the emergency or natural disaster. Company shall use commercially reasonable efforts to dispatch the requested equipment and labor to City as promptly as practicable following the request by the City Manager or Public Works Director. City will be given equal priority and access to resources as other Company franchise jurisdictions.
- B. Notwithstanding any other provision of this Agreement or the Municipal Code, Company agrees that, in the event that Company is unable to respond within the time period requested by City for collection, cleanup and removal of debris resulting from an emergency or natural disaster, City shall have the right to engage other persons, firms, and entities to collect, cleanup and remove debris resulting from such emergency or natural disaster for a period ending on the earlier of the date such collection, cleanup and removal is complete or thirty (30) days following the original request from City.
- C. At the time when Company's work may continue following a natural disaster, Company will cooperate with City to prepare and implement a disaster recovery plan. This plan shall identify Company's plans for maximizing the amount of Recyclable Materials diverted from the waste and debris created by the disaster and to identify and secure disposal sites and capacity for such waste.
- D. City shall pay Company for the services provided in subsections A and C above as specified in Exhibit 1. Company's requests for payment for these services shall be accompanied by a full accounting of the labor hours, vehicle usage, disposal costs, and any other costs incurred by Company for which Company is seeking payment. City reserves the right to audit Company's books and records to ascertain the accuracy of Company's costs.

3.5.3 Additional Costs

If the emergency or disaster requires Company to rent additional equipment, employ additional personnel, or work existing personnel overtime to Collect additional Solid Waste resulting from the event, Company shall receive additional

compensation, above its normal compensation in this Agreement, to reimburse Company for its additional costs. Company's additional costs shall be based on the incremental amount of tons of Solid Waste resulting from the event, and the additional amount of labor and equipment used by Company to Collect Solid Waste resulting from the event. For its additional labor and equipment, City shall reimburse Company based on the emergency service rates shown in the Rate Schedule. Prior to incurring any such additional costs, Company shall obtain City's written authorization to incur such costs.

3.5.4 City Wide Effort to Manage Disaster Debris

In the event that City decides to oversee a coordinated effort to manage the collection and Recycling of disaster related Solid Waste on a citywide basis, Company shall provide City with its management expertise, including a dedicated full time Recycling coordinator with the background, knowledge and capability to assist in such an effort. Company shall provide this individual at no additional cost to City.

3.6 Transportation of Solid Waste

- A. Company must transport all Solid Waste collected in City to a properly permitted transfer station, MRF, transformation facility, or disposal site. In addition, City may designate the use of a particular transfer station, MRF, transformation facility, or disposal site. Company agrees to make all reasonable efforts to divert single stream Recyclable Materials, source-separated Recyclable Materials, and Green Waste from landfill disposal. Company will be entitled to reimbursement to reflect increased costs arising from City's designation of a transfer station, MRF, transformation facility, or disposal site.
- B. Company must maintain complete, accurate and up-to-date records of the quantities of Solid Waste transported to the transfer station, MRF, transformation facility or disposal site and must cooperate with City in any audits or investigations of those quantities.

3.7 Solid Waste and Recycling Disposal Guarantee

Company shall dispose of Solid Waste collected, but not sent to a processing facility, at a disposal site selected by Company. Company guarantees that it will provide or arrange for sufficient capacity to dispose of Solid Waste collected in City during the term, either at a permitted disposal site owned and operated by Company or an affiliate, or through arrangements with a third party disposal site.

3.8 Disposal of Solid Waste and Processing Facilities

Company must ensure that all Solid Waste collected under Section 3.1 is disposed of at a permitted disposal site.

3.8.1 Designated Disposal Sites

Company has designated the Calabasas Landfill and the Simi Valley Landfill as the Designated Disposal Sites. Company covenants that the Calabasas and the Simi Valley landfills are properly permitted, are classified as Class 3 landfills (permitted to receive only municipal Solid Waste), and are not on or being considered for inclusion on a state or federal Superfund list, or CalRecycle list of Solid Waste facilities failing to meet state minimum standards, and that the Simi Valley Landfill is in full compliance with all such permits. Except as set forth in Section 3.7, Company shall dispose of all Solid Waste collected in City at the designated Disposal Sites, at Company's expense and in accordance with all Applicable Law.

3.8.2 Designated Recycling Facility

Company has designated Azusa Transfer Station & MRF, a Waste Management owned facility, as the Designated Recycling Facility. Company covenants that the Designated Recycling Facility is properly permitted and in compliance with all Applicable Law. Company shall deliver all Recyclable Materials collected in City to the Designated Recycling Facility, at Company's expense and in accordance with all Applicable Law. Company shall ensure that, after Processing, residue material shall not exceed the amount permitted by Applicable Law. Company shall ensure that Recyclable Materials are used in a manner that is classified as diversion. Company shall contact City if changes in the Recycling facility designation are made.

3.8.3 Designated Green Waste Facility

Company has designated the Simi Valley Landfill as the Designated Green Waste Facility. Company covenants that the Simi Valley Landfill is properly permitted for the composting of, and to receive Green Waste, and is in compliance with all Applicable Law. Company shall deliver all Green Waste collected in City to the Agromin Inc. processing facility, located in Oxnard, California, the Designated Green Waste Facility for composting. If any such delivery to the Designated Green Waste Facility would not result in City receiving credit in calculating its diversion rate for having diverted the Green Waste from Disposal in a landfill or transformation facility, another facility must be selected. Company shall ensure that Green Waste is processed into Compost in accordance with Applicable Law and used in a manner that is classified as diversion.

3.8.4 Facility Requirements

Company shall ensure that the Designated Disposal Sites, Designated Recycling Facility, and Designated Green Waste Facilities are properly permitted and in compliance with Applicable Law at all times during the term of this Agreement. Company shall immediately inform the City Manager in writing in the event of any non-compliance, and City, in its sole discretion, shall have the right to require the

use of a different Disposal or Processing Facility, to be selected by Company. The City Council may also, in its sole discretion, require the use of a different site at any time during the term of this Agreement if the Designated Disposal Site, Recycling Facilities, or Green Waste Facility (as the case may be) is found to not be in compliance with the provisions of this Section 3.8, and the City Council determines that the Designated Disposal Site, Recycling Facilities, or Green Waste Facility (as the case may be) is not acceptable due to a failure to comply with the terms of this Agreement or a finding by state or federal regulatory agencies that it is not in compliance with Applicable Law, including the environmental statutes, and is unable to accept City's Solid Waste, Green Waste or Recyclable Materials (as the case may be). Under no circumstances, however, shall a change in one (1) or more of the Designated Disposal Site, Recycling Facilities, or Green Waste Facility pursuant to this subsection 3.8.4 provide a basis for an increase in the Rates.

3.9 Annual Route Audit

At least once annually, Company must conduct an audit of its collection routes in City. The annual route audit must be prepared in form and content acceptable to the City Manager and must include the truck identity, number of accounts serviced, number and size of containers, and the weight of the Solid Waste delivered to the transfer station or disposal site. Results of the annual route audit will be available for review by City.

3.10 Service Exceptions; Hazardous Waste Notifications

- A. **Failure to Collect.** When Solid Waste or Recyclable Materials are not collected from any Residential Account, Company must notify the customer in writing at the time collection is not made, through the use of a "tag" or otherwise, of the reason(s) why the collection was not made.
- B. **Hazardous Waste Inspection and Reporting.** Company reserves the right to inspect Solid Waste or Recyclable Materials that are put out for collection and to reject Solid Waste or Recyclable Materials that are observed to be contaminated with Hazardous Waste. Company has the right not to collect Hazardous Waste put out with Solid Waste or Recyclable Materials. Company must notify all agencies having jurisdiction, including the California Department of Toxic Substances Control, Local Emergency Response Providers, and the National Response Center, of reportable quantities of Hazardous Waste that are found or observed in Solid Waste anywhere within the City. In addition to other required notifications, if any substances are observed that Company's employees reasonably believe or suspect to contain Hazardous Waste and that have been unlawfully disposed of or released on any City property, including storm drains, streets, or other public rights-of-way, Company will immediately notify the Public Works Director.

- C. **Hazardous Waste Diversion Records.** Company must maintain records showing the types and quantities, if any, of Hazardous Waste found in Solid Waste or Recyclable Materials and which was inadvertently collected from customers within the City, but diverted from landfilling.

ARTICLE 4.

OTHER SERVICES

4.1 Services and Customer Billing

4.1.1 Service Description

Company must, within fifteen (15) days prior to the effective date of a rate change, prepare and distribute, subject to the direction of City, a notice to each Residential Account setting forth the rates charged to the customer, annual holiday schedule, Recycling programs offered, and a general summary of services required to be provided under this Agreement and optional services that may be furnished by Company. This notice shall be in a form that is subject to the approval of the City Manager prior to its distribution. The notice may be included with billings. The notice may also be included as part of Company's public education plan described in Section 4.3.1.

4.1.2 Residential Billing Discounts

Company shall provide a fifteen percent (15%) Senior Citizen Discount to residents sixty-two (62) years of age or older who own or rent any Residential Premises unit that is designated as a residential cart account. Company may request proof of residency and age from the customer requesting the discount. Proof of residency and age may be obtained via Department of Motor Vehicles identification card or motor license and standard utility billing invoices.

4.1.3 Billings to Residential Accounts

- A. **Residential Cart Service.** Company shall directly bill all customers with residential cart service on a bi-monthly basis, thirty (30) days in advance. Bills must be itemized by type of service. All bills must carry a due date and not "due upon receipt." The customers shall be billed in accordance with the approved Rate Schedule.
- B. **Permanent Bin Customers.** Company shall directly bill all customers with permanent bin service on a monthly basis, thirty (30) days in advance. To start service, new customers shall pay a pro-rated amount for the first month's service in advance. The customers shall be billed in accordance with the approved Rate Schedule.

4.1.4 Account Delinquency

Company will provide a residential account with a notice of delinquency in the event of non-payment after sixty (60) days from the date of a billing. Company may charge interest on any delinquent account at the maximum annual rate allowed by law for such time, as the bill remains unpaid after its due date, and a late fee of Three Dollars (\$3.00) per delinquent billing per account. Company will provide City a list of delinquent accounts upon written request.

Residential Premises that have not remitted required payment within sixty (60) days from the date of billing shall be notified that collection services may be discontinued fifteen (15) days from the date of notice if payment is not made before that time. If payment is not made by the expiration of that fifteen (15) day period, Company may discontinue collection services forty-eight (48) hours thereafter. Company shall immediately notify the City Manager of any such discontinuance of service.

Company shall resume collection services on the next regularly scheduled collection day for any Residential Premises whose collection service was discontinued upon receipt of payment of all outstanding charges, including delinquent fees, and the Activation Fee in an amount that does not exceed that set forth in the Rate Schedule. Company may not charge for collection services during any period in which collection service was suspended.

Company shall provide City with fourteen (14) days' advance written notice prior to suspending collection service to any Residential Premises. City reserves the right to require Company continue to provide collection service to any Residential Premises if needed to avoid negatively impacting public health or safety.

4.2 Customer Service

4.2.1 Office Hours

- A. Company must establish and maintain a local business office. Office hours shall be, at a minimum, from 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding holidays. A responsible and qualified representative of Company must be available at the office during business hours for communication with the public. Normal office hour telephone numbers must be a toll free call. Company's telephone system must be adequate to handle the volume of calls typically experienced on the busiest days. Company must also maintain a toll-free telephone number for use during other than normal business hours. Company must have a customer service representative or a message service available at the after-hours telephone number. After-hours calls must be responded to on the next business day.
- B. Company must provide City staff with the phone number of a Company representative who may be reached twenty-four (24) hours a day, seven (7)

days a week, at a location and number readily accessible to City representatives.

4.2.2 Missed Pick-ups

- A. **Residential Cart.** When notified of a missed pick-up prior to 12:00 noon, Company must collect the Solid Waste, Recyclable Materials, or Green Waste that same day. If notified after 12:00 noon, Company must collect the Solid Waste no later than the next business day.
- B. **Residential Bin.** When notified of a missed pick-up prior to 12:00 noon, Company must collect the Solid Waste, Recyclable Materials, or Green Waste that same day, except in cases where access to containers is blocked on the customer's property. Otherwise, Company must collect the Solid Waste no later than the next business day.

4.2.3 Complaint Documentation

- A. All service complaints must be directed to Company. Daily logs of complaints concerning collection of Solid Waste must be retained for a minimum of twenty-four (24) months and must be available to City at all times upon request.
- B. Company must log all complaints received by telephone. This log must include the date and time the complaint was received; name, address and telephone number of caller; description of the complaint; employee recording the complaint; and the action taken by Company to respond to and remedy the complaint. All written customer complaints and inquiries must be date-stamped when received. All complaints must be initially responded to within one (1) business day of receipt. Company must log action taken by Company to respond to and remedy all complaints.
- C. All customer service records and logs kept by Company will be made available to City upon request and at no cost to City. City shall, at any time during regular Company business hours, have access to Company's customer service department for purposes that may include monitoring the quality of customer service or researching customer complaints.

4.2.4 Resolution of Customer Complaints

- A. Disputes between Company and its customers regarding the services provided under this Agreement may be resolved by the City Manager. The decision of the City Manager shall be final and binding.
- B. Intervention by City is not a condition precedent to any rights or remedies third parties might otherwise have in any dispute with Company. Nothing in this Section is intended to affect the remedies of third parties against Company.

4.2.5 Government Liaison

Company must designate in writing a "Government Liaison" who will be responsible for working with City's designated representatives to resolve customer complaints. City has the right to approve Company's choice of liaison.

4.3 Education and Public Awareness

4.3.1 General

Company acknowledges that education and public awareness are essential elements of efforts to achieve the Act's diversion requirements. Accordingly, Company will implement a public education program to expand public and customer awareness concerning the necessity for methods of reducing, reusing, and Recycling Solid Waste. The public education program shall include information regarding City's diversion goals, bulky item pick-ups, and Green and Organic Waste diversion programs. Company shall provide and make available an electronic newsletter (in PDF format) to be posted on Company and City websites. Company may also utilize additional promotional activities, such as school assemblies, Chamber of Commerce or other local activities and events to achieve the goals of the public education program. Company must cooperate fully with City in this regard. Company must submit the public education program for approval by the City Manager no later than 15 days prior to the Operative Date. All materials subject to public distribution shall be subject to review and approval by City prior to release. Any change to the public education program must be approved in writing by the City Manager.

4.3.2 Community Events

At the direction of City, Company must participate in and promote Recycling and other diversion techniques at community events and designated local activities. This participation would normally include providing, without cost to City, collection of Solid Waste and Recyclable Materials at the event and educational information promoting the goals of City's Solid Waste diversion and Recycling program.

4.4 Waste Generation/Characterization Studies

Company acknowledges that City may be required periodically to perform Solid Waste generation and disposal characterization studies to comply with the Act or other waste diversion requirements. Company agrees to participate in, and to cooperate with City and its agents, in the preparation of these studies at no additional cost to City.

ARTICLE 5.
COMPANY COMPENSATION, RATES, AND FEES; CITY FEES

5.1 General

- A. The compensation provided for in this Article 5 shall be the full compensation due to Company under this Agreement for all labor, equipment, materials, supplies, taxes, insurance, bonds, overhead, disposal, transfer, profit and all other things necessary to perform all services required by this Agreement.
- B. Company shall perform the duties described in this Agreement in consideration of the right to receive compensation for such services rendered at no more than the maximum rates approved by City.

5.2 Compensation to Company

The initial rates set by Company for services provided pursuant to this Agreement are set forth in Exhibit 1. Exhibit 1 consists of Exhibit 1-A, showing the maximum rates effective July 1, 2016, and Exhibit 1-B, showing the maximum rates effective January 1, 2017. The compensation paid to Company for services rendered from the Operative Date shall not exceed that set forth in Exhibit 1, unless otherwise provided for in a written amendment to this Agreement, or adjusted pursuant to Section 5.3. Unless and until the maximum rates set forth in Exhibit 1 are adjusted, Company shall provide the services required by this Agreement charging no more than the maximum rates and fees authorized by the approved Rate Schedule, except as provided herein.

5.3 Future Adjustments

5.3.1 Escalation

The maximum rates set forth in Exhibit 1 are subject to escalation beginning January 1, 2018. The maximum rates shall be escalated only if Company is in full and complete compliance with the obligations of this Agreement. Such escalation shall be calculated by computing the percentage change in the CPI index for the twelve (12) month period ending September 30 of each year, and multiplying the applicable amount to be escalated by one hundred percent (100%) of that percentage change in the CPI, to a maximum of three percent (3%).

"CPI Index" means the Pacific Cities and City Average All-Items Index (Los Angeles-Anaheim-Riverside), All Urban Consumers, for the Los Angeles-Anaheim-Riverside Area, as published by the United States Department of Labor, Bureau of Labor Statistics.

Company shall deliver to City notification of the rate escalation, with supporting data and calculations, by October 30 prior to the rate increase becoming effective. Failure of Company to request an increase in the maximum rates pursuant this

subsection 5.3.1 in any one (1) year shall result in Company waiving its right to escalate the rates for that year.

5.3.2 Solid Waste Rate Adjustments

In addition to the annual escalation provided in subsection 5.3.1, commencing with the rate year commencing on July 1, 2018, but not more often than annually, Company may apply for an increase in the Solid Waste rates if Company can demonstrate that Company's operational costs have substantially increased in an amount greater than the CPI adjustment pursuant to subsection 5.3.1. For the purpose of this subsection, operational costs shall be defined as: motor vehicle fuel, insurance, Company's personnel costs (salaries and benefits), equipment repair costs, landfill and processing fee, tipping fees, and equipment purchases. When applying for an increase, Company shall submit to City, by October 30, information in support of the adjustment. Additional factors to be taken into consideration in connection with the adjustment request will include, but are not limited to:

- Overall customer satisfaction with Company.
- Company's satisfactory compliance with all provisions of this Agreement.
- Company's compliance with Solid Waste diversion requirements as defined and mandated by the State of California and implemented by the City of Agoura Hills.

Company shall submit any and all data requested in the format prescribed by the City Manager. The City Manager shall review the information submitted by Company and, in the City Manager's reasonable judgment, make the final determination on the appropriate amount of the adjustment, if any. A requested adjustment may not be denied in the case of changed or additional services requested by City, additional reporting required by City, City's designation of a disposal site or processing facility (except as provided in Section 3.8.4), any change in City's Municipal Code affecting Company's operations, or changes in state or local government solid waste fees and charges. Any such rate adjustment approved by the City Manager shall become effective on January 1. An adverse decision by the City Manager may be appealed to the City Council pursuant to the procedures in Section 8.1.

5.3.3 Notice of Rate Increase

Company shall provide all customers with advance written notice of Rate increases, in the form of a bill insert at least fifteen (15) days prior to the effective date of such increases.

5.4 Most Favored City

Company agrees that, should it provide comparable integrated waste management services in a neighboring city during the term of this Agreement, for rates lower than those charged by Company in City, the rates charged to customers in the City of Agoura Hills shall be reduced to an amount not greater than the amount charged to customers in that neighboring city. For purposes of this Section 5.4, "neighboring city" shall mean the cities of Calabasas, Hidden Hills, Malibu, and Westlake Village, and "comparable integrated waste management services" shall mean residential service for Solid Waste, Recyclable Materials, and Green Waste not less than once per calendar week, at generally similar frequencies, and using generally similar equipment and facilities.

5.5 City Fees

5.5.1 Administrative Fee

In consideration of this Agreement and the exclusive franchise, right and privilege to provide Solid Waste handling services to Residential Premises within the City granted by this Agreement, Company shall pay to City ten percent (10%) of all gross receipts (the "Administrative Fee") from collection and disposal services provided to Residential Accounts within the City for each calendar year or portion thereof that this Agreement remains in effect. For purposes of this subsection 5.5.2, "gross receipts" means all revenues from services provided to Residential Accounts pursuant to this Agreement, exclusive of the waste management fee collected pursuant to subsection 5.5.3. Such sum shall be due and payable quarterly, within thirty (30) days after the end of each March, June, September and December of each year commencing on the Operative Date of this Agreement.

Once each calendar year, City may change the amount of the Administrative Fee upon thirty (30) days' written notice to Company. Should City change the amount of the Administrative Fee, the maximum rates authorized in the Rate Schedule shall be adjusted by a commensurate amount. In the event City adjusts the Annual Administrative Fee, Company shall propose a methodology for adjusting the maximum rates by a commensurate amount. Company shall submit the proposed methodology and proposed revised schedule of maximum rates to the City Manager for approval within thirty (30) days of receipt of written notice of the adjustment in the Administrative Fee.

In the event this Agreement is terminated, the balance due of any unpaid Administrative Fee shall be paid within thirty (30) days after the date services are terminated. Commencing November 30, 2016, and each November 30 thereafter, Company shall deliver to City its estimate of Company's gross receipts from Residential Accounts for the next calendar year, so that City may budget for the amount of the Administrative Fee City can anticipate receiving during the next calendar year.

5.5.2 Waste Management Fee

City has adopted a waste management fee ("WM Fee") pursuant to Public Resources Code Section 41901. In addition to the amount billed by Company for services rendered hereunder, each quarterly billing shall include the WM Fee in the amount of fifty cents (\$0.50) per month per Residential Account. This fee shall be collected by Company and paid to City quarterly.

5.5.3 Quarterly Remittance Statement

Company shall prepare and provide to City a quarterly remittance statement by the thirtieth (30th) day following the end of each March, June, September and December of each year commencing on the Operative Date of this Agreement. The quarterly remittance statement shall be accompanied by the full amount of the Administrative Fee and the WM Fee due for the preceding calendar quarter. The quarterly remittance statement shall be in the form determined by the City Manager, and shall set forth the basis and calculations used for computing the amount due, in the following format:

- Gross Receipts received by Company from Residential Accounts for the current billing period (including number of accounts in each rate class and total number for each type of special charge)
- Ten percent (10%) = Administrative Fee
- WM Fee (\$0.50/Residential Account/month)

5.5.4 Disputes Regarding Remittances

No acceptance of any payment by City shall be construed as an accord that the amount is, in fact, the correct amount, nor shall such acceptance of payment be construed as a release of any claim City may have against Company for any additional sums payable under the provisions of this Agreement. All amounts paid shall be subject to independent audit and recomputation by City. If, after audit, such recomputation indicates an Administrative Fee underpayment, Company shall pay to City the amount of the underpayment within ten (10) days of receipt of written notice from City that such is the case. In addition, Company shall pay interest on any underpayment at the highest rate allowed by law. Such interest shall commence accruing on the date the underpayment would have originally been due. Further, if, after audit, such recomputation indicates an Administrative Fee underpayment of more than two and one-half percent (2-1/2%), Company shall reimburse City for all reasonable costs and expenses incurred in connection with the audit and recomputation within ten (10) days of receipt of written notice from City that such is the case. If, after audit, such recomputation indicates an Administrative Fee overpayment, City shall notify Company in writing of the amount of the overpayment, less costs and expenses incurred in connection with the audit and recomputation. Company may offset the payment or payments (as appropriate) next due following receipt of such notice by the amount specified

therein. In case of dispute between City and Company regarding any amounts due, Company shall pay the amount claimed by City as due and notify City in writing at the time of payment as to any portion that is paid under protest, specifying the basis of its claim of overpayment.

ARTICLE 6.
RECORDS, REPORTS AND INFORMATION REQUIREMENTS;
PERFORMANCE REVIEW

6.1 General

Company must maintain such accounting, statistical, and other records related to its performance under this Agreement as may be necessary to develop the financial statements and other reports required by this Agreement. Company shall also conduct data collection, information and record keeping, and reporting activities necessary to comply with Applicable Law and regulations and to meet the reporting and solid waste program management needs of City, in particular the reporting obligations imposed by the Act. In this regard, the requirements set out in this and other Articles of this Agreement shall not be considered limiting or necessarily complete. This Article is intended only to highlight the general nature of records and reports and does not define precisely what records and reports are to be submitted, or their content. Upon the written direction of City, the records and reports to be maintained and provided by Company in accordance with this and other Articles of this Agreement must be adjusted in number, format, or frequency.

6.2 Records

6.2.1 General

- A. Company must maintain records required to conduct its operations, to support requests it may make to City, and to respond to requests from City regarding the performance of Company's obligations under this Agreement. Adequate security must be maintained to protect records from events that can reasonably be anticipated, such as a fire, theft or earthquake. Electronically-maintained data and records must be protected and backed up. All records shall be maintained for seven (7) years, and the last seven (7) years of records must be maintained for an additional seven (7) years after the expiration of this Agreement.
- B. The records of Company shall be made available to City and its official representatives during normal business hours. City may review or use any of the records described in this Article for the purposes set forth in Section 6.5.

6.2.2 Solid Waste Service Records

Records relating to the following matters must be maintained by Company for a period of two (2) years:

- A. Customer service names and addresses.
- B. Routes.
- C. Facilities, equipment and personnel.
- D. Log of complaints and actions taken to remedy various issues.
- E. Missed pick-ups.
- F. Damage to public and/or private property in connection with performed services.
- G. Number of Solid Waste, Recyclable Materials, and Green Waste containers.
- H. Tons collected, processed, diverted, and disposed of by type of service, waste stream, and customer.
- I. Weight of each category of recyclable material recovered at a MRF.
- J. Payroll records.
- K. Other records as directed by City prior to the expiration of this Agreement.

6.2.3 Disposal Records

Company must maintain records of the disposal of all Solid Waste and Recyclable Materials collected in City during the term of this Agreement, including all extensions. If Company ceases to provide Solid Waste and Recyclable Materials services to City, Company must submit to the City Manager all records of the disposal or processing of Solid Waste collected in City within thirty (30) days after discontinuing service. These records must be in a chronological and organized form and capable of being readily interpreted.

6.2.4 Other Program Records

Records for other Solid Waste programs and services will be tailored to specific needs. In general, they will include:

- A. Plans, tasks, and milestones; and
- B. Accomplishments, such as activities conducted, quantities of products used, produced or distributed, and numbers of participants and responses.

6.3 Reports

6.3.1 Report Formats and Schedule

- A. Records must be maintained in a format that facilitates the use of data contained in them to structure reports, as needed, that can be used, among other things, to:
1. Evaluate the efficiency of operations.
 2. Evaluate past and current progress towards achieving the Act's goals and objectives.
 3. Determine the needs for adjustments to Solid Waste programs.
 4. Evaluate customer service and complaints.
- B. City will provide sample report formats, but Company may propose report formats that are responsive to the objectives of each report. The format of each report requires approval by City. Company shall submit all reports on computer disks or by electronic means in a format that is compatible with City's software and computers at no additional charge, if requested by City. When requested by City, an authorized Company official shall certify, under penalty of perjury, that the report being submitted is true and correct.
- C. Quarterly reports must be submitted within thirty (30) calendar days after the end of a calendar quarter (March, June, September and December). If requested, Company's complaint summary, described in subsection 6.3.2.1., shall be sent to the City Manager within five (5) days of request. Annual reports must be submitted on or before July 31 following the reporting year.

All reports will be submitted to:

City Manager (or designated representative)
City of Agoura Hills
30001 Ladyface Court
Agoura Hills, California 91301

6.3.2 Quarterly Reports

The following information is the minimum required to be reported quarterly:

- A. Tons of Solid Waste collected by Company for the previous quarter, sorted by type of service (Solid Waste, Recyclable Materials, Green Waste, rolloff) and type of Residential Account, and itemized by percentage of the total tonnage collected, and the facilities where the tonnage was processed or disposed.

- B. Number of Residential Accounts billed by Company, including the number of Residential Accounts participating in the Recycling program.
- C. Number of multi-family Residential Accounts billed by Company, including the number of multi-family Residential Accounts participating in the Recycling program.
- D. Statement showing kinds of Recyclable Materials collected and the quantity sold (in tons).
- E. Number of missed collections reported to Company.
- F. Narrative summary of problems encountered (including scavenging) and actions taken with recommendations to City, as appropriate.
- G. Copies of promotional and public education materials sent during the preceding quarter.
- H. Copies of Hazardous Waste diversion records showing types and quantities, if any, of Hazardous Waste that was inadvertently collected, but diverted from landfilling.
- I. Complaint summary for the quarter, on a computer disk, identifying the nature of complaints.
- J. Other information or reports that City may reasonably request.

6.3.3 Annual Report

The annual report shall essentially combine the information contained in the quarterly reports and shall also include:

- A. A complete inventory of equipment used to provide all services (such as vehicles, containers by size, and the waste stream from each type of container).
- B. A list of all residential accounts billed by Company, including service address, billing address, and service levels, i.e., number of carts in service by type of service (Solid Waste, Recyclable Materials, Green Waste), size (thirty-two (32), sixty-five (65), or ninety-five (95) gallon) and additional cart charges; and for bins and rolloff service, the number and size of containers, type and frequency of service.
- C. Disposal records required under Section 6.2.3.
- D. General information about Company, including a list of officers and directors, the most recent annual report and other periodic public financial

reports of Company, its subsidiaries and affiliated companies, that may perform services under this Agreement.

- E. Report can be submitted in electronic format.

6.4 Adverse Information

- A. Reporting Adverse Information. Company must provide to City two (2) copies of all reports, pleadings, applications, notifications, notices of violation, or other communications that materially and adversely affect Company's performance of services under this Agreement, that are submitted by Company to, or received by Company from, the United States or California Environmental Protection Agency, the California Integrated Waste Management Board, the Securities and Exchange Commission, or any other federal, state or local agency, including any federal or state court. Copies must be submitted to City simultaneously with Company's filing or submission of such matters to those agencies. Company's routine correspondence to those agencies need not be submitted to City, but must be made available to City promptly upon City's written request.
- B. Failure to Report. The refusal or failure of Company to file any required reports, or to provide required information, or the inclusion of any materially false or misleading statement or representation by Company in any required report, will be deemed a material breach of this Agreement, as described in Section 8.1.4, and will subject Company to all remedies that are available to City.

6.5 Right to Inspect Records

City has the right to inspect or review specific documents or records that are required under this Agreement, and that City, in its reasonable discretion, deems necessary to evaluate annual reports, compensation adjustment applications, and Company's performance.

6.6 Periodic Review

City will periodically review Company's performance based on customer complaints, timely payment of sums due, statistical reporting, program progress, etc. This review will be conveyed to the City Council, and Company may review the report and submit its own statement.

6.7 Performance Review

- A. City, at its sole discretion, may require up to three (3) times during the term of this Agreement, a Performance Review subject to the terms and conditions of this Section 6.7. A qualified firm under contract to City shall perform the Performance Review. City, in its sole discretion, shall select the qualified firm to conduct the Performance Review.

- B. The costs of the Performance Review shall be equally shared by Company and City, except that Company shall not be obligated to pay more than Two Thousand and Five Hundred Dollars (\$2,500.00) for any one Performance Review. Notwithstanding the preceding sentence, if the Performance Review finds a material breach or default in Company's performance, Company shall in a timely manner reimburse City the total cost of the Performance Review within ten (10) days of written demand from City.
- C. The Performance Review shall address all appropriate areas, including, but not limited to, the following areas, and shall provide specific recommendations, as appropriate, for improvement in each area:
1. Compliance with the terms of this Agreement and Applicable Law.
 2. Overall organizational structure, management systems and procedures.
 3. Efficiency of collection operations, including an analysis of routes, schedules and the impact to Agreement requirements.
 4. Staffing practices, including the deployment of management and supervisory personnel.
 5. Financial management practices, including Company's billing and collection system and its policies with regard to uncollected accounts.
 6. Personnel management practices, including compensation policies and the resolution of employee grievances.
 7. Employee job and safety training and management of Hazardous Waste.
 8. Procedures for receiving and resolving customer complaints and concerns.
 9. Procedures for the acquisition, maintenance, safety check, and replacement of equipment.
 10. Utilization and management of facilities, equipment and personnel.
- D. Company shall cooperate fully with the Performance Review, and provide within thirty (30) days of request, all operational, financial and other information deemed reasonable or convenient by City or the firm for purposes of conducting the Performance Review. Company's failure to cooperate or provide all requested information shall be considered an event of Default.

- E. In conjunction with any Performance Review, City reserves the right to require changes to Company's operations, which City determines to be necessary or appropriate by reason of the findings or results of the Performance Review to carry out the intent of the terms and conditions of this Agreement.

ARTICLE 7.

INDEMNIFICATION, INSURANCE AND BONDS

7.1 Indemnification

- A. Company shall indemnify and hold harmless City, its elected and appointed boards, commissions, officers, employees, and agents (collectively, "Indemnitees"), from and against any and all loss, liability, penalty, forfeiture, claim, demand, action, proceeding or suit in law or in equity of every kind and description (including, but not limited to, injury to and death of any person and damage to property, or for contribution or indemnity claimed by third parties) arising or resulting from and in any way connected with (1) the negligence or willful misconduct of Company, its officers, employees, agents, subsidiaries or subcontractors in performing services under this Agreement; (2) the failure of Company, its officers, employees, agents, subsidiaries or subcontractors to comply in all respects with the provisions of this Agreement, Applicable Law (including, without limitation, environmental laws), ordinances and regulations, or applicable permits and licenses; or (3) the acts of Company, its officers, employees, agents, subsidiaries or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, environmental laws). The foregoing indemnity applies regardless of whether such loss, liability, penalty, forfeiture, claim, demand, action, proceeding, suit, injury, death or damage is also caused in part by any of the Indemnitees' negligence, but does not extend to matters resulting from the Indemnitees sole or active negligence, willful misconduct, or breach of this Agreement. Company further agrees to and will, upon demand of City, at Company's sole cost and expense, defend (with attorneys acceptable to City) the Indemnitees against any claims, actions, suits in law or in equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the events referenced above.
- B. Company, upon demand of City, made by and through the City Attorney, shall protect City and appear and defend the Indemnitees in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of "Solid Waste" or "Recyclable Material," or the limits of City's authority with respect to the grant of licenses or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or federal or state laws to provide Solid Waste services in City. This provision shall survive the expiration of the term during which collection services are to be provided

under this Agreement. City and Company will confer following any trial to decide jointly whether to appeal or to oppose any appeal. If City and Company jointly agree to appeal, or to oppose any appeal, City and Company will share equally the costs of appeal. Should either City or Company decide to appeal, or to oppose an appeal, and the other decides not to appeal, or to oppose an appeal, the party that decides to appeal, or to oppose an appeal, will bear all fees and costs of the appeal or the opposition to the appeal. The foregoing obligations will not apply to the extent of City's sole or active negligence, willful misconduct, breach of this Agreement, or violation of law.

- C. Company's duty to indemnify and defend against the above-referenced events arising during the term of this Agreement, and as it may be extended, shall survive the expiration or earlier termination of this Agreement.

7.2 Hazardous Substances Indemnification

Company must defend with counsel reasonably acceptable to City, indemnify, protect, and hold harmless the Indemnitees from and against all claims, damages (including but not limited to special, consequential, natural resources and punitive damages), injuries, costs, (including without limitation all response, remediation and removal costs), losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties, attorneys' fees for the adverse party and expenses (including without limitation attorneys' and expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity), (collectively, "Damages") of any kind whatsoever paid, incurred or suffered by, or asserted against, the Indemnitees arising from or attributable to the acts or omissions of Company, its officers, directors, employees, subsidiaries or agents, whether or not negligent or otherwise culpable, in connection with or related to the performance of this Agreement, including without limit Damages arising from or attributable to any repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure or other plan (regardless of whether undertaken due to governmental action) concerning any hazardous substance, Hazardous Waste, Household Hazardous Waste, Solid Waste, or other waste that has been generated, collected, stored, transported, or disposed of in City. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9607(e); Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6901 et seq.; and California Health and Safety Code Section 25364, to defend, protect, hold harmless, and indemnify the Indemnitees from liability. This provision is in addition to all other provisions in this Agreement and will survive the end of the term of this Agreement. The liability of Company under this Section 7.2 is not limited to the limits of the policies of insurance provided for under Section 7.5. The foregoing obligations will not apply with respect to any facility designated by City under Section 3.6, except for facilities owned and operated by Company or its affiliate.

7.3 Reduction of CERCLA and Other Liabilities

City and Company agree to meet annually, at the request of City, to discuss ways to reduce potential CERCLA and other liabilities to third parties.

7.4 Indemnification for Failure to Meet Diversion Requirements

Subject to the requirements of Public Resources Code Section 40059.1, which shall control in the event of any conflict with the provisions of this Section, Company shall indemnify and hold harmless City from and against all fines and penalties imposed by CalRecycle if the source reduction and recycling goals, or any other requirements of the Act or similar legislative reenactments, are not met by City. In the event CalRecycle provides an administrative process to challenge the imposition of a compliance order or a fine or fines, Company shall be responsible for engaging consultants and/or attorneys to represent City in any challenge. Company shall also be responsible for the retention of and payment to any consultants engaged to perform waste generation studies (diversion and disposal). All consultants and/or attorneys engaged hereunder are subject to the mutual agreement of City and Company.

Company's indemnification of City is subject to all of the following restrictions:

- A. Company's obligation to indemnify City shall not be enforceable if the Board-imposed penalty is based solely upon the failure of City to establish and maintain a source reduction and recycling element pursuant to Sections 41000 et seq. of the Public Resources Code.
- B. No payment required under Company's obligation to indemnify City may exceed that portion of any penalty assessed by the Board against City that was attributable to Company's breach of or noncompliance with an express obligation or requirement. Further, Company shall not be liable under the indemnity obligation to the extent that Company's breach or noncompliance resulted from City's action or failure to act, determined as a result of judicial review, hearing or appeal to the California Integrated Waste Management Board.

7.5 Insurance

Company must maintain in force for the term of this Agreement the policies of insurance specified in this Section. City does not waive any rights against Company that it may have under the above-referenced hold harmless agreements because of acceptance by City, or the deposit with City by Company, of the insurance policies described below.

- A. **Minimum Scope of Insurance.** Coverage must be at least as broad as:
 - 1. The most recent editions of Insurance Services Office Commercial General Liability coverage ("Occurrence" form CG 0001).

2. The most recent editions of Insurance Services Office form number CA 0001 covering Automobile Liability, Code 1 "any auto," and endorsement CA 0025.
3. Workers' Compensation insurance as required by the Labor Code of the State of California and Employers Liability insurance.

B. Minimum Limits of Insurance. Company must maintain in force for the term of this Agreement limits no less than:

1. General Liability: Two Million Dollar (\$2,000,000.00) 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 will apply separately to this project location or the general aggregate limit will be twice the required occurrence limit.
2. Automobile Liability: Two Million Dollars (\$2,000,000.00) per accident for bodily injury and property damage.
3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the Labor Code of the State of California and Employers Liability limits of One Million Dollars (\$1,000,000.00) per accident.

C. Deductibles and Self-Insured Retentions. In the event that City believes that Company is unable or unwilling to pay any deductibles or self-insured retentions, Company shall procure a bond guaranteeing payment of all losses and expenses of related investigations, claims administration, and defense in the amount of those deductibles or self-insured retentions.

D. Other Insurance Provisions. The policies must contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverages.
 - (a) City and its officers and employees are to be named as additional insureds as respects: liability arising out of activities performed by or on behalf of Company; products and completed operations of Company; premises owned, leased or used by Company; and vehicles owned, leased, hired or borrowed by Company. The coverage must contain no limitations on the scope of protection afforded to City, its elective and appointive boards, commissions, officials, employees, agents or volunteers.
 - (b) Company's insurance coverage must be primary insurance with respect to the Indemnitees. Any insurance or self-

insurance maintained by City, its officials, elective and appointive boards, commissions, employees, agents or volunteers will be excess of Company's insurance and will not contribute to it.

(c) Any failure to comply with reporting provisions of the policies will not affect coverage provided to the Indemnitees.

(d) Coverage must state that Company's insurance will 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.

2. Workers' Compensation and Employers Liability Coverage. The insurer must agree to waive all rights of subrogation against the Indemnitees for losses arising from work performed by Company for City.

3. All Coverages. Each insurance policy required by this Section must be endorsed to state that coverage will not be canceled except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to City. Further, in addition to the requirements of subsection H. below, Company shall provide prompt notice to City upon receipt of a notice of suspension, a reduction in coverage or non-renewal.

E. **Acceptability of Insurers.** The insurance policies required by this Section must be issued by an insurance company or companies authorized to do business in the State of California and with a rating in the most recent edition of Best's Insurance Guide of category VII or larger, and a rating classification of A- or better.

F. **Verification of Coverage.** Company must furnish City with certificates of insurance and with original endorsements effecting coverage required by this Section. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences. City reserves the right to require complete, certified copies of all required insurance policies at Company's local business office, upon prior written notice to Company. Renewal certificates will be furnished periodically to City to demonstrate maintenance of the required coverage throughout the term of this Agreement.

G. **Companies and Subcontractors.** Company must include all other companies and subcontractors performing activities in City as insureds under its policies or furnish separate certificates and endorsements for each

other company and subcontractor. All coverages for companies and subcontractors will be subject to all of the requirements stated in this Section.

H. Required Endorsements.

1. The Workers' Compensation policy must contain an endorsement in substantially the following form:

- (a) "Thirty (30) days' prior written notice by certified mail, return receipt requested, will be given to City in the event of cancellation of this policy. Such notice shall be sent to:

City Manager
City of Agoura Hills
30001 Ladyface Court
Agoura Hills, California 91301"

2. The General Liability policy must contain endorsements in substantially the following form:

- (a) "Thirty (30) days' prior written notice will be given to City in the event of cancellation of this policy. Such notice will be sent to:

City Manager
City of Agoura Hills
30001 Ladyface Court
Agoura Hills, California 91301"

- (b) "City, its officers, elective and appointive boards, commissions, employees, and agents are additional insureds on this policy."

- (c) "This policy will be considered primary insurance as respects any other valid and collectible insurance maintained by City, including any self-insured retention or program of self-insurance, and any other such insurance will be considered excess insurance only."

- (d) "Inclusion of City as an insured will not affect City's rights as respects any claim, demand, suit or judgment brought or recovered against Company. This policy will protect Company and City in the same manner as though a separate policy had been issued to each, but this will not operate to increase Company's liability as set forth in the policy beyond the amount shown or to which Company would have been liable if only one party had been named as an insured."

I. Other Insurance Requirement.

1. Company must comply with all requirements of the insurers issuing policies. The carrying of insurance will not relieve Company from any obligation under this Agreement. If any claim exceeding the amount of any deductibles or self-insured reserves is made by any third party against Company, or any company or subcontractor, on account of any occurrence related to this Agreement, Company must promptly report the facts in writing to the insurance carrier and to City.
2. If Company fails to procure and maintain any insurance required by this Agreement, City may take out and maintain, at Company's expense, such insurance as it may deem proper and deduct its cost from any moneys due Company.

7.6 Faithful Performance Bond

- A. Within fifteen (15) days after the Operative Date, Company must provide to City a faithful performance bond ("Performance Bond") in the amount of Two Hundred and Fifty Thousand Dollars (\$250,000.00) for the protection of City. The Performance Bond must be on terms acceptable to the City Manager and the City Attorney and in substantially the form attached as Exhibit 3 to this Agreement. The Performance Bond shall serve as security for the faithful performance by Company of all of its obligations under this Agreement.
- B. Upon Company's failure to pay City any amount owing under this Agreement, the Performance Bond may be assessed by City for purposes including, but not limited to:
 1. Reimbursement of costs borne by City to correct violations of the Agreement not corrected by Company, after City provides notice in accordance with Section 9.11.
 2. To provide monetary remedies or to satisfy damages assessed against Company due to a material breach of this Agreement.
- C. Company must deposit a sum of money or a replacement instrument sufficient to restore the Performance Bond to its original amount within thirty (30) days after notice from City that any amount has been withdrawn from the Performance Bond. Failure to restore the Performance Bond to its full amount within thirty (30) days will constitute a material breach of this Agreement. Company will be relieved of the foregoing requirement to replenish the Performance Bond during the pendency of an appeal from City's decision to draw on the Performance Bond.

- D. If the Performance Bond is drawn upon, all of City's costs of collection and enforcement of the provisions relating to the Performance Bond called for by this Section, including reasonable attorneys' fees and costs, will be paid by Company.
- E. Any decision or order of City under this Section may be appealed by Company through the dispute resolution procedures provided by Section 8 of this Agreement.

7.7 Property Damage

Any physical damage caused by the negligent or willful acts or omissions of employees of Company to public or private property must be repaired or replaced by Company at Company's sole expense, excluding normal wear and tear.

7.8 Pavement Damage

Company is responsible for damage to City's driving surfaces, whether paved or not paved, beyond normal wear and tear, caused by Company's vehicles. Company understands that performance under this Agreement may involve the operation of its collection vehicles over private roads and streets. Disputes between Company and its customers as to damage to private pavement are civil matters, and complaints of damage received by City will be referred to Company as a matter within the scope of Section 8.1. Company will obtain permission to enter upon private streets within the City. Company may provide special services to Residential Accounts that are adjacent to private streets, such as scout service, at the rates set forth in Exhibit 1.

7.9 Corporate Guaranty

Within fifteen (15) days after the Operative Date, Company must provide to City a corporate guaranty ("Guaranty") executed by Waste Management Holdings, Inc., guarantying the complete and timely performance by Company of each and every term of this Agreement that Company is required to perform. The Guaranty shall be acceptable to the City Attorney, and substantially the form attached as Exhibit 2 to this Agreement.

ARTICLE 8. DEFAULT, REMEDIES AND LIQUIDATED DAMAGES

8.1 Administrative Remedies; Imposition of Damages; Termination

8.1.1 Notice of Deficiencies; Response; Appeal

8.1.1.1 Notice of Deficiencies; Response

If the City Manager determines that Company's performance is not in conformity with the provisions of this Agreement, the California Integrated Waste

Management Act (including, but not limited to, requirements for diversion, source reduction and Recycling as to the waste stream subject to this Agreement) or any other applicable federal, state, or local law or regulation, including but not limited to, the laws governing transfer, storage or disposal of Solid and Hazardous Waste, the City Manager may advise Company in writing of the deficiencies, specifying the deficiencies in reasonable detail. The City Manager, in any written notification of deficiencies, will set a reasonable time within which Company must respond. Unless the circumstances necessitate correction and response within a shorter period of time, Company must respond to the written notification of deficiencies within thirty (30) days from its receipt of that written notice. Company may request additional time to correct deficiencies. City may approve reasonable requests for additional time.

8.1.1.2 Review by the City Manager: Notice of Appeal

- A. The City Manager shall review any written response from Company and decide the matter. If the City Manager's decision is adverse to Company, the City Manager may order remedial actions to cure any deficiencies, assess the bond referred to in Section 7.6, or invoke any other remedy in accordance with this Agreement. If the City Manager determines that there has been a material breach and that termination is the appropriate remedy, then the City Manager may recommend to the City Council that this Agreement be terminated. The City Manager must promptly inform Company of the City Manager's decision. If the decision is adverse to Company, the City Manager must inform Company, in writing, of the specific facts found and evidence relied upon, the legal basis for the City Manager's decision, and any remedial action taken or ordered. An adverse decision by the City Manager will be final and binding on Company unless Company files a "Notice of Appeal" with the City Clerk (with copies to the City Manager and the City Attorney) within thirty (30) days of receipt of the City Manager's notification of the adverse decision.
- B. In any "Notice of Appeal," Company must state its factual contentions and include any relevant affidavits, documents, photographs, or videotapes that Company may choose to submit. In addition, Company must include its legal contentions, citing provisions of this Agreement or Applicable Law to support those contentions.

8.1.1.3 Review by the City Manager: Appeal

- A. Within thirty (30) days of receipt by the City Clerk of a "Notice of Appeal," the City Manager will decide the matter. If the City Manager's decision is adverse to Company, the City Manager may order remedial actions to cure any deficiencies, assess the bond, provided under Section 7.6, or invoke any other remedy in accordance with this Agreement, except for termination. If the City Manager determines that there has been a material breach and that termination is the appropriate remedy, the City Manager

may recommend that the City Council terminate this Agreement. In addition to the foregoing actions, the City Manager may refer the matter to the City Council for proceedings in accordance with Sections 8.1.2 and 8.1.3. The City Manager must promptly inform Company of the City Manager's decision. If the decision is adverse to Company, the City Manager must inform Company, in writing, of the specific facts found and evidence relied on, the legal basis for the City Manager's decision, and any remedial action taken or ordered.

- B. An adverse decision by the City Manager will be final and binding unless Company files a "Notice of Appeal to the City Council" with the City Clerk (and serves a copy, by mail, on the City Manager and the City Attorney) within thirty (30) days of receipt of the decision of the City Manager. A "Notice of Appeal to the City Council" must state the factual basis and all legal contentions and must include all relevant evidence, including affidavits, documents, photographs, or videotapes that Company may choose to submit.

8.1.2 City Council Hearing

If a matter is referred by the City Manager to the City Council, or an adverse decision of the City Manager is appealed to the City Council by Company, the City Council shall set the matter for an administrative hearing and act on the matter. The City Clerk must give Company fourteen (14) days' written notice of the time and place of the administrative hearing. At the hearing, the City Council shall consider the administrative record, consisting of the following:

- A. A staff report from the City Manager, summarizing the proceedings to date and outlining the City Council's options.
- B. The City Manager's written notification of deficiencies.
- C. Company's response to the notification of deficiencies.
- D. The City Manager's written notification to Company of adverse decision.
- E. Company's "Notice of Appeal".
- F. The City Manager's written notification to Company of adverse decision.
- G. The "Notice of Appeal to the City Council".

8.1.3 City Council Determination

Based on the administrative record, the City Council shall determine by resolution whether the decision or order of the City Manager should be upheld, including any recommended termination of this Agreement. If, based upon the administrative record, the City Council determines that Company's performance is in breach of

any term of this Agreement, or violates any provision of any applicable federal, state, or local statute or regulation, the City Council, in the exercise of its discretion, may order Company to take remedial actions to cure the breach or impose any other remedy in accordance with this Agreement. The City Council may not terminate this Agreement unless it determines that Company is in breach of a material term of this Agreement, or a material provision of any applicable federal, state, or local statute or regulation. Company's performance under this Agreement is not excused during the period of time prior to a final determination as to whether Company's performance is in material breach of this Agreement, or during the period of time set by City for Company to discontinue all or a portion of its service under this Agreement. The decision or order of the City Council shall be final and binding. With the exception of draws on the bond, the execution of City's remedies will be stayed until Company has exhausted its appeals under Sections 8.1 and 8.2 of this Agreement.

8.1.4 Reservation of Rights by City

- A. City reserves the right to terminate this Agreement, or to impose liquidated damages, temporary suspensions, or any other condition deemed appropriate, short of termination, in the event of any material breach of this Agreement, including, but not limited to any of the following:
1. Fraud or Deceit or Misrepresentation. If Company engages in, or attempts to practice, any fraud or deceit upon City or makes a misrepresentation to City regarding material information.
 2. Insolvency or Bankruptcy. If Company becomes insolvent, unable or unwilling to pay its debts, files a bankruptcy petition, or takes steps to liquidate its assets.
 3. Failure to Maintain Coverage. If Company fails to provide or maintain in full force and effect the Workers' Compensation, liability, or indemnification coverage required by this Agreement.
 4. Violation of Regulations. If Company violates any orders of any regulatory body having jurisdiction over Company or City that have a material impact on Company's performance under this Agreement; provided that Company may contest any such orders by appropriate proceedings conducted in good faith, in which case no breach of this Agreement will be deemed to have occurred until a final decision adverse to Company is entered.
 5. Failure to Perform. If Company ceases to provide collection, processing, or Recycling services as required under this Agreement over all or a substantial portion of its franchise area for a period of two (2) consecutive days or more, for any reason within the control of Company.

6. Failure to Pay. If Company fails to make any payments required under this Agreement or refuses to provide to City, within ten (10) days of the demand, required information, reports, or records in a timely manner.
7. Acts or Omissions. Any other act or omission by Company that has a material effect on Company's performance under this Agreement, that violates its terms, conditions, or requirements, the California Integrated Waste Management Act of 1989, any environmental law as it may be amended from time to time, or any law, statute, ordinance, order, directive, rule, or regulation issued thereunder and which is not corrected or remedied within the time specified in the written notice of the violation or, if Company cannot reasonably correct or remedy the breach within the time set forth in such notice, if Company fails to commence to correct or remedy such violation within the time specified in such notice and to thereafter diligently effect such correction or remedy.
8. False or Misleading Statements. Any representation or disclosure made to City by Company in connection with or as an inducement to entering into this Agreement, or any future amendment to this Agreement, that proves to be false or misleading in any material respect as of the time such representation or disclosure is made.
9. Attachment. There is a seizure of, attachment of, or levy on, the operating equipment of Company, including without limitation its equipment, maintenance or office facilities, or any part thereof.
10. Failure to Provide Assurance of Performance. If Company fails to provide reasonable assurances of performance as required under Section 8.4.
11. Felonious Conduct. If Company, or any of its officers or directors, is found guilty of felonious conduct related to the performance of this Agreement, or of felonious conduct related to anti-trust activities, illegal transport or disposal of hazardous or toxic materials, or bribery of public officials related to the performance of this Agreement.

- B. Upon a material breach by Company under this subsection 8.1.4, City has the right to terminate this Agreement upon ten (10) days' notice if the public health or safety is threatened, or otherwise upon thirty (30) days' notice and opportunity to cure, but without the need for any hearing, suit or legal action.

8.1.5 Cumulative Rights

- A. City's rights to terminate this Agreement are not exclusive, and City's termination of this Agreement shall not constitute an election of remedies.

These rights are in addition to all other legal and equitable rights and remedies that City may have.

- B. Because of the necessity for timely, continuous and high-quality service, the time required to effect alternative service, and the exclusive rights granted by City to Company, the remedy of monetary damages for a material breach of this Agreement by Company is inadequate, and City may be entitled to obtain injunctive relief.

8.2 Liquidated Damages

- A. **General.** The parties agree that, as of the time of the execution of this Agreement, it is impractical, if not impossible, to reasonably ascertain the extent of damages that would be incurred by City as a result of a breach by Company of its obligations under this Agreement. The factors relating to the impracticability of ascertaining damages include, but are not limited to, the fact that: (1) substantial damage results to members of the public who are denied service or are denied quality or reliable service; (2) such breaches cause inconvenience, anxiety, frustration, and deprivation of the benefits of this Agreement to individual members of the general public for whose benefit this Agreement exists, in subjective ways and in varying degrees of intensity that are incapable of measurement in precise monetary terms; (3) the services provided under this Agreement might be available at substantially lower costs than alternative service, and the monetary loss resulting from denial of service or from denial of quality or reliable service is impossible to calculate in precise monetary terms; and (4) the termination of this Agreement for such breaches, and other remedies are, at best, a means of future correction and not remedies that make the public whole for past breaches.
- B. **Service Performance Standards; Liquidated Damages for Failure to Meet Standards.** The parties further acknowledge that consistent, reliable Solid Waste collection service is of utmost importance to City and that City has considered and relied on Company's representations as to its quality of service commitment in awarding the franchise. The parties further recognize that some quantified standards of performance are necessary and appropriate to ensure consistent and reliable service and performance. The parties further recognize that if Company fails to achieve the performance standards, or fails to submit required documents in a timely manner, City and its residents will suffer damages and that it will be impractical and extremely difficult to determine the exact amount of damages that City will suffer. Therefore, without prejudice to City's right to treat such non-performance as an event of default under this Article 8, the parties agree that the following liquidated damage amounts represent a reasonable estimate of the amount of such damages considering all of the circumstances existing on the date of this Agreement, including the relationship of the sums to the range of harm to City that reasonably could

be anticipated, and the anticipation that proof of actual damages would be costly or impractical. In placing their initials at the places provided, each party specifically confirms the accuracy of the statements made above and the fact that each party has had ample opportunity to consult with legal counsel and to obtain an explanation of these liquidated damage provisions prior to the execution of this Agreement.

Company
Initial Here



City
Initial Here



Company agrees to pay as liquidated damages, and not as a penalty, the amounts set forth below:

1. Collection Reliability

- (a) For each failure to commence service to a new Residential Account within five (5) days after order, which exceeds three (3) such failures annually: \$250
- (b) For each failure to collect Solid Waste or Recyclable Materials, which has been properly set out for collection, from an established Residential Account or accounts, on the scheduled collection day and not collected within the period described in subsection 3.4.1, which exceeds five (5) such failures annually: \$125 per occurrence per account
- (c) For each failure to collect Solid Waste or Recyclable Materials, which has been properly set out for collection, from the same Residential Account on two (2) consecutive scheduled pick-up days, or three (3) scheduled pick-ups annually: \$150 per occurrence per account

2. Collection Quality

- (a) For each occurrence of failure to properly return empty containers to avoid pedestrian or vehicular traffic impediments, or to place containers upright, which exceeds five (5) such occurrences annually: \$100
- (b) For each failure to clean up Solid Waste or Recyclable Materials spilled from Solid Waste containers (except where caused by overloading by the customer) that exceeds five (5) such failures annually: \$100
- (c) For each occurrence of collecting Solid Waste or Recyclable Materials during unauthorized hours: \$150

(d) For each failure to clean or replace containers in accordance with Article 4 of this Agreement, which exceeds five (5) such failures annually: \$100

(e) For each failure to deliver a rolloff box or temporary bin within forty-eight (48) hours of a customer's request: \$100

3. Customer Responsiveness

(a) For each failure to initially respond to a customer complaint within one (1) business day: \$100

(b) For each failure to process customer complaints to City as required by Article 4: \$100

(c) For each failure to carry out responsibilities for establishing service: \$100

(d) For each failure to remove graffiti from containers or to replace with containers bearing no graffiti, within five (5) business days of request from City or customers: \$100

4. Timeliness of Submissions to City

Any report shall be considered late until such time as a correct and complete report is received by City. For each calendar day a report is late, the daily liquidated damage amount shall be:

(a) Quarterly Reports: \$100 per day

(b) Annual Reports: \$150 per day

5. Accuracy of Billing

(a) Each invoice billing run that is not prepared in accordance with City's approved rate schedule: \$100

(b) Each occurrence in which a service address is "double billed" with multiple invoices sent to different billing addresses (for example, both a tenant and an off-site property owner are billed for service at the same location): \$150

6. Implementation of Public Education Plan

Each day past the agreed upon deadline that Company fails to perform a task set forth in its public education plan: \$50 per day

C. Imposition of Liquidated Damages

1. City may determine the occurrence of events giving rise to liquidated damages through the observations of its own employees or representatives or through the investigation of customer complaints.
2. Prior to assessing liquidated damages, City shall give Company notice of its intention to do so. The notice shall include a brief description of the incident or the event of non-performance. Company may review (and make copies at its own expense) all non-confidential information in City's possession relating to the incident or the event of non-performance. Company may, within ten (10) days after receiving the notice, request a meeting with the City Manager. Company may present evidence in writing and through testimony of its employees and others relevant to the incident or the event of non-performance. The City Manager shall provide Company with a written explanation of the determination on each incident or event of non-performance prior to authorizing the assessment of liquidated damages. The decision of the City Manager shall be final.

D. **Amount.** City may assess liquidated damages for each calendar day or each event, as appropriate, that Company is determined to be liable.

E. **Timing of Payment.** Company must pay any liquidated damages assessed by City within ten (10) days after they are assessed. If assessed damages are not paid within the ten (10) day period, City may proceed against the Performance Bond or order the termination of the franchise granted by this Agreement, or exercise any other right or remedy available to City under this Agreement or at law or in equity, or any combination of these remedies.

8.3 Extension of Time of Performance

A. Performance by any party hereunder shall not be deemed to be in default, if that performance is prevented by reason of floods, earthquakes, other natural disasters, war, civil insurrection, riots, acts of any government (including judicial action), strikes or labor unrest, and other similar catastrophic events that are beyond the control of and not the fault of the party claiming excuse from performance.

B. The party claiming the extension must, within two (2) days after that party has notice of such cause, give the other party notice of the facts constituting such cause and assert its claim to extension under this Section. Notwithstanding anything to the contrary in this Agreement, an extension of time for any such cause shall be for the period of time reasonable in light of the enforced delay.

- C. The interruption or discontinuance of Company's services caused by one (1) or more of the events listed above shall not constitute a default by Company under this Agreement. Notwithstanding the foregoing, however, if Company is excused from performing its obligations for any of the causes listed in this Section for a period of ten (10) days or more, City shall nevertheless have the right, in its sole discretion, to terminate this Agreement by giving ten (10) days' notice. If Company resumes full performance of its obligations prior to the expiration of the ten (10) day notice period, the notice shall be of no further force or effect.

8.4 Assurance of Performance

City may, at its option and in addition to all other remedies it may have, demand from Company reasonable assurances of timely and proper performance of this Agreement, in such form as City may require. If Company fails or refuses to provide satisfactory assurances of timely and proper performance in the form and by the date required by City, such failure or refusal will be an event of default.

ARTICLE 9.

OTHER AGREEMENTS OF THE PARTIES

9.1 Relationship of Parties

The parties intend that Company shall perform the services required by this Agreement as an independent contractor engaged by City and not as an officer or employee of City, nor as a partner of or joint venture with City. No employee or agent of Company shall be deemed to be an employee or agent of City. Except as expressly provided herein, Company shall have exclusive control over the manner and means of conducting the Solid Waste collection services performed under this Agreement and over all persons performing those services. Company is solely responsible for the acts and omissions of its officers, employees, subsidiaries, subcontractors, affiliates and agents. Neither Company nor its officers, employees, subsidiaries, subcontractors, affiliates and agents will obtain any rights to retirement benefits, Workers' Compensation benefits, or any other benefits that accrue to City employees by virtue of their employment with City.

9.2 Compliance with Law

In providing the services required under this Agreement, Company must at all times, and at its sole cost, comply with all Applicable Law and regulations of the United States, the State of California, and local agencies. City must comply with all applicable regulations promulgated by federal, state, regional, or local administrative and regulatory agencies, that are now in force and as they may be enacted or amended during the term of this Agreement.

9.3 Governing Law

This Agreement is governed by, and will be construed and enforced in accordance with, the laws of the State of California.

9.4 Jurisdiction

Any lawsuits between the parties arising out of this Agreement will be brought and concluded in the courts of the State of California, which will have exclusive jurisdiction over such lawsuits. With respect to venue, the parties agree that this Agreement is made in and will be performed in Los Angeles County.

9.5 Assignment

- A. Neither party may assign its rights, nor delegate, subcontract or otherwise transfer its obligations under this Agreement, to any other person without the prior written consent of the other party. Any such assignment made without the consent of the other party is void, and the attempted assignment will constitute a material breach of this Agreement.
- B. For purposes of this Section and when used in reference to Company, "assignment" includes, but is not limited to (1) a sale, exchange or other transfer to a third party of substantially all of Company's assets dedicated to service under this Agreement; (2) a sale, exchange, or other transfer of outstanding common stock of Company to a third party, provided such sale, exchange or transfer may result in a change of control of Company; (3) any dissolution, reorganization, consolidation, merger, re-capitalization, stock issuance or re-issuance, voting trust, pooling agreement, escrow arrangement, liquidation, or other transaction that results in a change of ownership or control of Company; (4) any assignment by operation of law, including insolvency or bankruptcy, an assignment for the benefit of creditors, writ of attachment for an execution being levied against this Agreement, appointment of a receiver taking possession of Company's property, or transfer occurring in the event of a probate proceeding; and (5) any combination of the foregoing (whether or not in related or contemporaneous transactions) that has the effect of a transfer or change of ownership, or change of control of Company.
- C. Company acknowledges that this Agreement involves rendering a vital service to Residential Accounts within the City, and that City has selected Company to perform the specified services based on (1) Company's experience, skill and reputation for conducting its operations in a safe, effective and responsible fashion, at all times in compliance with applicable environmental laws, regulations, and the best solid waste management practices; and (2) Company's financial resources to maintain the required equipment and to support its indemnity obligations to City under this Agreement. City has relied on each of these factors, among others, in

choosing Company to perform the services to be rendered under this Agreement.

D. If Company requests City's consideration of and consent to an assignment, City may deny or approve such request in its reasonable discretion. A request by Company for consent to an assignment will require compliance with the following requirements:

1. Any application for a change of ownership or a transfer will be made in a manner prescribed by the City Manager and will include any information reasonably required by the City Manager. The application must include a transfer fee, in an amount to be set by resolution of the City Council, to cover the reasonable costs of all direct and indirect administrative expenses of City, including, without limitation, consultants and attorneys necessary to analyze the application. The applicant must pay such transfer fee prior to any authorized change of ownership or franchise transfer becoming effective. Notwithstanding the above, payment of a transfer fee will not be required in the event of an assignment to an affiliate of Company.
2. Except for an assignment to an affiliate of Company, the proposed assignee must furnish City with audited financial statements of the proposed assignee's operations for the immediately preceding three (3) operating years.
3. Except for an assignment to an affiliate of Company, the proposed assignee must furnish City with satisfactory proof: (a) that the proposed assignee has at least ten (10) years of solid waste management experience on a scale equal to or exceeding the scale of operations conducted by Company under this Agreement; (b) that in the last five (5) years, the proposed assignee has not received any significant citations from any federal, state, or local agency having jurisdiction over its solid waste management operations due to any material failure to comply with state, federal or local environmental laws and that the assignee has provided City with a complete list of such citations; (c) that the proposed assignee has at all times conducted its operations in an environmentally safe and conscientious fashion; (d) that the proposed assignee conducts its solid waste management practices in accordance with sound solid waste management practices in full compliance with all federal, state and local laws regulating the collection and disposal of solid waste, including hazardous substances; and (e) any other information required by City to ensure that the proposed assignee can fulfill the terms of this Agreement in a timely, safe and effective manner.

4. Under no circumstances shall City be obligated to consider any proposed assignment if Company is in default at any time during the period of consideration.

9.6 Contracting or Subcontracting

Company must not engage any subcontractors for the collection of Solid Waste or Recyclable Materials from Residential Accounts without the prior written consent of City.

9.7 Binding on Assigns

The provisions of this Agreement will inure to the benefit of and be binding on the permitted assigns of the parties.

9.8 Transition to the Next Company

If the transition of services to another company occurs by reason of the expiration of the term, default, termination, or otherwise, Company shall cooperate with City and any subsequent solid waste enterprise to assist in an orderly transition that will include, but not be limited to, Company providing route lists and billing information.

The failure to cooperate with City following termination shall be conclusively presumed to be grounds for specific performance of this Agreement and/or other equitable relief necessary to enforce this Agreement.

Company shall provide a new service provider with all keys, security codes and remote controls used to access garages and bin enclosures. Company shall be responsible for coordinating transfer immediately after Company's final pick-ups, so as not to disrupt service. Company shall provide City with detailed route sheets containing service names and addresses, billing names and addresses, monthly rate and service levels (number and size of containers and pick-up days) at least ninety (90) days prior to the transition date, and provide an updated list two (2) weeks before the transition and a final list of changes the day before the transition. Company shall provide means of access to the new service provider at least one (1) full Business Day prior to the first day of Collection by another party, and always within sufficient time so as not to impede in any way the new service provider from easily servicing all containers.

9.9 Parties in Interest

Nothing in this Agreement, whether express or implied, is intended to confer any rights on any persons other than the parties to it and their representatives, successors, and permitted assigns.

9.10 Non-Waiver Provision

The waiver by either party of any breach or violation of any provisions of this Agreement shall not be deemed to be a waiver of any breach or violation of any other provision nor of any subsequent breach or violation of the same or any other provision. The subsequent acceptance by either party of any moneys that become due hereunder shall not be deemed to be a waiver of any pre-existing or concurrent breach or violation by the other party of any provision of this Agreement. Failure of either party to exercise any of the remedies set forth in this Agreement within the time periods specified will not constitute a waiver of any rights of that party with regard to an event of nonperformance, whether determined to be a breach, excused performance, or unexcused default by the other party.

9.11 Notice

- A. All notices, demands, requests, proposals, approvals, consents and other communications that this Agreement requires, authorizes, or contemplates must be in writing and must either be personally delivered to a representative of the party at the address set forth below, or be deposited in the United States mail, first class postage prepaid, addressed as follows:

If to City: City Manager
 City of Agoura Hills
 30001 Ladyface Court
 Agoura Hills, California 91301

If to Company: Michael Smith, Market Area Manager
 Waste Management/G.I. Industries
 195 West Los Angeles Avenue
 Simi Valley, California 93094

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

9.12 Representatives of the Parties

- A. As set forth in Section 2.6 of Article 2, the administration of this Agreement by City will be under the supervision and direction of the City Manager.
- B. Company must, by the Operative Date, designate in writing a responsible officer who will serve as the representative of Company in all matters related to this Agreement. Company must inform City in writing of that designation and of any limitations upon that officer's authority to bind Company. City may rely upon actions taken by that designated representative as actions

of Company unless they are outside the scope of the authority delegated by Company as communicated in writing to City.

9.13 City Free to Negotiate with Third Parties

Notwithstanding the exclusive nature of this Agreement, City may investigate all options for the collection, transporting, recycling, processing, and disposal of Solid Waste and Recyclable Materials at any time prior to the expiration of the term of this Agreement. Without limiting the generality of the foregoing, but subject to the requirements of Section 2.8, City may solicit proposals from Company and from third parties for the provision of collection services, disposal services, Recycling services, Green Waste services and processing, and any combination thereof, and may negotiate and execute agreements for those services that will take effect upon the expiration or earlier termination of this Agreement under Section 8.

9.14 Compliance with Municipal Code

Company must comply with all applicable provisions of the Municipal Code of City, and with all amendments to those provisions during the term of this Agreement.

9.15 Privacy

Company must strictly observe and protect the rights of privacy of customers. Information identifying individual customers or the contents of a customer's waste stream, must not be revealed to any person, governmental unit, or private entity unless directed by a court of law, by statute, or upon authorization of the customer. This provision shall not be construed to preclude Company from preparing, participating in, or assisting in the preparation of waste characterization studies or waste stream analyses that may be required by the Act. This provision does not apply to reports or records provided to City under this Agreement so long as City maintains reports or records with customer identification as confidential information in accordance with this Section.

9.16 Proprietary Information; Public Records

City acknowledges that certain records and reports of Company are proprietary and confidential. Where required by this Agreement, Company is obligated to permit City to inspect its records on demand and to provide copies to City when requested. City will endeavor to maintain the confidentiality of all proprietary information provided by Company. Notwithstanding the foregoing, and any documents provided by Company to City that are public records, may be disclosed in accordance with a proper public records act request.

9.17 Guarantee of Company's Performance

Waste Management Holdings, Inc., a Delaware corporation that owns all of the issued and outstanding common stock of Company, shall guarantee Company's performance of this Agreement. The guarantee, in substantially the form attached

as Exhibit 2, will be provided within thirty (30) days after Company's execution of this Agreement.

9.18 Attorney's Fees

In any action or proceeding to enforce or interpret any of the terms of this Agreement, the prevailing party is entitled to an award of attorney's fees in the amount reasonably incurred in the prosecution or defense of that action. The term "prevailing party" means the party entitled to recover costs of suit, upon the conclusion of the matter, in accordance with the laws of the State of California.

ARTICLE 10. **MISCELLANEOUS PROVISIONS**

10.1 Entire Agreement

This Agreement, including the exhibits, constitutes the entire agreement between the parties with respect to the matters covered and, no verbal agreement or understanding with any officer, agent, or employee of City, either before, during, or after the execution of this Agreement, will affect or modify any of the obligations herein contained, nor will any such verbal agreement or understanding entitle Company to any additional payment under the terms of this Agreement.

10.2 Article and Section Headings

The article and section headings in this Agreement are for the convenience of reference only and are not intended to be used in construing this Agreement, nor are they intended to alter or affect any of its provisions.

10.3 References to Laws

All references in this Agreement to laws will be understood to include existing laws as they may be subsequently amended or recodified, unless otherwise specifically provided.

10.4 Interpretation

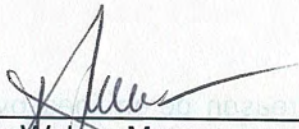
This Agreement, including the attached exhibits, shall be interpreted and construed reasonably, and neither for nor against either party, regardless of the degree to which either party participated in its drafting.

10.5 Amendments

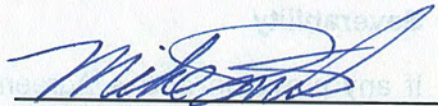
This Agreement may not be amended in any respect except by a writing signed by the parties, and, no verbal agreement or understanding with any officer, agent, or employee of City, either before, during, or after the execution of this Agreement, will affect or modify any of the obligations herein contained, nor will any such verbal

CITY OF AGOURA HILLS

G.I. Industries,
a Utah Corporation

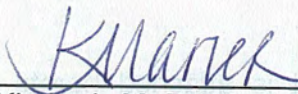
By: 
Denis Weber, Mayor

Date: 1/11/2017

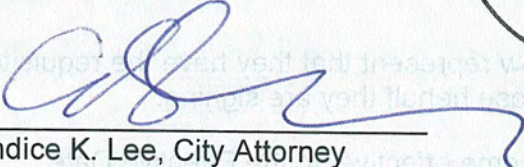
By: 
(Authorized Representative)

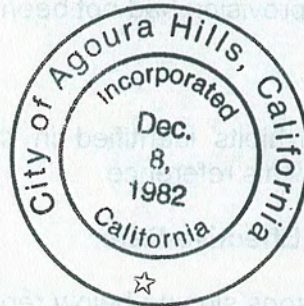
Title: DIRECTOR OF OPERATIONS
Date: 12-20-16

ATTEST:

By: 
Kimberly M. Rodrigues, City Clerk

APPROVED AS TO FORM:

By: 
Candice K. Lee, City Attorney



agreement or understanding entitle Company to any additional payment under the terms of this Agreement.

10.6 Severability

If any provision of this Agreement is for any reason determined by a court of competent jurisdiction to be invalid or unenforceable for any reason, including but not limited to a change in applicable federal, state or local law, the invalidity or unenforceability of that provision shall not affect any of the remaining provisions of this Agreement, which provisions shall be enforced as if such invalid or unenforceable provision had not been included.

10.7 Exhibits

Each of the exhibits identified in this Agreement is attached hereto and is incorporated by this reference.

10.8 Authority and Effective Date

- A. The persons signing below represent that they have the requisite authority to bind the entities on whose behalf they are signing.
- B. This Agreement shall become effective on the Effective Date.

TO EFFECTUATE THIS AGREEMENT, each of the parties has caused this Agreement to be executed by its duly authorized representative as of the date set forth below the authorized signature.

[signatures begin on next page]

EXHIBIT 1 **INITIAL MAXIMUM RATES**

Agoura Hills - Residential

Curbside Service	Trash Cart	Recycle Cart	Yard Cart	Monthly Rate	Price Group
Minican	Blue 32	Grey 64	Green 96	\$ 19.47	AGM
Level 1	Blue 64	Grey 64	Green 96	\$ 26.02	AG1
Level 2	Blue 96	Grey 64	Green 96	\$ 31.68	AG2
Level 3	2 Blue 64's	Grey 64	Green 96	\$ 44.79	AG3
Level 4	1 – 64 & 1- 96	Grey 64	Green 96	\$ 50.55	AG4
Level 5	2 Blue 96's	Grey 64	Green 96	\$ 50.81	AG5
Condos/Townhomes	Trash Cart	Recycle Cart	Yard Cart	Rate per unit	Price Group
	Blue 32	Grey 64	N/A	\$ 13.18	
	Blue 64	Grey 64	N/A	\$ 18.99	
	Blue 96	Grey 64	N/A	\$ 24.80	
Valet/pullout service				\$13.76	

SERVICE OPTIONS:

Start Charge	\$ 18.30
Cut Off Restart Fee	\$ 22.35
Customer Service Credit Card Processing fee	\$ 9.15
Senior Discount	15%
Cut off/Start Activation Fee	\$ 22.35
Third Additional 64 gal Trash Cart	\$ 11.12
Third Additional 96 gal Trash Cart	\$ 16.69
Additional 96 gal Green Waste	\$ 3.44
Additional 64 gal Recycle Cart (2nd N/C)	\$ 3.44 (after two carts)
Additional 96 gal Recycle Cart (2nd N/C)	\$ 3.44 (after two carts)
96 Gal Yard/Manure Cart	\$ 9.29
Additional 96 Gal Yard/Manure Cart	\$ 9.29
Recycle Contamination Fee	\$ 26.61
Greenwaste Contamination Fee	\$ 26.61
Extra Pick Up on scheduled service day (bag)	\$ 3.44 (per bag)
Extra Pick Up on scheduled service day (cart)	\$ 5.72 (per cart)
Extra Pick Up on Non Scheduled pick up day	\$ 28.60*
*(For 3 carts or 6 bags. Anything over is extra. See above.)	
Bulky Items Pick Up	4 items total/2 trips per calendar year
Additional Bulky Item Pick-ups	\$ 28.60

Agoura Hills – Residential Bin Rates

RESIDENTIAL & MULTI-FAMILY TRASH BIN RATES

1.5 yd Trash Bin	1x Week	\$ 73.63	5x Week	\$ 294.24
	2x Week	\$ 133.75	6x Week	\$ 347.75
	3x Week	\$ 187.25		
	4x Week	\$ 236.54		
3yd Trash Bin	1x Week	\$ 90.57	5x Week	\$ 361.11
	2x Week	\$ 160.49	6x Week	\$ 427.98
	3x Week	\$ 227.37		
	4x Week	\$ 294.24		
4yd Trash Bin	1x Week	\$ 96.54	5x Week	\$ 427.98
	2x Week	\$ 187.25	6x Week	\$ 508.24
	3x Week	\$ 267.96		
	4X Week	\$ 347.75		

RESIDENTIAL & MULTI-FAMILY UNIT RECYCLE BIN RATES

1.5 yd Recycle Bin	1x Week	\$ 30.60	5x Week	\$ 152.22
	2x Week	\$ 60.94	6x Week	\$ 182.67
	3x Week	\$ 91.28		
	4x Week	\$ 121.89		
3yd Recycle Bin	1x Week	\$ 33.80	5x Week	\$157.55
	2x Week	\$ 66.27	6x Week	\$ 187.99
	3x Week	\$ 96.60		
	4x Week	\$ 127.21		
4yd Recycle Bin	1x Week	\$ 36.99	5x Week	\$ 162.87
	2x Week	\$ 69.46	6x Week	\$ 193.31
	3x Week	\$ 101.93		
	4X Week	\$ 132.53		

MANURE BIN SERVICE RATES

1.5 yd Recycle Bin	1x Week	\$ 106.45	5x Week	\$ 532.25
	2x Week	\$ 212.90	6x Week	\$ 638.70
	3x Week	\$ 319.55		
	4x Week	\$ 425.80		
3yd Recycle Bin	1x Week	\$ 127.74	5x Week	\$638.70
	2x Week	\$ 255.48	6xWeek	\$ 766.44
	3x Week	\$ 383.22		
	4x Week	\$ 510.96		
4yd Recycle Bin	1x Week	\$ 149.03	5x Week	\$ 745.15
	2x Week	\$ 298.06	6x Week	\$ 894.18
	3x Week	\$ 447.09		
	4X Week	\$ 596.12		

SCOUT/PULL-OUT SERVICE RATES

1.5 yd Recycle Bin	1x Week	\$ 26.61	5x Week	N/A
	2x Week	\$ 53.23	6x Week	N/A
	3x Week	\$ 79.84		
	4x Week	\$110.00		
3yd Recycle Bin	1x Week	\$ 26.61	5x Week	N/A
	2x Week	\$ 53.23	6xWeek	N/A
	3x Week	\$ 79.84		
	4x Week	\$110.00		
4yd Recycle Bin	1x Week	\$ 26.61	5x Week	N/A
	2x Week	\$ 53.23	6x Week	N/A
	3x Week	\$ 79.84		
	4X Week	\$110.00		

WM
WASTE MANAGEMENT

DATE: 1/05/2016

TO: Treasury
Corporate Legal

FROM: Pete Demolder

RE: Waste Management, Inc. Guaranty ("Corporate Guaranty") Request

[WMI Department/Group/Subsidiary/Market Area] hereby requests your review and approval of a Corporate Guaranty of the following obligation(s), as described below:

1. Agreement or contract under which the guaranteed obligation(s) arises (**attach or send copy of the final agreement or contract to Treasury and Corporate Legal upon execution**):
Franchise Agreement between City of Agoura Hills and G.I. Industries for Integrated Exclusive Residential Waste Management Services
2. Name of WM entity or other person that is the principal obligor:
G.I. Industries, subsidiary of Western Waste Industries
3. Is this a guaranty of a third party's obligations to another person (i.e., an obligation of a non-Waste Management, Inc. wholly owned subsidiary)? Yes _____ No **X**

If yes, please provide financial and business justification, including the impact of this obligation on your Market Area's/Group's financial statements: _____

4. Type of guaranty (circle and answer, as applicable):

Financial

Performance

Both

If "financial" or "both", please indicate amount guaranteed in US dollars or applicable currency: _____

If performance or "both", please describe the performance obligation guaranteed, and the value of the underlying contract to the WM principal obligor: Performance of residential waste management services

5. The term or expiration date of the guaranteed obligation(s):
6/30/2027
6. Any other details or relevant information:
Contract Value \$3,984,000

Approved/Disapproved:

Treasury

By: Peyina Rankin

Date: 1/5/17

Approved/Disapproved:

Corporate Legal

By: Courtney Tippet

Date: 1/5/17

CORPORATE GUARANTY

THIS GUARANTY ("Guaranty") is given as of the 1st day of January 2017, and is made with reference to the following facts and circumstances:

- A. GI Industries ("Company") is a corporation organized under the laws of the State of Utah, and is a wholly-owned subsidiary of Western Waste Industries, a California corporation, which is a wholly-owned subsidiary of Waste Management, Inc. ("Guarantor"), a corporation organized under the laws of the State of Delaware.
- B. Company and the City of Agoura Hills ("City") have negotiated a Franchise Agreement for Integrated Residential Waste Management Services dated as of January 1, 2017 ("Agreement"). A copy of that Agreement is attached.
- C. It is a requirement of the Agreement, and a condition to City entering into the Agreement, that Guarantor guarantee Company's performance of the Agreement.
- D. Guarantor is providing this Guaranty to induce City to enter into the Agreement.

NOW, THEREFORE, in consideration of the foregoing, Guarantor agrees as follows:

- 1. **Guaranty of the Agreement.** Guarantor irrevocably and unconditionally guarantees to City the complete and timely performance by Company of each and every term of the Agreement that Company is required to perform. If Company fails to perform any term of the Agreement, Guarantor will promptly and fully perform it in the place of Company, or cause it to be performed. Guarantor also guarantees payment to City of any damages, costs, or expenses that might become recoverable by City from Company due to its breach of the Agreement.
- 2. **Guarantor's Obligations are Absolute.** The obligations of the Guarantor under this Guaranty are continuing, unconditional, and unlimited, and, with respect to any payment obligation of Company under the Agreement, constitute a guarantee of payment and not of collection, and are not conditional upon the validity or enforceability of the Agreement. In any action brought against the Guarantor to enforce, or for damages for breach of, its obligations under this Guaranty, the Guarantor will be entitled to all defenses, if any, that would be available to Company in an action to enforce, or for damages for breach of, the Agreement (other than discharge of, or stay of proceedings to enforce, obligations under the Agreement under bankruptcy law).
- 3. **Waivers.** Guarantor has no right to terminate this Guaranty, or to be released, relieved, exonerated or discharged from its obligations under this Guaranty for any reason including, without limitation: (a) the insolvency, bankruptcy, reorganization or cessation of existence of Company; (b) the actual or purported rejection by a trustee in bankruptcy of the Agreement, or any limitation on any claim in bankruptcy resulting from the actual or purported termination of the Agreement; (c)

any waiver with respect to any of the obligations of the Agreement guaranteed hereunder, or the impairment or suspension of any of City's rights or remedies against Company; or (d) any merger or consolidation of Company with any other entity, or any sale, lease, or transfer of any or all the assets of Company. Without limiting the generality of the foregoing, Guarantor waives the rights and benefits under California Civil Code Section 2819.

The Guarantor waives all benefits and defenses under California Civil Code Sections 2846, 2849, and 2850, including without limitation, the right to require City to (a) proceed against Company; (b) proceed against or exhaust any security or collateral City may now or later hold; or (c) pursue any other right or remedy for Guarantor's benefit. Guarantor agrees that City may proceed against Guarantor for the obligations guaranteed herein without taking any action against Company, or any other guarantor or pledgor, and without proceeding against or exhausting any security or collateral City may now or later hold. City may, in its sole discretion, exercise all rights and remedies available to it against Company, or any other guarantor or pledgor, without impairing City's rights and remedies in enforcing this Guaranty.

Without limiting the generality of the foregoing, it is agreed that the occurrence of any assignment of the Agreement that does not require City's approval will not affect the liability of the Guarantor.

Guarantor expressly waives diligence, presentment, demand for payment or performance, protest and all notices whatsoever, including, but not limited to, notices of non-payment or non-performance, notices of protest, notices of any breach or default, and notices of acceptance of this Guaranty. If all or any portion of the obligations guaranteed under this Guaranty are paid or performed, Guarantor's obligations will continue and remain in full force and effect in the event that all or any part of such payment or performance is avoided or recovered directly or indirectly from City as a preference, fraudulent transfer, or otherwise, irrespective of (a) any notice of revocation given by Guarantor or Company prior to such avoidance or recovery; and (b) payment in full of any obligations then outstanding.

4. **Term.** This Guaranty is not limited to any period of time, but will continue in full force and effect until all of the terms of the Agreement have been fully performed or otherwise discharged. Guarantor will remain fully responsible under this Guaranty without regard to the acceptance by City of any performance bond or other collateral to assure the performance of Company's obligations under the Agreement. Guarantor will not be released from its obligations under this Guarantee so long as there is any claim by City against Company arising out of the Agreement based on Company's failure to perform, which failure has not been settled or discharged.
5. **No Waivers.** No delay by City in exercising any rights under this Guaranty, nor City's failure to exercise those rights, will operate as a waiver of those rights. No

notice to or demand on Guarantor will be a waiver of any obligation of Guarantor, or right of City, to take other or further action without notice or demand. No modification or waiver of any of the provisions of this Guaranty will be effective unless it is in writing and signed by City and by Guarantor, nor will any waiver be effective except in the specific instance or matter for which it is given.

6. **Attorney's Fees.** If Guarantor breaches its obligations under this Guaranty, Guarantor will pay reasonable attorney's fees, and all other reasonable costs and expenses, that are incurred by City in enforcing this Guaranty, or that are incurred in any action or proceeding arising out of or relating to this Guaranty, including any action instituted to determine the respective rights and obligations of the parties under this Guaranty.
7. **Governing Law; Jurisdiction.** This Guaranty is and will be deemed to be a contract entered into under the laws of the State of California and will be governed and construed in accordance with the laws of California without regard to its conflicts of laws rules for all purposes including, but not limited to, matters of construction, validity, and performance. Guarantor agrees that any action brought by City to enforce this Guaranty may be brought in any court of the State of California, and Guarantor consents to personal jurisdiction over it by those courts solely for the purpose of any action brought by the City to enforce this Guaranty. Guarantor appoints the following person as its agent for service of:

The Corporation Trust Company
1209 Orange Street
Wilmington, DA 19801

With a copy by certified mail to:

Waste Management, Inc.
1001 Fannin Street
Houston, TX 77002
Attn: General Counsel
GCLegal@wm.com

8. **Severability.** If any portion of this Guaranty is held to be invalid or unenforceable, such invalidity will not affect the remaining portions of this Guaranty, which portions are severable and will continue in full force and effect.
9. **Binding on Successors.** This Guaranty inures to the benefit of City and its successors and is binding upon Guarantor and its successors, including any transferee of substantially all of Guarantor's assets, and its shareholders in the event of Guarantor's dissolution or insolvency.
10. **Authority.** Guarantor represents and warrants that it has the corporate power and authority to give this Guaranty, that the execution of this Guaranty has been

authorized by all necessary action under its articles of incorporation and by-laws, and that the person signing this Guaranty on its behalf has the authority to do so.

11. **Notices.** Notices must be given in writing, deposited in the U.S. mail, registered or certified, first class postage prepaid, addressed as follows:

To City: City Manager
City of Agoura Hills
30001 Ladyface Court
Agoura Hills, California 90749

with a copy to the City Attorney at the same address.

To Guarantor: Waste Management, Inc.
1001 Fannin Street
Houston, TX 77002
Attn: General Counsel
GCLegal@wm.com

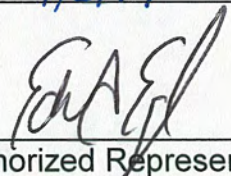
IN WITNESS WHEREOF, THE FOREGOING IS EXECUTED AS OF THE DATE FIRST WRITTEN ABOVE.

WASTE MANAGEMENT, INC.
a Delaware corporation

By: 
Authorized Representative

Title: Vice President and Treasurer

Date: 1/5/17

By: 
Authorized Representative

Title: Assistant Treasurer

Date: 1/5/17

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of ~~California~~ Texas
County of Harris

On January 5, 2017 before me, Lucrecia Zamora
(insert name and title of the officer)

personally appeared Devina A. Rankin,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

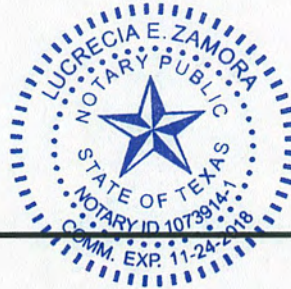
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature

[Signature]

(Seal)



ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of ~~California~~ Texas
County of Harris

On January 5, 2017 before me, Lucrecia Zamora
(insert name and title of the officer)

personally appeared Edward A. Egl,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature

[Signature]

(Seal)

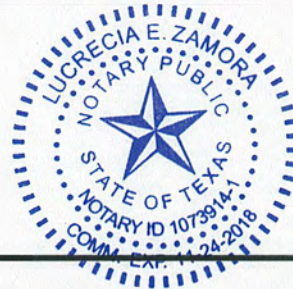


EXHIBIT 3
FAITHFUL PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, City of Agoura Hills, California, a municipal corporation ("City") has awarded to G.I. Industries, a Utah corporation, a Waste Management company ("Principal"), an exclusive franchise for the collection, processing, and disposal of residential solid waste generated within City; and

WHEREAS, the exclusive franchise, identified as "Franchise Agreement for Integrated Exclusive Residential Waste Management Services" is incorporated by this reference; and

WHEREAS, the Principal is required under the terms of the exclusive franchise to furnish a bond for its faithful performance;

NOW, THEREFORE, we, Principal and Lexon Insurance Company, as Surety, are held and firmly bound unto City in the penal sum of Two Hundred Fifty Thousand Dollars (\$250,000.00), lawful money of the United States, for the payment of which we bind ourselves, our heirs, successors, executors, administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that the obligation will become null and void if the above-bounded Principal, his or its heirs, executors, administrators, successors, or assigns, will in all things stand to, abide by, well and truly keep and perform the covenants, conditions, and provisions in said exclusive franchise and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to his or their true intent and meaning, and will indemnify and save harmless City, its officers, agents, and employees, as therein stipulated; otherwise, this obligation will be and remain in full force and effect.

As part of the obligation secured hereby, and in addition to the face amount specified, costs and reasonable expenses and fees will be included, including reasonable attorneys' fees, incurred by City in successfully enforcing the obligation, all to be taxed as costs and included in any judgment rendered.

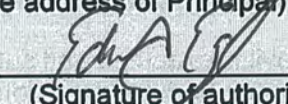
The Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the exclusive franchise, the work to be performed thereunder, or the specifications accompanying the exclusive franchise will in any manner affect its obligations on this bond. The Surety hereby waives notice of any such change, extension of time, alteration, or addition to the terms of the exclusive franchise, the work, or the specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety on June 2, 2017.

G.I. Industries
(Type name of Principal)

195 West Los Angeles Avenue


Simi Valley, CA 93065
(Type address of Principal)

By: 
(Signature of authorized officer)

Edward A. Egl
Assistant Treasurer
(Title of officer)

Lexon Insurance Company
(Type name of Surety)

10002 Shelbyville Road, Suite 100, Louisville, KY 40223
(Type address of Surety)

By: 
(Signature of authorized officer)

Theresa Pickerrell, Attorney-in-Fact
(Title of officer)

APPROVED AS TO FORM:

CITY ATTORNEY

Note: This Bond must be executed in duplicate and dated, all signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached. DATE OF BOND MUST NOT BE BEFORE DATE OF CONTRACT. Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the project is located.

CALIFORNIA ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of Texas }

County of Harris }

On 6/5/2017 before me, Michele Garcia, Notary Public
(Here insert name and title of the officer)

personally appeared Ed Egl, Assistant Treasurer,
who proved to me on the basis of satisfactory evidence to be the person(s) whose
name(s) is/are subscribed to the within instrument and acknowledged to me that
he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by
his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of
which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Michele Garcia

Notary Public Signature



(Notary Public Seal)

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

CAPACITY CLAIMED BY THE SIGNER

☐ Individual (s)

☒ Corporate Officer

Assistant Treasurer
(Title)

☐ Partner(s)

☐ Attorney-in-Fact

☐ Trustee(s)

☐ Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/~~she/they~~, is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of Kentucky }

County of Jefferson }

On June 2, 2017 before me, Sandra L. Fusinetti, Notary Public,
(Here insert name and title of the officer)

personally appeared Theresa Pickerrell, Attorney-In-Fact,
who proved to me on the basis of satisfactory evidence to be the person(s) whose
name(s) is/are subscribed to the within instrument and acknowledged to me that
~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(ies), and that by
~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of
which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Sandra L. Fusinetti

Notary Public Signature

(Notary Public Seal)

My Commission expires February 13th, 2020

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
☐ Corporate Officer

(Title)

- ☐ Partner(s)
☒ Attorney-in-Fact
☐ Trustee(s)
☐ Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

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- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~, is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
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- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

POWER OF ATTORNEY

LX- 302773

Lexon Insurance Company

KNOW ALL MEN BY THESE PRESENTS, that **LEXON INSURANCE COMPANY**, a Texas Corporation, with its principal office in Louisville, Kentucky, does hereby constitute and appoint: Brook T. Smith, Raymond M. Hundley, Jason D. Cromwell, James H. Martin, Barbara Duncan, Sandra L. Fusinetti, Mark A. Guidry, Jill Kemp, Lynnette Long, Amy Meredith, Deborah Neichter, Theresa Pickerrell, Sheryon Quinn, Bonnie J. Rowe, Beth Frymire, Michael Dix, Leigh McCarthy, Rebecca M. Reid its true and lawful Attorney(s)-In-Fact to make, execute, seal and deliver for, and on its behalf as surety, any and all bonds, undertakings or other writings obligatory in nature of a bond.

This authority is made under and by the authority of a resolution which was passed by the Board of Directors of **LEXON INSURANCE COMPANY** on the 1st day of July, 2003 as follows:

Resolved, that the President of the Company is hereby authorized to appoint and empower any representative of the Company or other person or persons as Attorney-In-Fact to execute on behalf of the Company any bonds, undertakings, policies, contracts of indemnity or other writings obligatory in nature of a bond not to exceed \$5,000,000.00, Five Million dollars, which the Company might execute through its duly elected officers, and affix the seal of the Company thereto. Any said execution of such documents by an Attorney-In-Fact shall be as binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company. Any Attorney-In-Fact, so appointed, may be removed for good cause and the authority so granted may be revoked as specified in the Power of Attorney.

Resolved, that the signature of the President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Assistant Secretary, and the seal of the Company may be affixed by facsimile to any certificate of any such power and any such power or certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certificate so executed and sealed shall, with respect to any bond of undertaking to which it is attached, continue to be valid and binding on the Company.

IN WITNESS THEREOF, **LEXON INSURANCE COMPANY** has caused this instrument to be signed by its President, and its Corporate Seal to be affixed this 5th day of August, 2015.



LEXON INSURANCE COMPANY

BY

David E. Campbell
President

ACKNOWLEDGEMENT

On this 5th day of August, 2015, before me, personally came David E. Campbell to me known, who be duly sworn, did depose and say that he is the President of **LEXON INSURANCE COMPANY**, the corporation described in and which executed the above instrument; that he executed said instrument on behalf of the corporation by authority of his office under the By-laws of said corporation.



AMY TAYLOR
Notary Public- State of Tennessee
Davidson County
My Commission Expires 07-08-19

BY

Amy Taylor
Notary Public

CERTIFICATE

I, the undersigned, Assistant Secretary of **LEXON INSURANCE COMPANY**, A Texas Insurance Company, DO HEREBY CERTIFY that the original Power of Attorney of which the forgoing is a true and correct copy, is in full force and effect and has not been revoked and the resolutions as set forth are now in force.

Signed and Seal at Mount Juliet, Tennessee this 2nd Day of June, 20 17.



BY

Andrew Smith
Assistant Secretary

"WARNING: Any person who knowingly and with intent to defraud any insurance company or other person, files and application for insurance of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties."

EXHIBIT 4

AFFIDAVIT REGARDING PROCESS INTEGRITY AND NONCOLLUSION

This affidavit is submitted by the undersigned and signed under penalty of perjury, in connection with the "Agreement for Integrated Exclusive Residential Waste Management Services" entered into with City of Agoura Hills ("Franchise Agreement"). The undersigned affiant, being of lawful age, states as follows:

1. That this affidavit is executed and submitted on behalf of the solid waste enterprise whose name is set forth below ("Company").
2. That in the six (6) months prior to the execution of the Franchise Agreement, neither Company, nor any of its agents or representatives, has paid, given, or donated, nor agreed to pay, give, or donate, any money or other things of value to any member of the Agoura Hills City Council.
3. That Company has not, either directly or indirectly, entered into any agreement or understanding with any other solid waste enterprise relating to the provision of integrated residential waste management services in City, controlling the rates, fees, charges or other compensation, allocating required services, or otherwise restraining or impeding competition.

Executed under penalty of perjury this 12 day of 20, 2016, at Simi Valley, California.

G.I. Industries
[Name of Company]


[Signature of Affiant]

Mike E Smith
[Type Name of Affiant]

Director of Operations
[Title]

G.I. INDUSTRIES

**WRITTEN CONSENT OF THE
BOARD OF DIRECTORS**

The undersigned, being all the Directors of G.I. Industries, a Utah corporation (the "Company"), hereby consent to the adoption of the following resolution without the necessity of holding a meeting of the Board of Directors of such corporation, such resolution to have full force and effect as if adopted at a meeting of the Board of Directors of the Company duly called and held:

RESOLVED, that Michael E. Smith (Market Area Manager), or any officer of the Company be, and hereby is authorized, following compliance with appropriate corporate policies and procedures, to execute by and on behalf of the Company any and all agreements, instruments, documents or papers, as they may deem appropriate or necessary, pertaining to, or relating to the Franchise Agreement of the City of Agoura Hills for Integrated Exclusive Residential Waste Management Services, and that any such action taken to date is hereby ratified and approved.

IN WITNESS WHEREOF, the undersigned have executed this consent effective this 20th day of December, 2016.

DocuSigned by:
Courtney A. Tippy
9F0CD492EB6C4D1...

Courtney A. Tippy

DocuSigned by:
Larry W. Metter
F55C69F19BCE433...

Larry W. Metter