City of Oakland

Request for Proposals for Zero Waste Services

Mixed Materials and Organics Collection Services – Service Group 1

and

Residential Recycling Collection Services – Service Group 2

Proposals Due: December 12, 2012 2:00 PM

Released: September 5, 2012

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Section 1 GENERAL INTRODUCTION

1.1 INTRODUCTION

This Request for Proposals ("RFP") for Zero Waste Services is being issued by the City of Oakland, California ("City").

The RFP is being issued in two (2) parts. The first part, a solicitation of proposals for the provision of Disposal Services (Service Group 3), was released on August 3rd, 2012. This second part is a solicitation for the provision of Mixed Materials and Organics (MM&O) Collection Services (Service Group 1) and/or Residential Recycling (RR) Collection Services (Service Group 2). As is shown in Table 1-1, once both parts of the Zero Waste Services RFP have been released, the procurement schedule will be consolidated. The City encourages proposers to propose on any and all Service Groups requested through both parts of the RFP.

Each of the two (2) parts of the RFP has been released at a Mandatory RFP Release Meeting. In order to receive the RFP and become eligible to participate in the Zero Waste Services procurement, each prospective proposer has been required to submit a deposit of Five Thousand Dollars ($5,000) in the form of a cashier's check payable to the City of Oakland, and sign the required RFP code of conduct forms. Prospective proposers who became eligible proposers at the August 3, 2012 Mandatory RFP Release Meeting will not be required to submit additional deposits in order to be considered eligible to receive the second part of the RFP for Service Groups 1 and 2, but they will be required to sign the required new RFP code of conduct forms. The deposit will be returned within thirty (30) days of receipt of a valid and complete proposal.

This document is divided into seven (7) sections, including the accompanying Attachment. The RFP documents have been provided at the Mandatory RFP Release Meeting as follows:

- Sections one through six (1-6) have been provided in hard copy.
- Sections one through seven (1-7), except the Forms in Sections three (3) and four (4) have been provided electronically in PDF format.
- MM&O Collection Services Forms one through fifteen (1-15) have been provided electronically in MS Word and Excel formats.
- RR Collection Services Forms one through fifteen (1-15) have been provided electronically in MS Word and Excel formats.

The City's current agreements for Solid Waste, Yard Waste and Recyclable Collection, Processing and Disposal will be expiring on June 30, 2015.

1.2 SERVICE GROUPS

Under the terms of this Collection Services portion of the Zero Waste Services RFP, the City is requesting proposals for Service Groups 1 and 2 as described below. Under the terms of the Disposal Services portion of the Zero Waste Services RFP, released on August 3, 2012, the City is requesting proposals for Service Group 3. The City wishes to provide the opportunity for qualified companies to propose on one (1) or more Service Groups. Each proposer may propose on any or all of the requested Service Groups. However, proposers who wish to propose on more than one (1) Service Group **must submit** a full and complete separate proposal for each Service Group.

A description of all Service Groups follows.

Service Group 1 – Exclusive Mixed Materials and Organics Collection Services

- Single Family
  - Weekly Mixed Materials Collection and Processing or transfer (Base Service);
  - Weekly Source Separated Organic Materials Collection and Processing (Base Service);
  - Annual on-call Bulky Goods Collection, Processing and transfer, one time per year (Base Service);
  - On-call Sharps Collection, transfer and arrangement for proper Disposal (Optional Service for Customers for an additional fee);
  - On-call Household Hazardous Waste Collection Processing, transfer and Disposal (Optional Service for Customers for an additional fee); and
  - Temporary Roll-Off Box Collection and Processing (Optional Service for Customers for an additional fee).
- Multi-Family
  - Weekly Mixed Material Collection, Processing and transfer (Base Service);
  - Weekly Source Separated Organic Materials Collection and Processing for those MFD Customers requesting service (Base Service, no additional charge). (*Proposers should note that the City is also asking for an alternative cost proposal for the provision of Organics Collection for an additional fee);*
  - Annual on-call Bulky Goods Collection, Processing and transfer, one time per year (Base Service);
  - On-call Sharps Collection, transfer and arrangement for proper Disposal (Optional Service for Customers for an additional fee);
  - On-call Household Hazardous Waste Collection Processing, transfer and Disposal (Optional Service for Customers for an additional fee); and
  - Temporary Roll-Off Box Collection and Processing (Optional Service for Customers for an additional fee).
- Commercial
  - Mixed Materials Collection and Processing or transfer (Base Service);
  - Source Separated Organic Materials Collection and Processing (Optional at the discretion of the Customer);
  - Non-exclusive Single Stream Recyclable Materials Collection and Processing (Optional at the discretion of the Customer). (Proposers should note that the City will require either the MM&O Collection Services Contractor or the RR Collection Services Contractor to provide this service upon request.); and
  - Temporary Roll-Off Box Collection and Processing (Optional Service for Customers for an additional fee).
- City
  - Mixed Materials Collection and Processing or transfer;
  - Source Separated Organic Materials Collection and Processing;

- Street litter Containers purchase, placement, and maintenance;
- Daily (seven (7) days/week) street litter Containers Mixed Materials and Recyclable Materials Collection, Processing and transfer;
- Temporary Roll-Off Box Collection and Processing; and
- Other various City services as described in the MM&O Collection Services Contract.

Service Group 2 – Exclusive Residential Recyclable Collection Services

- Single Family
  - Weekly single stream Recyclables Collection and Processing (Base Service); and
  - Weekly Used Oil and Oil Filter Collection and Processing (Base Service).
- Multi-family
  - Weekly single stream Recyclables Collection and Processing (Base Service); and
  - Weekly Used Oil and Oil Filter Collection and Processing (Base Service).
- Commercial
  - Non-exclusive Single Stream Recyclable Materials Collection and Processing (Optional at the discretion of the Customer). (Proposers should note that the City will require either the MM&O Collection Services Contractor or the RR Collection Services Contractor to provide this service upon request.)
- City
  - Single stream Recyclable Materials Collection and Processing.

Service Group 3 - Disposal Services

- Landfill Disposal
  - Disposal capacity to accept unprocessed Mixed Materials, Garbage and Residue Collected by the City and the City's MM&O Collection Services Contractor and delivered by, or on behalf of, the City, the City's MM&O Collection Services Contractor, or successor for twenty (20) years, with up to two (2) 5-year extensions, from July 1, 2015.

1.3 RECEIPT OF PROPOSALS

The City will receive written and sealed proposals to furnish all labor, equipment, materials, insurance, supervision, and all other items incidental thereto, and to perform all work necessary and specified in the prescribed manner and time to provide services in accordance with the terms and conditions set forth in the MM&O Collection Services Contract and/or the RR Collection Services Contract. **Sealed proposals will be received until 2:00 p.m. PDT, December 12, 2012.** Proposals must be delivered to:

Office of the Public Works Agency
250 Frank H. Ogawa Plaza, Suite 4313
Oakland, CA 94612

Proposers are responsible for making certain that proposals are delivered to the above address. Mailing of a proposal or receipts of postal or other delivery agents does not ensure that the proposal will be delivered on time or delivered at all.

Proposals will be accepted in Person, by United States Postal Service, or by private courier service. No proposals will be accepted by oral communication, telephone, electronic mail, telegraphic transmission, or facsimile transmission. Proposals may be withdrawn prior to the above scheduled time set for receipt of proposals. No proposer may withdraw a proposal after the above scheduled time for opening the proposals. Any proposal received after the date and hour specified will be rejected and returned unopened to the proposer.

The City reserves the right to postpone the date and time for opening proposals through an addendum.

1.3.1 MM&O Collection Services

The proposal and supporting documentation must be submitted in a sealed container plainly labeled in the lower-left corner: "**PROPOSAL FOR MIXED MATERIALS AND ORGANICS COLLECTION SERVICES**" along with the proposal submittal date and time. Proposers must also include their company name and address on the outside of the container.

1.3.2 RR Collection Services

The proposal and supporting documentation must be submitted in a sealed container plainly labeled in the lower-left corner: "**PROPOSAL FOR RESIDENTIAL RECYCLING COLLECTION SERVICES**" along with the proposal submittal date and time. Proposers must also include their company name and address on the outside of the container.

1.4 PROPOSAL REQUIREMENTS

The specific MM&O Collection Services requirements are contained in the definitions and body of the MM&O Collection Services Contract provided in Section 5 of this RFP document. Prospective proposers are strongly encouraged to examine the MM&O Collection Services Contract in its entirety to ensure an understanding of the services being requested herein.

The specific RR Collection Services requirements are contained in the definitions and body of the RR Collection Services Contract provided in Section 6 of this RFP document. Prospective proposers are strongly encouraged to examine the RR Collection Services Contract in its entirety to ensure an understanding of the services being requested herein.

In accordance with the Americans with Disabilities Act, Persons needing assistance to participate in this proceeding should contact Garrett Fitzgerald, the City's RFP Process Coordinator, by phone at (510) 238-6179, at least seventy-two (72) hours prior to any meetings.

A RFP response for MM&O Collection Services will be deemed non-responsive if not accompanied by a proposal surety in the amount of One Hundred Thousand Dollars ($100,000) as described in Section 3.2.15 of this RFP.

A RFP response for RR Collection Services will be deemed non-responsive if not accompanied by a proposal surety in the amount of One Hundred Thousand Dollars ($100,000) as described in Section 4.2.15 of this RFP.

1.5 MANDATORY PRE-PROPOSAL MEETING

A MANDATORY pre-proposal meeting for those proposers intending to submit proposals to provide MM&O Collection Services and/or RR Collection Services and/or Disposal Services is scheduled to be held on Wednesday, September 26, 2012 beginning at 1:00 p.m. PDT at

Oakland City Hall, Sgt. Ervin Romans Hearing Room 2, 1 Frank H. Ogawa Plaza, Oakland, CA 94612.

FAILURE OF A PROPOSER TO ATTEND the mandatory pre-proposal meeting shall render any response submitted by that proposer to be deemed non-responsive and their proposal shall not be considered for award. Decisions on this matter by the City shall be final.

All persons attending the mandatory pre-proposal meeting will be required to identify themselves and the eligible proposer they represent, or identify that they seek to partner with an eligible proposer, and to sign an attendance form, giving their name, address, telephone number and e-mail address, or attaching a business card with the same or more information.

At the pre-proposal meeting, representatives of the City will be available to answer questions and explain the intent of the Zero Waste Services RFP. To the extent possible, the City will answer questions or concerns that may be raised at that time. After the pre-proposal meeting, the City will prepare written documentation to answer questions addressed at the pre-proposal meeting related to interpretation of, or changes to the Zero Waste Services RFP documents that the City deems appropriate for clarification. The documentation will be divided into two (2) areas:

1. Items only requiring clarification, interpretation, or explanation; and,
2. Items requiring an addition, deletion, or change to the proposal documents. (The appropriate amended portion of the RFP document will accompany answers to items in this category).

Proposers are again cautioned that only interpretations of, or changes to, the RFP documents received from the City in writing may be relied upon.

After the pre-proposal meeting, written questions submitted by proposers who attended the pre-proposal meeting and received by the City no later than 4:00 p.m. PDT on October 10, 2012, will be responded to in writing by the City.

1.6 PROCUREMENT SCHEDULE

The City plans to adhere to the following procurement schedule to the extent possible. Changes to the procurement schedule shall be at the sole option of the City.

TABLE 1-1
PROCUREMENT SCHEDULE (FOR ALL SERVICE GROUPS)

Activity	Date
Mandatory RFP Release Meeting for Disposal Services	August 3, 2012
Last Day to Receive Disposal Site Information	August 17, 2012
Mandatory RFP Release Meeting for Collection Services	September 5, 2012
Mandatory Pre-Proposal Meeting for Disposal Services and Collection Services	September 26, 2012
Last Day for Proposers to Submit Questions	October 10, 2012
Last Day to Receive Partnership/Joint Venture Disclosure Notification	October 31, 2012
Disposal and Collection Services Proposals Due	December 12, 2012
Interviews and Site Visits	March 2013
Memo Notification of Top-Ranked Proposals Released	April 2013
Recommendations to City Council of Top Ranked Proposals	May 2013
Begin Operations	July 1, 2015

For information regarding this RFP, please contact in writing, or by email:

Garrett Fitzgerald, Zero Waste Services RFP Process Coordinator
250 Frank H Ogawa Plaza, Ste. 5301
Oakland, CA 94612-2034
zerowasterfp@oaklandnet.com

1.7 JOINT PROPOSAL NOTIFICATION

If two (2) or more proposers intend to submit a proposal as part of a joint venture or partnership, that information must be provided in writing, either by email or US Postal Service, by the parties no later than 2:00 p.m. PDT on Wednesday, October 31, 2012 to:

Ric Hutchinson
R3 Consulting Group, Inc.
1512 Eureka Road, Suite 220
Roseville, CA 95661
rhutchinson@r3cgi.com

This notification will be kept confidential until after submission of the proposals.

Section 2 BACKGROUND INFORMATION

2.1 INTRODUCTION

The purpose of this Section of the RFP documents is to familiarize prospective proposers with the City and its current services, and to provide information not included in other Sections of this document.

Terms that are capitalized in this RFP are specifically defined in the MM&O Collection Services Contract located in Section 5 of this RFP and/or the RR Collection Services Contract located in Section 6 of this RFP, and the meaning of such terms are solely as defined therein. **Each proposer is strongly encouraged to fully review these Contracts.**

The data contained in this Section is for informational purposes only. The City makes no warranty as to the accuracy of this information and disclaims any responsibility for any such information that may subsequently be determined to be incomplete or inaccurate.

2.2 GEOGRAPHY AND DEMOGRAPHICS

Oakland is situated at the geographical center of the San Francisco Bay Area, and is the commercial, cultural, population and transportation center of the East Bay. It has a diverse population of 390,000 residents, 26,000 businesses, and 60,000 daytime workers in the downtown alone. Oakland is a vibrant hub of economic activity, which includes business and financial organizations, regional medical centers, and the 3rd largest deep-water maritime port on the U.S. west coast. As a built-out city with little undeveloped land, future development largely will be in the form of reconstruction, reuse, or transformation of existing properties.

Nationally recognized as one of America's greenest cities, Oakland's award-winning leadership demonstrates Oakland's pledge to build an ecologically sustainable, economically dynamic and socially equitable future for our community.

2.3 COLLECTION SERVICES

The City is requesting proposals for the provision of MM&O Collection Services and/or RR Collection Services for a period of ten (10) years, with up to two (2) 5-year extensions at the sole discretion of the City. MM&O and RR Collection Services will begin on or about July 1, 2015. The terms and conditions for the provision of MM&O and RR Collection Services are set forth in the MM&O and RR Collection Services Contracts located in Section 5 and Section 6 of this RFP respectively.

The following tables show specific program information for the City of Oakland, regarding Tonnage by program type, number of containers and number of accounts by sector. Additional information can be found in Attachments 1 and 2 of the electronic copy of this Collection Services portion of the RFP.

Please note that City has tried to provide as much information as possible to all prospective proposers in order to allow them to prepare a fair and reasonable proposal. However, the City acknowledges that this information may be incomplete or inaccurate; therefore, it is the sole responsibility of the proposer to conduct their own due diligence and calculate and be responsible for the costs and other information quoted in the applicable set of Maximum Service Rate Proposal Forms (Section 3 and Section 4).

TABLE 2-1
CALENDAR YEAR REPORTS OF SUMMARY OF FRANCHISED TONNAGE BY PROGRAM TYPE (2010-2011)

Franchised Tons Collected	2010	2011
Tons Collected - Garbage		
Single Family	65,085	61,406
Multi-Family	34,022	32,165
Commercial	48,814	52,634
Roll Off	27,689	27,362
City-Generated and Hauled	6,878	8,210
Landfilled from Mixed Material Processing	3,327	3,114
Total	**185,815**	**184,891**
Tons Collected – Organic Material		
Single Family / Multi-Family	37,063	35,824
Commercial	0	0
Total	**37,063**	**35,824**
Tons Collected – Recyclable Material		
Single Family / Multi-Family/Small Business	37,090	35,676
Total	**37,090**	**35,676**
Tons Collected – Bulky Goods		
Recovered from Mixed Material Processing	1,639	1,534
Recycled (items separated at setout)	51	73
Landfilled from Mixed Material Processing (Included above in Tons Collected – Garbage)		
Total	**1,690**	**1,607**

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TABLE 2-2
SUMMARY OF CURRENT FRANCHISED SFD CONTAINER AND ACCOUNT INFORMATION

1. SFD Services – Garbage	**No. of Service Recipients**
20 gallon	18,489
32 gallon	72,733
64 gallon	5,857
96 gallon	421
1 cubic yard	176
1.5 cubic yard	16
2 cubic yard	3
Average # of premium on-premise Service Recipients (monthly)	946
Average # of disabled on-premise Service Recipients (monthly)	3,282
Average # of Carts replaced (monthly)	641
2. SFD Services – Organic Materials	**No. of Service Recipients**
# of 64 gallon Service Recipients	No data – 64-gal. is standard Cart size
# of 2nd 64 gallon Service Recipients	
Average # of premium on-premise Service Recipients (monthly)	946
Average # of disabled on-premise Service Recipients (monthly)	3,282
Average # of Carts replaced (monthly)	638
3. SFD Services – Recyclable Materials	**No. of Service Recipients**
# of 20 gallon Service Recipients	No data – 64-gal. is standard Cart size, nominal number of 20, 32, and 96-gal Cart size
# of 32 gallon Service Recipients	
# of 64 gallon Service Recipients	
# of 96 gallon Service Recipients	
Average # of premium on-premise Service Recipients (monthly)	946
Average # of disabled on-premise Service Recipients (monthly)	3,282
Average # of Carts replaced (monthly)	No data

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TABLE 2-3
SUMMARY OF CURRENT FRANCHISED MFD CONTAINER INFORMATION

Container	1x/Week	2x/Week	3x/Week	4x/Week	5x/Week	6x/Week
MFD Services – Garbage						
20-gallon	124	0	0	0	0	0
32-gallon	5175	32	11	0	0	0
64-gallon	1655	31	1	0	0	0
96-gallon	2686	106	21	0	0	0
1CY Bin	660	61	0	0	0	0
1.5CY Bin	360	22	1	0	0	0
2CY Bin	930	130	3	0	0	0
3CY Bin	342	63	3	0	0	0
4CY Bin	113	13	6	0	0	0
5CY Bin	0	4	0	0	0	0
6CY Bin	10	0	0	0	0	0
7CY Bin	8	1	0	0	0	0
2CY Compactor	42	2	0	0	0	0
3CY Compactor	25	19	0	0	0	0
4CY Compactor	4	0	0	0	0	0
5CY Compactor	0	4	0	0	0	
MFD Services – Recyclable Material						
20-gallon	0	0	0	0	0	0
32-gallon	1	0	0	0	0	0
64-gallon	1571	0	0	0	0	0
96-gallon	1831	6	0	0	0	0
1CY Bin	1	0	0	0	0	0
1.5 Bin	1	0	0	0	0	0
2CY Bin	11	0	0	0	0	0
3CY Bin	12	1	0	0	0	0
4CY Bin	4	0	0	0	0	0
5CY Bin	0	0	0	0	0	0
6CY Bin	0	0	0	0	0	0
MFD Services – Organic Material						
64-gallon	293	0	0	0	0	0
96-gallon	22	0	0	0	0	0

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TABLE 2-4
SUMMARY OF CURRENT FRANCHISED MFD CUSTOMER COUNT (BY GARBAGE)

Container	1x/Week	2x/Week	3x/Week	4x/Week	5x/Week	6x/Week
MFD Services – Garbage						
20-gallon	26	0	0	0	0	0
32-gallon	868	6	1	0	0	0
64-gallon	426	6	1	0	0	0
96-gallon	688	16	4	0	0	0
1CY Bin	457	29	1	0	0	0
1.5CY Bin	283	18	1	0	0	0
2CY Bin	555	74	1	0	0	0
3CY Bin	180	29	1	0	0	0
4CY Bin	67	6	3	0	0	0
5CY Bin	0	0	0	0	0	0
6CY Bin	8	0	0	0	0	0
7CY Bin	4	1	0	0	0	0
2CY Compactor	16	2	0	0	0	0
3CY Compactor	18	9	0	0	0	0
4CY Compactor	2	0	0	0	0	0
5CY Compactor	0	1	0	0	0	0

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TABLE 2-5
SUMMARY OF CURRENT FRANCHISED COMMERCIAL CONTAINER INFORMATION

Container	1x/Week	2x/Week	3x/Week	4x/Week	5x/Week	6x/Week
MFD Services – Garbage						
32-gallon	657	51	24	4	17	20
64-gallon	460	40	16	9	15	14
96-gallon	430	85	35	18	17	23
1CY Bin	900	59	13	3	6	6
1.5CY Bin	143	24	8	6	2	1
2CY Bin	589	133	37	12	10	11
3CY Bin	268	109	42	10	14	11
4CY Bin	206	105	48	6	14	10
5CY Bin	1	0	0	0	0	0
6CY Bin	50	17	8	5	3	0
7CY Bin	52	18	8	1	4	0
14CY Box	5	1	2	0	0	0
20CY Box	18	7	5	9	0	0
30CY Box	10	11	4	1	0	0
40CY Box	1	1	0	0	0	0
20CY Compactor	8	3	1	6	1	1
25CY Compactor	1	0	1	0	0	0
30CY Compactor	1	1	0	6	0	0
40CY Compactor	1	1	0	0	0	0
Small Business Services – Recyclable Material						
64-gallon	365					
96-gallon	365					

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TABLE 2-6
SUMMARY OF CURRENT FRANCHISED CITY FACILITY CONTAINER INFORMATION

Container	1x/Week	2x/Week	3x/Week	4x/Week	5x/Week	6x/Week
City Facility Services – Garbage						
20-gallon	0	0	0	0	0	0
32-gallon	0	0	0	0	0	0
64-gallon	28	0	0	0	8	0
96-gallon	43	8	7	0	1	0
1CY Bin	2	2	0	0	0	0
1.5CY Bin	3	1	0	0	0	0
2CY Bin	17	36	6	0	1	1
3CY Bin	8	11	9	1	4	4
4CY Bin	10	11	2	3	0	0
5CY Bin	0	0	0	0	0	0
6CY Bin	1	1	0	0	0	0
7CY Bin	4	0	0	0	1	0
14CY Box	10	0	1	0	2	0
20CY Box	7	0	0	0	3	0
30CY Box	7	0	0	0	0	1
City Facility Services – Organic Materials						
20-gallon	0	0	0	0	0	0
32-gallon	0	0	0	0	0	0
64-gallon	22	0	0	0	0	0
96-gallon	10	0	0	0	5	0
1CY Bin	1	0	0	0	0	0
1.5CY Bin	0	0	0	0	0	0
2CY Bin	0	0	2	0	0	0
3CY Bin	0	2	0	0	0	0
4CY Bin	0	0	0	0	0	0
5CY Bin	0	0	0	0	0	0
6CY Bin	0	0	0	0	0	0
7CY Bin	1	0	0	0	0	0
14CY Box	2	0	0	0	0	0
20CY Box	1	0	0	0	0	0
30CY Box	3	0	0	0	0	6

TABLE 2-6
SUMMARY OF CURRENT FRANCHISED CITY FACILITY CONTAINER INFORMATION

Container	1x/Week	2x/Week	3x/Week	4x/Week	5x/Week	6x/Week
City Facility Services – Recyclable Material						
20-gallon	0	0	0	0	0	0
32-gallon	0	0	0	0	0	0
64-gallon	18	0	0	0	0	0
96-gallon	77	0	0	0	0	0
1CY Bin	6	3	0	0	0	0
1.5CY Bin	6	0	0	0	0	0
2CY Bin	10	2	0	0	5	0
3CY Bin	6	1	0	0	0	0
4CY Bin	1	1	0	0	0	0
5CY Bin	0	0	0	0	0	0
6CY Bin	0	0	0	0	0	0
7CY Bin	4	0	0	0	0	0
30CY Box	0	0	0	0	2	0

2.3.1 Current Diversion Information

The City's overall Diversion rate, as calculated by the City based on Disposal and generation data reported to CalRecycle, was 66% in 2008, 67% in 2009, 66% in 2010 and 65% in 2011.

2.3.2 Alameda County Waste Management Programs

The City of is a member agency of StopWaste.Org, which is the Alameda County Waste Management Authority ("ACWMA") and the Alameda County Source Reduction and Recycling Board ("Board"), operating as one public agency. The ACWMA is responsible for preparation of the Alameda County Integrated Waste Management Plan and the Alameda County Hazardous Waste Management Plan. It manages a long-range program of development of garbage and Diversion facilities, and offers a wide variety of other programs and technical assistance to its member agencies.

The Board was created in 1990, when the voters of Alameda County approved Measure D. Measure D specified certain actions with respect to conformance with AB 939, including the following provisions:

- Required the development of the Alameda County Source Reduction and Recycling Plan (Recycling Plan);
- Set a long-term goal of 75% reduction and beyond in Garbage Disposal for Alameda County;
- Funded the Recycling Plan by imposing a per-Ton surcharge on materials Disposed of in Alameda County landfills and mandated that the surcharge be passed through to Alameda County garbage ratepayers;
- Created the Board in order to coordinate the Recycling Plan; and

- Prohibited the incineration of Garbage within the unincorporated areas of Alameda County.

Proposers should note that on December 17, 1997, the ACWMA adopted a resolution that established the collection of a Countywide Waste Disposal Facility Fee and a Household Hazardous Waste Management Fee at transfer stations. Subsequently, on September 26, 2001, the ACWMA adopted an ordinance establishing procedures and reporting requirements for the collection of the Countywide Waste Disposal Facility Fee and the Household Hazardous Waste Management Fee for waste transferred out of Alameda County without first being Processed at a transfer station in Alameda County.

2.3.3 Intent

The City's intent and the requirements of this RFP document are to provide its residents and businesses with the appropriate level of service, at the best price and with the highest quality of service.

The specifications contained within this RFP document are designed to establish an effective, efficient, uniform and safe system of Collection Services that provides for the following intended purposes:

- Establish and maintain a continuous and uniform level of Collection Services in order to assure protection of the health, safety and welfare of the community;
- Provide Collection Services in a coordinated manner, through a routing system that will improve current collection services while minimizing traffic and impacts;
- Maximize Diversion and reduce Landfill Disposal through the use of innovation and ingenuity;
- Support the City's Zero Waste Goal by 2020;
- Ensure that Recyclable Materials and Organic Materials are Processed in a manner that provides for the highest and best use; and
- Minimize impacts to Maximum Service Rates.

To this end, the City has tried to provide as much information as possible to all prospective proposers in order to allow them to prepare fair and reasonable proposals. However, the City acknowledges that this information may be incomplete or inaccurate; therefore, it is the sole responsibility of the proposer to conduct their own due diligence and calculate and be responsible for the costs and other information quoted in the MM&O Collection Maximum Collection Service Rate Proposal Forms in Section 3 of this RFP and the RR Collection Maximum Recycling Service Rate Proposal Forms in Section 4 of this RFP.

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Section 3 SERVICE REQUIREMENTS, PROPOSAL PREPARATION INSTRUCTIONS, AND PROPOSAL FORMS FOR MIXED MATERIALS AND ORGANICS COLLECTION SERVICES

3.1 SERVICE REQUIREMENTS

3.1.1 Proposer To Make Examination

Each proposer shall make its own examination, investigation and research regarding the proper method of doing the work, all conditions affecting the work to be done, the labor, equipment and materials, and the quantity of the work to be performed. The proposer agrees that it has satisfied itself by proposer's own investigation and research regarding all such conditions, and that proposer's conclusion to enter into the MM&O Collection Services Contract and execution of the MM&O Collection Services Contract is based upon such investigation and research, and that proposer shall make no claim against the City because of any of the information provided in this RFP, estimates, statements or interpretations made by any officer or agent of the City that may prove to be in any respect erroneous, as provided for in MM&O Collection Services Form 7- Proposer to Make Examination.

3.1.2 Term of Contract

Contractors currently provide the services that are the subject of this RFP, under contracts that terminate on June 30, 2015. Table 3-1 displays the expected effective date and beginning and ending dates of services for MM&O Collection. The ending service date may be extended by up to two (2), five (5) year terms. Each extended term would be at the sole option of the City.

TABLE 3-1
MIXED MATERIALS AND ORGANICS COLLECTION SERVICES CONTRACT TERM

Service	Estimated Date of Signing	Begin Service	End Service	Extension 1 End Service	Extension 2 End Service
Mixed Materials and Organics Collection	1/1/2014	7/1/2015	6/30/2025	6/30/2030	6/30/2035

3.1.3 Transition Schedule

The time between the formal MM&O Collection Services Contract signing and July 1, 2015 is intended to allow the MM&O Collection Services Contractor sufficient time to order equipment, prepare necessary routing based on current day boundaries, obtain permits and licenses, begin the public awareness campaign as part of the MM&O Collection Services Contractor's transition program and coordinate with the City on the public awareness campaign.

3.1.4 Minimum Level of Service

Table 3-2 summarizes the basic services that must be provided by the MM&O Collection Services Contractor. If the Proposer wishes to offer additional services, the Proposer should clearly mark those additional services as "Additional Contractor-Provided Services" and the

rates associated with providing these services should be listed separately from the rates of the basic services described in the RFP.

The MM&O Collection Services Contract, set forth Section 5 of these RFP documents, contains the specific terms and conditions related to the performance of the services. ***To the extent that there are any inconsistencies between other Sections of the RFP and the MM&O Collection Services Contract, the terms of the MM&O Collection Services Contract shall prevail.***

TABLE 3-2
MIXED MATERIALS AND ORGANICS COLLECTION MINIMUM LEVEL OF SERVICE

Service	Service Summary
Single Family (SFD) Collection Services (1-4 Units)	
SFD Mixed Materials Collection, and Processing or Transfer	Weekly automated/semi-automated Collection with 20, 32 (standard), 64, or 96-gallon wheeled Carts.
SFD Source Separated Organic Materials Collection, and Processing	Weekly automated Collection with 20, 32, 64 (standard) or 96-gallon wheeled Carts.
SFD Bulky Goods Collection, Processing and Transfer	Bulky Goods Collection once per year by appointment and pay-as-you-go as an optional service for an additional fee to SFD Customers.
On-call HHW Collection, Transfer and Arrangement for Disposal	On-call Collection of HHW as an optional service for an additional fee to SFD Customers.
On-call Sharps Collection, Transfer and Arrangement for Disposal	On-call Collection of Sharps as an optional service for an additional fee to SFD Customers.
SFD Temporary Roll-Off Box Collection and Processing	On-call Temporary 6 - 40 CY Roll-Off Box Collection Services for an additional fee to SFD Customers.
Multi-Family Collection Services (5+ Units)	
MFD Mixed Material Collection and Processing	At least weekly Collection with 20, 32, 64, or 96-gallon wheeled Carts, 1, 1.5, 2, 3, 4, 6 or 7 CY Bins, or 6 - 40 CY Roll-Off Boxes. Minimum levels of service will be calculated by multiplying the number of Dwelling Units by 20 gallons to reach the required capacity. (Capacity levels are to be rounded to the closest available Container size.)
MFD Source Separated Organic Materials Collection and Processing	Once per week Collection with 32, or 64-gallon wheeled Carts for no additional charge. (Larger or Additional Containers may be requested at no additional charge.) *Subscription only service will be evaluated as an alternative.*
MFD Bulky Goods Collection, Processing and Transfer	Bulky Goods Collection once per year by appointment and pay-as-you-go as an optional service for an additional fee to MFD Customers.

TABLE 3-2
MIXED MATERIALS AND ORGANICS COLLECTION MINIMUM LEVEL OF SERVICE

Service	Service Summary
On-call HHW Collection, Transfer and Arrangement for Disposal	On-call Collection of HHW as an optional service for an additional charge to MFD Customers.
On-call MFD Sharps Collection, Transfer and Arrangement for Disposal	On-call Collection of Sharps as an optional service for an additional charge to MFD Customers.
MFD Temporary Roll-Off Box Collection and Processing	On-call Temporary 6 - 40 CY Roll-Off Box Collection Services for an additional fee to MFD Customers.
Commercial Collection Services	
Commercial Mixed Materials Collection, and Processing or Transfer	At least weekly Collection with 20, 32, 64, or 96-gallon wheeled Carts; or At least weekly Collection with 1, 1.5, 2, 3, 4, 6 or 7 CY Bins; or At least weekly Collection of 6 - 40 CY Roll-Off Boxes; or Compactor.
Commercial Source Separated Organic Materials Collection, and Processing **(Optional Service as Requested by Customer)**	At Customers option: At least weekly Collection with 20, 32, 64, or 96-gallon wheeled Carts; or At least weekly Collection with 1, 1.5, 2, 3, 4, 6 or 7 CY Bins; or At least weekly Collection of 6 - 40 CY Roll-Off Boxes; or Compactor.
Commercial Non-Exclusive Single Stream Recyclable Materials Collection and Processing (if awarded)	At Customers option: At least weekly Collection with 20, 32, 64, or 96-gallon wheeled Carts; or At least weekly Collection with 1, 1.5, 2, 3, 4, 6 or 7 CY Bins; or At least weekly Collection of 6 - 40 CY Roll-Off Boxes; or Compactor.
Commercial Special Event Collection Service	Collection of Mixed Materials, Recyclable Materials and/or Organic Materials using 64 Gallon Carts or 20 and 30 cubic yard Roll-Off Boxes for a charge.
Commercial Temporary Roll-Off Box Collection and Processing	On-call Temporary Roll-Off Box Collection Services for an additional fee to Commercial Customers.
City Facility Collection Services	
City Facility Mixed Materials Collection, and Processing or Transfer	At least weekly Collection with 20, 32, 64, or 96-gallon wheeled Carts; or At least weekly Collection with 1, 1.5, 2, 3, 4, 6 or 7 CY Bins; or 6 - 40 CY Roll-Off Boxes Collected as determined by the needs of the City

TABLE 3-2
MIXED MATERIALS AND ORGANICS COLLECTION MINIMUM LEVEL OF SERVICE

Service	Service Summary
City Facility Source Separated Organic Materials Collection, and Processing	At least weekly Collection with 20, 32, 64, or 96-gallon wheeled Carts; or At least weekly Collection with 1, 1.5, 2, 3, 4, 6 or 7 CY Bins; or 6 - 40 CY Roll-Off Boxes Collected as determined by the needs of the City
City Street Litter Container maintenance and replacement	Place, maintain and replace Street Litter Containers throughout the Service Area.
City Street Litter Container Mixed Materials Collection, Processing and Transfer	Daily emptying of street litter Containers including liners and enclosures, and removal of debris atop or around Containers, on Work Days (Monday-Friday), and monitoring and emptying of Containers as directed by City on Saturday and Sunday.
City Council and Mayor Roll-Off Boxes	MM&O Collection Services Contractor shall allocate twelve (12) 20-CY Roll-Off boxes to each of the eight (8) Council offices and the Mayor, for a total of up to one hundred eight (108) 20-CY Roll-Off Boxes each calendar year.
City Adopt-a-Spot Mixed Materials Collection, Processing and Transfer	MM&O Collection Services Contractor shall provide up to 150, 64-gallon Mixed Material or Organic Carts to City volunteers for use in cleaning and greening public spaces in Oakland.
City Sponsored Events	MM&O Collection Services Contractor shall provide Mixed Materials, Recyclable Materials and Organic Materials Collection, Disposal and Processing services at City sponsored events per full or partial calendar year as requested by City, for up to thirty (30) total Roll-Off Boxes per calendar year.
City Temporary Roll-Off Box Collection and Processing	On-call Temporary 6 - 40 CY Roll-Off Box Collection Services.
City Delivered Materials	MM&O Collection Services Contractor shall accept up to 7,500 Tons of material (Tonnage allowance) during the period July 1, 2015 through December 31, 2015. Calendar Year 2016 and beyond, the Tonnage allowance shall be 15,000 Tons.
Other Service Requirements	
Residue Disposal	MM&O Collection Services Contractor must arrange for Disposal of unprocessed Mixed Material and Processed Mixed Material Residue from Mixed Materials Collection Services, or an equivalent amount, at the City's designated Disposal Facility.
Collection Hours	SFD and MFD Collection Services: 6 am – 6 pm, Monday – Friday Commercial and City Collection Services: Monday –Saturday and limited Collection on Sunday
Community Outreach Services	MM&O Collection Services Contractor provided transition and ongoing program support and coordination with City program

TABLE 3-2
MIXED MATERIALS AND ORGANICS COLLECTION MINIMUM LEVEL OF SERVICE

Service	Service Summary
Monitoring & Reports	Required data for reporting to be provided in an electronic format approved by the City
Office and Call Center	MM&O Collection Services Contractor must maintain a business office in Oakland, and must staff the office during the hours of 8 am – 6 pm Monday through Friday and Saturdays on which SFD or MFD MM&O Collection Services are provided. MM&O Collection Services Contractor must propose a customer service call center in Alameda County and may also propose a customer service call center in another location. Include City Customer service phone number on all Customer service information and on the Collection Containers and vehicles. MM&O Collection Services Contractor must provide and maintain a live terminal at City governmental office that can be viewed and queried by City staff.
Billing	MM&O Collection Services Contractor to provide billing services to all MM&O Collection and RR Collection Customers, for all service levels, except Commercial Non-Exclusive Recyclable Materials Collection Customers. The contractor selected to provide Non-Exclusive Commercial Recycling Services will provide billing services to all Non-Exclusive Commercial Recycling Services Customers serviced by contractor.

3.1.5 Contractor Provided Carts, Bins and Roll-off Boxes

The current contractors, under the terms of the current service contracts, have provided the Garbage, Recyclable Material and Organic Material Carts currently used by City residents and businesses. **Under the new MM&O Collection Services Contract, the MM&O Collection Services Contractor must provide NEW Carts available in sizes of approximately: 20, 32, 64, and 96-gallon capacity.**

Carts will have heavy-duty wheels, attached hinged lids, and will be designed to be resistant to inadvertent tipping due to high winds. All new Carts must be compatible with the proposed Collection system. The City will approve the specific colors of the carts (Mixed Materials Cart as proposed by proposer, blue for Recyclable Materials and green for Organic Materials). The City will also approve labeling, graphics, and Cart design (e.g., square, rectangular, tall, short, etc.).

The MM&O Collection Services Contractor will also be required to provide Bins ranging in size from 1 to 7 cubic yards, Compactors, and Roll-Off Boxes from 6 to 40 cubic yards capacity including covered Roll-Off Boxes for Collection from Multi-Family complexes, businesses and City Facilities.

The final labeling of all Carts, Bins and Roll-Off Boxes is subject to City approval.

3.1.6 Mixed Materials

The MM&O Collection Services Contractor will provide Mixed Material Collection Services to all SFD Service Addresses in the Service Area, and the cost of the service will be bundled in the Maximum Service Rates for SFD Customers. The Contractor will be responsible for determining the extent to which SFD Mixed Materials are Processed prior to Disposal.

The MM&O Collection Services Contractor will be required to provide Mixed Material Collection Service to all MFD Service Addresses. The cost of the service will be bundled in the Maximum Service Rates for MFD Customers. The Mixed Material Collection Service will be provided at a minimum of once per week Collection, although Customers may subscribe to additional service capacity. All MFD Mixed Materials are required to be processed prior to Disposal.

The MM&O Collection Services Contractor will be required to provide Mixed Material Collection Service to all Commercial service units. The Mixed Material Collection Service will be provided at a minimum of once per week Collection, although Customers may subscribe to additional service capacity. The Contractor will be responsible for determining the extent to which SFD Mixed Materials are Processed prior to Disposal.

The MM&O Collection Services Contractor will be required to furnish the necessary number and size of Mixed Materials Bins and/or Mixed Materials Carts to accommodate the Mixed Material Collection Services.

The MM&O Collection Services Contractor must arrange for Disposal of unprocessed Mixed Material and Processed Mixed Material Residue from Mixed Materials Collection Services, or an equivalent amount, at the City's designated Disposal Facility.

3.1.7 Organic Materials

The MM&O Collection Services Contractor will provide Organic Material Collection Services to all SFD Service Addresses in the Service Area, and the cost of the service will be bundled in the Maximum Service Rates for SFD Mixed Material Collection.

The MM&O Collection Services Contractor will be required to provide Organic Material Collection Service to all MFD Service Addresses requesting such service. The cost of the service will be bundled in the Maximum Service Rates for MFD Mixed Material Collection. The bundled service will be limited to once per week Collection, although Customers may subscribe to additional service capacity through the use of multiple Containers. **Note: the City will also be asking for cost proposals for an alternative MFD Organics Collection program on a paid subscription basis.**

The MM&O Collection Services Contractor will be required to provide Organic Material Collection Services to all Commercial service units that request such service on a subscription basis.

The MM&O Collection Services Contractor will be required to furnish the necessary number and size of Organic Materials Bins and/or Organic Materials Carts to accommodate the Organic Material Collection Services.

3.1.8 Recyclable Materials

MM&O Collection Services proposers will be required to provide a cost proposal to Collect Recyclable Materials from those Commercial Customers requesting such service. The City will designate either the MM&O or RR Collection Services Contractor as the provider of Non-Exclusive Commercial Recycling Services. The designated Contractor must Collect Recyclable

Materials from a Commercial Customer if requested by that Customer at rates that do not exceed those approved by the City.

MM&O Collection Services Contractor will be required to furnish the necessary number and size of Recyclable Material Bins and/or Carts to accommodate Commercial Non-Exclusive Recycling Collection Services. Article 1 of the MM&O Collection Services Contract presented in Section 5 of this RFP includes a definition of Recyclable Materials.

3.1.9 Collection Equipment

The vehicle type proposed shall be specifically designed and manufactured for Collection of Mixed Materials, Recyclable Materials and Organic Materials, as appropriate. The Collection vehicles shall be appropriate for the type of Collection methods and Containers anticipated to be used by the MM&O Collection Services Contractor. The vehicle(s) shall provide for a reasonable level of flexibility with regard to future materials that may be Collected.

In alignment with the City of Oakland's sustainable City goals, the City would like to minimize adverse impacts on the environment resulting from service delivery. During the term of the MM&O Collection Services Contract, the MM&O Collection Services Contractor shall provide Collection Service vehicles in full compliance with local, State and federal clean air requirements that have been adopted or are proposed to be adopted, including, but not limited to, the California Air Resources Board Heavy Duty Engine Standards as currently proposed to be contained in CCR Title 13, Section 2021 et seq; the Federal EPA's Highway Diesel Fuel Sulfur regulations and any other applicable air pollution control laws.

In addition, Proposers should note that the City is extremely interested in equipment plans that propose to exceed the minimum requirements discussed above.

3.1.10 Landfill Disposal

The MM&O Collection Services Contractor will be required to cause all unprocessed Mixed Materials and Mixed Material Residue (or an equivalent Tonnage amount) from Processed Mixed Materials Collected under the terms of the MM&O Collection Services Contract to be delivered to the Disposal Services Contractor at the Landfill Disposal Facility selected by the City. The MM&O Collection Services Contractor will be responsible for the payment fees for Processing and Disposal of all materials and Residue Collected in the City under the provisions of the MM&O Collection Services Contract.

3.1.10.1 Transfer Station

Pursuant to the Alameda County Waste Management Authority ("ACWMA") Policy 4.5.2, "Except under emergency condition as determined by the Authority, Garbage that is collected by municipal or franchised collectors and hauled more than fifteen (15) miles from the point of Collection, to the Landfill, must be transported in vehicles carrying a minimum payload of fourteen (14) tons."

3.1.11 Processing Facility(ies)

The MM&O Collection Services Contractor is responsible for providing the appropriate Processing Facilities for all materials Collected pursuant to the MM&O Collection Services Contract.

3.1.12 Diversion

The City intends to reduce annual Tons sent to Landfills, from the Tons Disposed by the current franchise hauler of approximately one hundred eighty five thousand (185,000) Tons in 2011 to approximately forty thousand (40,000) Tons per year by 2030. The City recognizes that the requested services for the MM&O Collection Services Contractor represent only a portion of the City's overall waste stream; therefore, the City is requiring the MM&O Collection Services Contractor to meet the 2022 Minimum Diversion Requirement and to include in their proposal minimum annual Diversion for calendar years 2016 - 2024.

3.1.12.1 2022 Diversion Requirement

City is requiring that the MM&O Collection Services Contractor achieve a minimum Diversion requirement of forty (40) percent of total Tons Collected in calendar year 2022. 2022 Diversion shall be calculated using Exhibit 8, Table B of the MM&O Collection Contract.

3.1.12.2 Minimum Annual Diversion

Proposers are required to include in their proposal minimum annual Diversion for calendar years 2016 - 2024 in the Required Proposals Forms (MM&O Collection Form 15). Annual Diversion shall be calculated using Exhibit 8, Table B of the MM&O Collection Contract.

3.1.13 Customer Service Office

The MM&O Collection Services Contractor will be required to maintain a Customer service office in the City of Oakland.

3.1.14 Call Center

The MM&O Collection Services Contractor will be required to locate a Call Center in Alameda County unless exempted by the City. The Maximum Service Rate Proposal Forms must include the cost of an Alameda County call center. Proposers may also provide an alternative cost reflecting the reduction in cost of providing a call center outside of Alameda County; however, the City may elect not to accept this alternative.

3.1.15 Customer Service

The Contractor will be responsible for ensuring that all staff maintains a professional and courteous demeanor. Contractors shall be responsible for all employee interaction with Customers and City staff.

The MM&O Collection Services Contractor will be required to develop a system for handling all service related issues and items. The MM&O Collection Services Contractor will be required to work with the RR Collection Services Contractor to provide Customers a seamless transition between the MM&O Collection Services Contractor's call center, website, and staff to the RR Collection Services Contractor's call center, website, and staff. The MM&O Collection Services Contractor shall provide and maintain a live terminal at the City offices for City staff to review and run live queries for Customer service data. Specific requirements pertaining to Customer service performance standards are included in the MM&O Collection Services Contract presented in Section 5 of this RFP.

3.1.16 Contractor Compensation and Rate Adjustments

MM&O Collection proposers are encouraged to develop their Maximum Service Rates to provide incentives for residents and businesses to participate in Diversion programs.

3.1.16.1 Rate Adjustments

The City will adjust the initial proposed Maximum Service Rates, including the franchise fee, during the month of March 2015 to mitigate changes in costs from the time the proposed rates were accepted by the City and July 1, 2015. The adjustment will be based on the change in the 2014 CPI as described in Article 7 of the MM&O Collection Services Contract.

The City will use the Refuse Rate Index (RRI) method as explained in Section 7.16 of the MM&O Collection Services Contract (located in Section 5 of this RFP) to adjust MM&O Maximum Collection Service Rates. The annual RRI adjustment will include a "Diversion Adjustment" based on the MM&O Collection Services Contractor's Diversion performance in the prior calendar year.

3.1.16.2 Customer Rates

SFD. The City wishes to provide incentives for residents to actively participate in Diversion programs. Accordingly, SFD Maximum Collection Service Rates will be based on the Mixed Materials Cart capacity, and the number of Mixed Materials Carts. The City prefers SFD Maximum Collection Service Rates that increase as the size (capacity) and number of Mixed Materials Carts increases.

The cost of one (1) 64-gallon Organics Materials Cart will be bundled with the cost of the SFD Mixed Material Collection Service. 20- or 32-gallon Organics Carts may be requested by the SFD Customer, but with no additional increase or decrease in the bundled cost of services. Additional Organic Material Carts will be offered to SFD Customers for an additional charge.

MFD. MFD Maximum Service Rates will be based on Bin or Cart capacity, the number of Bins or Carts, and the frequency of Mixed Materials Collection (1 – 5 times per week).

The cost of one (1) 32- or 64-gallon Organics Materials Cart, Collected once per week will be bundled with the cost of the MFD Mixed Material Collection Services and the service provided to those MFD Customers requesting it. MFD Customers who successfully separate clean Organic Materials in amounts that require excess capacity may request larger or additional Containers from the MM&O Collection Services Contractor at no additional charge. **Note: Proposers are required to submit an alternative proposal for paid subscription Collection of Organic Materials for evaluation by the City.**

Commercial. Commercial Mixed Materials Maximum Service Rates will be based on Bin or Cart capacity, the number of Bins or Carts, and the frequency of Collection. Commercial Organic Materials Maximum Service Rates will be based on Bin or Cart capacity, the number of Bins or Carts, and the frequency of Collection.

3.1.17 Bad Debts

The responsibilities of the CITY and the CONTRACTOR for bad debts are specified in Section 7.13.1 through 7.13.12 of the MM&O Collection Services Agreement located in Section 5 of this RFP. The City has provided for a property special assessment process as part of the MM&O Collection Services Contract. As set forth in the Contract, once an account has become delinquent the Contractor may stop service and City may place a special assessment on the

property for the cost of that service to abate a nuisance. If the City takes this action, the Contractor would restart service and City will assess the property owner for the cost of that service. The Contractor will be paid for providing service subscribed by the City on the owner's behalf once the special assessment on the property is collected by the City.

Proposers should note that the City is requiring that cost proposals be provided for an alternative bad debt process wherein the City will not provide an assessment process and the Contractor may not stop service for SFD or MFD Customers. This alternative language is provided in Section 7.13.13 of the MM&O Collection Services Contract. The City will make a final determination of which process to follow as part of the evaluation process.

3.1.18 Billing and Customer Service

The MM&O Collection Services Contractor will provide billing service to all Customers for all service levels, including service provided under the RR Collection Services Contract, except Commercial Non-Exclusive Recyclable Materials Collection. The contractor selected to provide Non-Exclusive Commercial Recycling Services will provide billing services to all Non-Exclusive Commercial Recycling Services Customers serviced by contractor.

The MM&O Collection Services Contractor will be required to submit payment to the RR Collection Services Contractor based on the monthly invoice provided by the RR Collection Services Contractor and approved by the CITY.

At a minimum, the MM&O Collection Services Contractor should have the option for Customers to pay using cash, checks, credit cards, Internet payment service or automatic withdrawal from bank account. The MM&O Collection Services Contractor will be required to include billing inserts provided by the City. **The City will approve the format used by the MM&O Collection Services Contractor for Customer billing and Maximum Service Rates and the invoice used by the RR Collection Services Contractor to bill the MM&O Collection Services Contractor.** The following table outlines the MM&O Collection Services Contractor's billing responsibilities.

TABLE 3-3
BILLING RESPONSIBILITIES

MM&O Collection Services Contractor Billing/Customer Rate	▪ Responsible for billing all services ○ SFD Mixed Materials and Organics Collection billed as bundled services based on the Mixed Materials service level. The Customer rate will include a recycling rate based on a flat per Dwelling Unit amount; ○ MFD Mixed Materials and Organics Collection billed as bundled services based on the Mixed Materials service level. The Customer rate will include a recycling rate based on a flat per Dwelling Unit amount; and ○ Commercial Mixed Materials Collection will be billed based on the Mixed Materials service level. Commercial Organics Materials Collection will be billed based on the Organics Materials service level.
MM&O Collection Services Contractor's Payment	▪ Paid from SFD, MFD, & Commercial Customers based on City approved Maximum Service Rates (administrative approval of Customer rates)
RR Collection Services Contractor Payment Cap	▪ MM&O Collection Services Contractor maximum annual payments to RR Collection Services Contractor set by the City based on projected max Tonnage Collected each year. This would establish MM&O Collection Services Contractor's maximum financial exposure related to payment made to RR Collection Services Contractor.
Rate Adjustments	▪ RRI on Maximum Collection Service Rates.

3.1.19 Payments to the City

3.1.19.1 Reimbursement for the Cost of this Procurement Process

The City will require the MM&O Collection Services Contractor to reimburse the City for the cost of this procurement process in the amount of ***Seven Hundred Fifty Thousand Dollars ($750,000)***. The reimbursement is a one-time payment due within thirty (30) days after execution of the MM&O Collection Services Contract award.

3.1.19.2 City Franchise Fee

The MM&O Collection Services Contractor shall, through agreement with the City, make payments for the right to obtain and operate the exclusive franchise for MM&O Collection

Services and to reimburse City for the costs of undertaking the Zero Waste programs and compliance with State and local mandates. The initial franchise fee is T*wenty-Five Million Thirty-Four Thousand Dollars ($25,034,000)*, adjusted by the annual change in the Consumer Price Index – All Urban Consumers, Series ID cuura422sa0, not Seasonally adjusted, San Francisco-Oakland-San José, CA for the prior calendar year, January 1, 2014 through December 31, 2014.

The City franchise fee will be due no later than the 15th day of each month beginning with the month of July 2015 and will continue each month throughout the term of the Contract. The City franchise fee will be adjusted each Contract Year as provided in Section 7.20.1 of the MM&O Collection Services Contract presented in Section 5 of this RFP.

3.1.19.3 Recyclable Material Revenues

The MM&O Collection Services Contractor will retain all or a portion of revenues from the sale of Recyclable Materials Collected under the terms of the MM&O Collections Services Contract. While the City believes it is appropriate for the successful MM&O Collection Services Contractor to retain these funds, it also believes that Proposer should take these monies into account when completing their Maximum Collection Service Rate Proposal Forms.

3.1.19.4 Revenues from Processing of Organics

The MM&O Collection Services Contractor will retain all or a portion of revenues from the sale of commodities, products, or any value that results from Processing of materials Collected under the terms of this MM&O Collection Services Contract, including, but not limited to, composted material, mulches, energy, and carbon credits or offsets. While the City believes it is appropriate for the successful MM&O Collection Services Contractor to retain these funds, it also believes that Proposer should take these monies into account when completing their Maximum Service Rate Proposal Forms.

3.1.19.5 Revenue Sharing

Proposers are to provide a revenue sharing plan specifying the basis, if any, for sharing revenue with the City.

3.2 PROPOSAL CONDITIONS AND TERMS

3.2.1 RFP Document

This RFP document constitutes the complete set of proposal specifications and forms. All forms and applicable documents must be executed and submitted as described in this RFP. Proposals not submitted on the prescribed proposal forms shall be deemed non-responsive. By submitting a proposal, the proposer agrees to be subject to all terms and conditions specified herein. Except as otherwise set forth in this RFP, no exception to the terms and conditions shall be allowed. Submittal of a response to this RFP constitutes a binding offer by the proposer that shall be open for a period of no less than eighteen (18) months from the date of submittal.

3.2.2 Mistakes

Proposers are expected to examine the RFP documents, including the MM&O Collection Services Contract, proposal forms, and all other instructions provided herein. FAILURE TO DO SO WILL BE AT THE PROPOSER'S RISK. In the event of extension error(s), the unit price will

prevail and the proposer's total offer will be corrected accordingly. In the event of addition error(s), the unit price will prevail and the proposer's total offer will be corrected accordingly.

3.2.3 Additional Terms and Conditions

Except as is set forth in Section 3.2.4 of this RFP, no additional terms and conditions included with the RFP shall be evaluated or considered. Any and all such additional terms and conditions shall have no force or effect, and are inapplicable to this RFP.

3.2.4 Interpretations and Inquires

Questions concerning the intent, meaning, and interpretation of the RFP document shall be submitted in writing and received via email, U.S. Postal Service or delivery service, no later than 4:00 p.m. PDT on October 10, 2012. When submitting questions, be specific, citing the RFP Section number, page number and line number where possible. Written inquiries shall be addressed to the Zero Waste Services RFP Process Coordinator:

Garrett Fitzgerald, Zero Waste Services RFP Process Coordinator
250 Frank H Ogawa Plaza, Ste. 5301
Oakland, CA 94612-2034
E-mail: zerowasterfp@oaklandnet.com

All proposers shall carefully examine the RFP document. Any ambiguities or inconsistencies shall be brought to the attention of the City in writing as soon as possible.

Submission of a proposal will serve as prima facia evidence that the proposer has examined the Contract and is fully aware of all conditions affecting the provision of MM&O Collection Services.

No Person is authorized to give oral interpretations of, or make oral changes to, the RFP document. Therefore, oral statements will not be binding and should not be relied upon. Any interpretation of, or changes to, the RFP document will be made in the form of a written addendum to the RFP document and will be furnished by the City to all proposers who attend the mandatory RFP release meeting and pre-proposal meeting. Only those interpretations of, or changes to, the RFP document that are made in writing and furnished to the proposers by the City may be relied upon.

3.2.5 Oral Agreements

No oral agreement or conversation with any elected official, officer, agent, or employee of the City, either before or after execution of the MM&O Collection Services Contract, shall affect or modify any of the terms or obligations contained in the Contract. Any such oral agreement or conversation shall be considered as unofficial information and is in no way binding upon the City or the proposer.

3.2.6 Qualification of Proposer

The proposer must be qualified by experience, adequate financing, staffing and equipment to do the work called for in the Contract.

3.2.7 Conflict of Interest

All proposers must disclose, with their proposal, using MM&O Collection Services Form 9, the name of any officer, director, agent, or any relative of an officer, director, or agent who is an

employee, elected official or appointed official of the City. Furthermore, all proposers must disclose, to the best of their knowledge, the name of any City employee, elected official or appointed official who has any direct or indirect economic interest in the proposers' firm or any of its branches or subsidiaries. "Economic interest" shall have the same meaning as that term is defined in Title 2, California Code of Regulations Sections 18703 – 18703.5.

3.2.8 Proposers Non-Collusion Affidavit

Any proposer submitting a proposal to this RFP must complete and execute the MM&O Collection Services Form 10, Non-Collusion Affidavit of Proposer. If two (2) or more proposers intend to submit a proposal as part of a joint venture or partnership, notification must be provided as set forth in Section 1.7 of this RFP. This notification will be kept confidential until after submission of the proposals.

3.2.9 Legal Requirements

Proposers are required to comply with all provisions of federal, State, county, and local laws, ordinances, rules and regulations that are applicable to the services being offered in this RFP. Lack of knowledge of the proposer shall in no way be a cause for relief from responsibility or constitute a cognizable defense against the legal effects thereof.

3.2.10 Familiarity with Laws and Ordinances

The submission of a proposal for the MM&O Collection Services requested herein shall be considered as a representation that the proposer is familiar with all federal, State, and local laws, ordinances, rules, and regulations that affect those engaged or employed in the provision of such services, or equipment used in the provision of such services, or which in any way affects the conduct of the provision of such services, and no plea of misunderstanding will be considered on account of ignorance thereof. The proposer's particular attention is directed to such relevant ordinances and resolutions of the City, as may be amended from time to time, under which the authority, terms, and conditions the MM&O Collection Services program is to be operated. If the proposer discovers any provisions in the RFP document that are contrary to or inconsistent with any law, ordinance, or regulation, they shall report it without delay.

3.2.11 MM&O Collection Services Contract

The City shall not be obligated to any proposer to enter into a MM&O Collection Services Contract despite the City's governing body prospectively authorizing by ordinance, award of the Contract to a proposer. The City shall be obligated to a proposer if and only if the City enters into a MM&O Collection Services Contract with the proposer, and further, no action will lie against the City to compel the City to execute any such Contract, or to recover from the City any damages, costs, lost profits, expenses, etc., that any proposer may incur if the City chooses not to execute such Contract. By submitting a proposal for the services, all proposers acknowledge and agree that no enforceable contractual relationship arises until the City executes the appropriate Contract, that no action shall require the City to fully execute such Contract at any time, and that each proposer waives all claims to damages, lost profits, costs, expenses, etc., as a result of the City not fully executing such Contract.

3.2.12 Facilities

The City reserves the right to inspect each proposer's facilities at any reasonable time, during normal working hours, with prior notice to determine that the proposer has a bona fide place of business and is a responsible proposer.

3.2.13 Insurance

The City has set forth the insurance requirements in Article 25 of the MM&O Collection Services Contract contained in Section 5 of this RFP. Proposers are strongly encouraged to review and obtain an understanding of these requirements before submitting a proposal.

3.2.14 Contract Modifications

The City reserves the right to make modifications to the Contract to more fully effectuate the intent of this RFP and the MM&O Collection Services program.

3.2.15 Proposers' Proposal Surety

Proposers are required to submit with their proposal a proposal bond executed by a surety company licensed to do business in the State of California in the amount of One Hundred Thousand Dollars ($100,000). In lieu of the proposal bond, proposers may provide an irrevocable letter of credit in the amount of One Hundred Thousand Dollars ($100,000). The letter of credit must be issued by an FDIC insured banking institution chartered to do business in the State of California, (consistent with the Uniform Customs and Practice for Documentary Credits, then current revision or similar uniform convention approved by the City), in the City's name, and be callable at the discretion of the City.

The proposal bond, if used, shall be substantially the same as that provided in MM&O Collection Services Form 3, Proposal Bond Form.

A proposal will not be considered unless accompanied by said proposal surety. Such surety shall be a guarantee that the proposer, if awarded the MM&O Collection Services Contract, will execute such Contract and furnish the performance security and other required information. If the proposer fails, refuses, or neglects to furnish the required performance security and information, the City may enforce the proposal surety as compensation for liquidated damages for the proposer's breach.

After the proposals are opened, checked, and duly considered, the City will release the proposer's surety as follows:

- Proposers, Other Than Three Highest Ranked - The surety of all except the three (3) highest ranked proposers will be released within ten (10) business days after the City Council has authorized negotiations with the top ranked proposers.
- Second and Third Ranked Proposers - The surety of these proposers will be released within ten (10) business days after the City has executed the MM&O Collection Services Contract.
- Successful Proposer - The surety of the successful proposer will be released when the performance security and all other required documents have been received, have been found to be consistent with the requirements of this RFP and any amendments thereto, and the executed Contract has been approved by the City.
- Proposals Rejected - If all proposals are rejected, all sureties will be returned within ten (10) business days after such rejection.

3.2.16 Withdrawal or Revision of Proposal Prior to Opening

At any time prior to the closing time for receiving proposals, a proposer may, without prejudice, withdraw, modify, or correct a proposal after it has been deposited with the City, provided a request is made in writing to the City's Zero Waste Services RFP Process Coordinator, whose name, address, and contact information are provided herein. Modification or corrections of proposals may be made by means of email or other written communications, provided such modifications or corrections are received by the City prior to the closing time set for receiving proposals. Communications provided under this Section of the RFP shall be on proposers letterhead and signed by the proposers authorized representative.

Proposals that are not submitted on the forms furnished by the City in Section 3.4 of this RFP and are not in conformity with the provisions of this RFP document may be deemed non-responsive. No corrections in proposals will be acceptable unless each correction is signed or initialed by the proposer. If initialed, the City may require the proposer to identify any corrections so initialed. A proposal in which omissions occur or which has been conditioned by the proposer in a manner that is unacceptable to the City may be rejected. Corrections may be made until the closing time set for receiving proposals.

3.2.17 Acceptance or Rejection of Proposals

The City reserves the following rights and options:

- To deem non-responsive any and all proposals that fail to meet the literal and exact requirements of the specifications provided in this RFP document;
- To accept the proposal that is, in the judgment of the City Administrator, in the best interest of the City and its residents;
- To reject any and all non-responsive proposals;
- To waive irregularities in any proposal as the City Administrator may elect to waive; and
- To reject all proposals and to issue subsequent requests for new proposals.

Any or all proposals will be rejected if there is reason to believe that collusion existed among the proposers. Proposals received from participants in such collusion will not be considered for the same work when and if re-advertised.

3.2.18 Award of MM&O Collection Services Contract by City

The award of a MM&O Collection Services Contract, if made, will be that Contract which best fulfills the requirements and provides the best value to the City and the community. No award will be made until all necessary investigations have been made to determine the responsiveness and responsibility of the proposer under consideration. After opening the proposals, the City may require the selected proposer(s) to submit a verified statement disclosing all ownership interests, whether direct, indirect, or beneficial, and including intermediate and ultimate ownership interests where several levels of ownership exist, disclosing any single source in excess of thirty (30) percent of outstanding debt, and disclosing any Person or entity that has guaranteed in excess of thirty (30) percent of the proposer(s) outstanding debt furthermore, such disclosure shall contain any information of or relating to any and all common ownership, control, management, or common pecuniary benefit said proposing entity, its owners, management, or representatives possess or retain in any other entity now participating, or proposing to participate, in the MM&O Collection Services Contract with the City.

In the event that the City Council award of the Contract is not received within eighteen (18) months after opening of the proposals, the proposer may request that it be released from the Contract obligation and that its proposal surety be released, in which case the City shall release the proposer's surety within ten (10) business days of receipt of the request.

The foregoing action by the City or the proposer shall in no way provide any cause whatsoever for claim against the City by the proposer.

3.2.19 Addendum

The proposer shall sign each Addendum issued and attach it to the proposal in order to have the proposal considered.

3.2.20 Examination of the Site of the Work

By the submission of a proposal to do the work, the proposer certifies that a careful examination of all RFP documents has taken place, and that the proposer is fully informed concerning the requirements of the RFP document, the physical conditions to be encountered in the work, the quality and quantity of service to be performed, and of the materials and equipment to be furnished. The proposer will not be entitled to additional compensation upon subsequently finding that conditions require methods or equipment other than that anticipated in making the proposal. Negligence or inattention of the proposer in determining conditions of the Contract prior to submitting the proposal, or in any phase of the performance of the work, shall be grounds for refusal by the City to agree to proposed additional compensation for additional work caused by such negligence or inattention by the proposer.

3.2.21 Subcontractors

Proposers intending to enter into contracts with subcontractors in order to provide the services requested in this RFP must include in their proposal responses a list of those potential subcontractors for approval by the City. Subcontractor contracts must meet the insurance, competitive wage, and other requirements specified in the MM&O Collection Services Contract included in Section 5 of this RFP document.

3.3 PROPOSAL PREPARATION INSTRUCTIONS

3.3.1 Preparation of Proposals

Seven (7) sets of the proposal (one single-sided original proposal and six (6) double-sided copies), all placed in three ring binders, each with a cover indicating the company name and proposal title, must be submitted. The cover of the original proposal shall be clearly marked *"Original Proposal"* and the covers of the proposal copies shall be clearly marked "*Proposal Copies"*. The City, at its discretion, may request additional copies. All blank spaces must be filled in and noted, in ink or typed, with amounts extended and totaled as appropriate. Proposer must also provide two (2) electronic copies of their proposal on CDs or USB flash drives. Proposals must be printed on recycled content paper with a minimum of thirty (30) percent post-consumer content.

All required original signatures must be in ink. All corrections made by the proposer to any part of the RFP document must be initialed in ink.

Only one (1) MM&O Collection Services proposal from any individual, firm, partnership, or corporation under the same or different names will be considered.

Proposals must be signed by an individual(s) authorized to negotiate and bind the proposer contractually.

No proposer shall take exception to the specifications set forth in this Section 3.3.1. Proposals taking exception to the specifications may be rejected as non-responsive.

3.3.2 Proposal Content

In order to expedite the evaluation process, each proposal shall be organized in accordance with this Section as outlined in Table 3-4. Instructions for preparing each Section of the proposal shown in the outline are given in the following subsections. Proposals that do not follow the specified format outlined below, or fail to provide the required documentation, may receive lower scores. In the event of any conflict between any of the Proposal documents, resolution thereof shall be in the City's sole discretion.

The proposers shall provide the information as requested and as applicable to the proposed services. Headings and section numbering utilized in the proposal shall be the same as those identified in Table 3-4. Proposals shall include the following information in the format indicated.

TABLE 3-4
OUTLINE FOR TECHNICAL PROPOSAL

Section	Proposal Outline
1	Cover Letter
	Proposal Surety
	Performance Security Commitment Letter
	Receipt of Signed Addenda
	Table of Contents
2	Executive Summary
3	Qualifications
4	Statement of Financial Qualifications
5	Technical Proposal
6	Forms
7	Appendix

3.3.2.1 Cover Letter, Proposal Bond, Performance Security Commitment Letter, Receipt of Signed Addenda, Table of Contents (Technical Proposal: Section 1)

3.3.2.1.1. Cover Letter

All proposals must be accompanied by a cover letter not exceeding the equivalent of four (4) single-sided pages and should provide as follows:

1. The name, addresses, telephone number, and email address of proposer's key contact Person.
2. Description of the type of organization (e.g. corporation, partnership, including joint venture teams and subcontractors) submitting proposals.
3. Name of the entity that will sign the MM&O Collection Services Contract, in the event one is awarded.
4. A written statement certifying that the proposer has examined, understood, and agreed to all requirements set forth in the MM&O Collection Services Contract.
5. A written statement warranting that the requirements of the MM&O Collection Services Contract as described in this RFP document, its enclosures, attachments, and all addenda, by listing all addenda and dates received, have been thoroughly reviewed and the proposer has conducted all due diligence necessary to confirm material facts upon which the proposal is based.
6. A written statement acknowledging that, should the City award the MM&O Collection Services Contract to the proposer, a payment in the amount set forth in Section 3.1.19.1 of this RFP will be paid by the proposer to the City for reimbursement of the cost of this procurement within thirty (30) days of execution of the MM&O Collection Services Contract. Failure to provide this statement or taking exception to this requirement will result in disqualification.
7. A written statement acknowledging the validity of the proposal contents including the proposed Maximum Collection Service Rates through June 30, 2015 or such earlier time as the proposed Maximum Collection Service Rates may be adjusted by the City.

3.3.2.1.2. Proposal Surety

In order to propose on Service Group 1 - MM&O Collection Services proposers must submit a One Hundred Thousand Dollar ($100,000) proposal surety in accordance with Section 3.2.15 of this RFP.

3.3.2.1.3. Performance Security Commitment Letter

In order to propose on Service Group 1 – MM&O Collection Services, proposers must submit a Seven Million Dollar ($7,000,000) Performance Bond Commitment Letter or a letter stating that the proposer will provide a Letter of Credit in accordance with the requirements of Section 24.03 of the MM&O Collection Services Contract.

3.3.2.1.4. Receipt of Addenda

Proposers shall acknowledge receipt of each addendum to this MM&O Collection Services portion of the Zero Waste Services RFP by signing in the space provided on the issued addendum and by submitting all addenda with their proposal.

3.3.2.1.5. Table of Contents

3.3.2.2 Executive Summary (Technical Proposal: Section 2)

Not to exceed two (2) single-sided pages. Proposers must highlight the major elements of the proposer's qualifications and proposal, including a brief description of the proposer's facilities to be used. All information should be provided in a concise manner.

3.3.2.3 Qualifications (Technical Proposal: Section 3)

3.3.2.3.1. Key Staff Persons

Include proposer's Contract Compliance Coordinator and Services Manager assigned to the City.

Proposers must identify each Person and provide resumes and job responsibilities for key staff proposed for the service identified herein. Of key importance to the City is demonstrated experience in providing residential and Commercial Collection Services, knowledge of Collection Containers, experience operating automated and semi-automated Collection vehicles, expertise in implementing Diversion programs, and coordination with the current hauler and City staff.

3.3.2.3.2. References

Proposers must provide a minimum of five (5) governmental clients that the City may contact to conduct a reference check. The proposer must be providing or have provided similar services as requested herein to the municipality within the last five (5) years. Proposers must identify the number of residential and Commercial accounts serviced for each reference, the type of Diversion programs, and the Diversion results for the last three (3) years.

3.3.2.3.3. Litigation History

The proposer must provide a history for the last ten (10) years of all claims settlements, arbitrations, litigation proceedings, and civil actions involving One Hundred Thousand Dollars ($100,000) or more, and all criminal actions in which the company, its parent company, subsidiaries, all partners, or principals were involved. For each case, the proposer must provide the following:

- The name of the claim, arbitration, litigation or action;
- The amount at issue or the criminal charges alleged; and
- The resolution of the case.

The proposer must also provide details of any current or threatened legal actions in California against the proposer or its parent company, subsidiaries, all partners, principals, or joint venture company(ies) by a governmental entity contracting with the proposer or its parent company for services relating to Solid Waste management, or against such a government entity by the proposer or its parent company or joint venture company(ies). For each action, the proposer must provide the following:

- The name of the action;
- The court in which the action is pending;

- The action number; and
- The amount at issue.

The proposer shall provide a list of all enforcement actions taken against it during the last five (5) years by any regulatory agency such as, but not limited to, the United States Environmental Protection Agency, Air Quality Management District, State Water Resources Control Board or a Local Enforcement Agency under the California Integrated Waste Management Act. The list shall include the name of the regulatory agency and the date of the enforcement action.

The proposer shall inform the City if it has had a permit, franchise, license, entitlement or business license that has been revoked or suspended in the last five (5) years.

The proposer must list any liquidated damages, administrative fines, charges, or assessments that total Ten Thousand Dollars ($10,000) or greater in any one (1) calendar year during the last five (5) years that have been paid by the proposer to a public agency as a result of Collection services provided by proposer. The list shall include the name of the public agency, the date and amount of the liquidated damages, administrative fines, charges, or assessments, and the reason the public agency assessed the liquidated damages, administrative fines, charges, or assessments.

The proposer must list any claims against a bid, proposal, or performance bond and the results and failure to receive a bid, proposal, or performance bond, or any contractual defaults or termination in the last twenty (20) years.

3.3.2.4 Statement of Financial Qualifications (Technical Proposal: Section 4)

The proposer must provide copies of audited financial statements for the entity that is proposed to **sign** the MM&O Collection Services Contract for the most recent three (3) fiscal years. Audited financial statements should include: balance sheet, income statement, cash flow statement, footnotes, and subsidiary schedules. In the event that a proposer does not have audited financial statements, three (3) years of business tax returns, with supporting schedules, may be provided on an exception basis. However, tax returns are not an alternative to providing audited financial statements; if the proposer has audited financial statements, those must be provided.

- If the entity that will sign the MM&O Collection Services Contract has a parent company or is proposing a joint venture, the parent company or joint venture company(ies) must also provide audited financial statements for the most recent three (3) fiscal years. The parent company must provide a statement indicating its intent and means to provide financial assurance of performance.
- If the entity that will sign the MM&O Collection Contract has been in existence less than three (3) years, the proposer must provide sufficient financial data to substantiate, to the satisfaction of the City, the proposer's financial capability and viability of the entity.
- In addition to the audited financial statements, the proposer must provide a statement from the Chief Financial Officer indicating that there has been no material change in the financial circumstances of the proposing entity (or its parent company or owners if they are providing financial assurance of performance) since the date of the last audited financial statements.

- Financing of the services and equipment will be the sole responsibility of the successful proposer. Each proposer must demonstrate that it can provide the required financing from either 1) internally generated funds, or 2) commitments from external sources.

The City reserves the right to require submission by the proposer, at no cost to the City, of an opinion by a Certified Public Accountant with regard to the financial status of such proposer, including ownership of, or interest in, equipment and facilities prior to award of a MM&O Collection Services Contract.

As is set forth in this RFP, the City will make reasonable efforts, but makes no representation that it will be able to maintain total confidentiality of proposer's financial information. A proposer that submits financial information that it asks to have treated as confidential should submit a statement justifying the request, cross reference it in the proposal and label it as a separate attachment, clearly identifying it as confidential. At all times, the City will comply with the provisions of the California Public Records Act.

3.3.2.4.1. Labor Agreements

Proposers must provide a copy of labor agreements under which they are providing current collection services in Alameda, Contra Costa, San Francisco, Santa Clara, and San Mateo Counties. Proposers who are not currently providing collection services under the terms of a labor agreement must provide documentation in a manner that is acceptable to the City of the wages and benefits paid to employees providing those collection services in Alameda, Contra Costa, San Francisco, Santa Clara, and San Mateo Counties. If the proposer intends to enter into any labor agreements related to the provision of MM&O Collection Services, the proposer must describe the nature of the agreements and when they will be implemented.

3.3.2.5 Mixed Materials and Organics Collection Services Technical Proposal (Technical Proposal: Section 5)

Proposers are required to provide a description of the manner in which the requested services are to be provided. The proposer's work plans as required below will be attached as Exhibits in the approved MM&O Collection Services Contract. The work plans must address and include those items as specified below.

The City will place significant emphasis on proposer's proposed work plans during the evaluation process. At a minimum, proposers shall include the following work plans:

3.3.2.5.1. Transition Plan

Proposers shall provide a detailed transition plan that describes the plans and schedule of events for the provision of new services. The transition plan must, at a minimum, address the following items:

1. What the Proposer will accomplish prior to the start of MM&O Collection Services, provided in a timeline and described in concise terms. This shall include, among other things, order equipment, prepare necessary routing schedules and route maps, obtain any permits and licenses, establish/build facilities, and begin the community outreach campaign;
2. How Customers will select the size and number of Carts and Bins and how these Carts or Bins will be delivered;

3. How the MM&O Collection Services Contractor will implement the required SFD programs;
4. How the MM&O Collection Services Contractor will implement the MFD programs;
5. How the MM&O Collection Services Contractor will implement the City programs;
6. How the MM&O Collection Services Contractor will implement the Commercial Non-Exclusive Recyclable Material programs, if selected;
7. What type of public education and outreach activities will occur; and
8. How the transition will be coordinated with the current services, current hauler, and with the City (switching of Containers, billing system, etc.).

If the proposer is proposing on Services Groups 1 and 2, the proposer must describe any change or improvement that combining these services will provide.

In developing the transition plan, proposers should consider that the City strongly seeks to reduce disruption to Customers during the transition period.

3.3.2.5.2. Collection Services Operations Plan

Proposers shall provide a detailed Collection Services operations plan that presents the specific Collection programs that will be implemented in the City. This may be appended as part of the signed MM&O Collection Services Contract. This **must** address items as listed above and also include items listed in the following sub-sections 3.3.2.5.2.1 through 3.3.2.5.2.6:

If the proposer is proposing on Services Groups 1 and 2, the proposer must describe any change or improvement that combining these services will provide.

3.3.2.5.2.1. Vehicles

New Collection vehicles are required for MM&O Collection Services proposal. Proposers may include supervisory and administrative vehicles that are no more than five (5) years old.

1. For each type of Collection vehicle, complete a Vehicle Specifications Form (MM&O Collection Services Form 14 - Vehicle Specifications);
2. A listing of the proposer's supervisory and administrative vehicles and all accessories by type, model, year of manufacture, and anticipated remaining useful life, as of the date of the inventory;
3. For new Collection vehicles, delivery guarantees by manufacturers shall be included in the Proposal;
4. How proposer’s Collection vehicles will reduce air emissions, minimize noise, and reduce wear and tear on the City’s streets;
5. How the proposer will use technology, such as GPS, to track and monitor vehicle operation and use, and identify the proposed technology brand to be used;
6. The appearance of the vehicles, including the color and information to appear on the outside of the vehicle;
7. Vehicle maintenance program, including response/replacement/repair time for vehicles on route; and
8. The scheduled maintenance and cleaning of the vehicles.

If the proposer is proposing on Services Groups 1 and 2, the proposer must describe any change or improvement that combining these services will provide.

3.3.2.5.2.2. Containers

1. For each type of Container complete the appropriate Container Specification Form (MM&O Collection Services Form 13 - Cart Specifications);
2. Past experience of other Collection programs with this type of Container;
3. Ease of cleaning and the appearance of the Containers, including their colors and information to be imprinted on the Containers; and
4. Container maintenance program, including response/replacement/repair time for Containers.

If the proposer is proposing on Services Groups 1 and 2, the proposer must describe any change or improvement that combining these services will provide.

3.3.2.5.2.3. Route Operations

1. The number of vehicles required for the Collection programs, and the number of routes to be performed by service line;
2. The number of vehicle passes per account;
3. The number of crew members required per vehicle and their responsibilities;
4. MFD Holiday Tree Collection plan;
5. To the extent not discussed in Section 3.3.2.5.2.1 above, the advantages and disadvantages of the type of vehicle chosen (particularly with regard to backyard Collection, noise and the impact on the City's roads and street trees);
6. How drivers and dispatch will communicate while on route to resolve Customer service requests/complaint; and
7. Labor relations history and impact on performance.

If the proposer is proposing on Services Groups 1 and 2, the proposer must describe any change or improvement that combining these services will provide.

3.3.2.5.2.4. Facilities

1. Complete a Facilities Specification Form for each facility to be used (MM&O Collection Services Form 12A - Material Recovery Facility, MM&O Collection Services Form 12B - Mixed Materials Processing Facility, MM&O Collection Services Form 12C - Organic Materials Processing Facility, and MM&O Collection Services Form 12D - Transfer Station Facility);
2. The capacity of each facility and the ability to accommodate the deliveries from City's crews;
3. Customer Service office and operations yard location;
4. Call center location; and
5. Labor relations history and impact on performance.

If the proposer is proposing on Services Groups 1 and 2, the proposer must describe any change or improvement that combining these services will provide.

3.3.2.5.2.5. Safety

Assurances that all required plans are in place and a description of the following:

1. Employee safety requirements, including physical, drug, and alcohol testing requirements;
2. Hazardous Waste, E-waste, and Universal Waste management protocol;
3. Spill response plan; and
4. Health and safety management procedures.

If the proposer is proposing on Service Groups 1 and 2, the proposer must describe any change or improvement that combining these services will provide.

3.3.2.5.2.6. Reporting

1. Detailed Zero Waste monitoring and reporting program, including electronic transmittal of reports to City;
2. Method used to track Tonnage Collected, Disposed, Processed, and Residue Disposed; and
3. Process for reporting Customer complaints and dispute resolution to the City.

If the proposer is proposing on Services Groups 1 and 2, the proposer must describe any change or improvement that combining these services will provide.

3.3.2.5.3. Diversion Plan

Proposers shall provide their approach in meeting or exceeding the minimum Diversion requirements specified in the Section 1.1.1 of this RFP and in the MM&O Collection Services Contract presented in Section 5. Proposers must provide Diversion outcomes, which must not be less than the minimum Diversion required in the MM&O Collection Services Contract, and must be tied to specific Collection methods and public education programs. Failure to provide the estimated Diversion Tonnages and proposed Diversion outcomes may be grounds for disqualification. The Diversion plan will be appended as part of the signed MM&O Collection Services Contract. The Diversion plan must, at a minimum, include the following:

1. The methods used for Diversion programs by program and material type;
2. List of Diversion facilities to be used, as included in the Facilities Specification Form (MM&O Collection Services Form 12A - Material Recovery Facility, MM&O Collection Services Form 12B - Mixed Materials Processing Facility, MM&O Collection Services Form 12C - Organic Materials Processing Facility, and MM&O Collection Services Form 12D - Transfer Station Facility);
3. A schedule showing specific programs and tasks, milestones, and time frames for meeting the Diversion requirements, as specified in this RFP;
4. A table segregated by SFD, MFD, Commercial, and City services that estimates Tonnages for Recyclable Materials, Organic Materials and Mixed Materials delivered

and Processed, and the estimated Residual Tonnages for each calendar year of the MM&O Collection Services Contract beginning with calendar year 2016; and

5. The overall Diversion outcome for all Tonnages handled, which must not be less than the minimum Diversion required in the MM&O Collection Services Contract.

If the proposer is proposing on Services Groups 1 and 2, the proposer must describe any change or improvement that combining these services will provide.

3.3.2.5.4. Customer Service Plan

Proposers shall provide a detailed Customer service plan that specifies the Customer service operations that will be used in the City. This will be appended as part of the signed MM&O Collection Services Contract. Customer service hours should be noted. The Customer service plan must include the following:

1. Protocol for receiving Customer calls and emails (or other messages), issuing work orders, closing work orders, and replying to Customers;
2. Information on Proposer's Call Center including capacity, staffing, Customer Information System, and Website;
3. Information on proposed business office; and
4. Protocol for Customer billing, billing changes, and billing disputes.

If the proposer is proposing on Services Groups 1 and 2, the proposer must describe any change or improvement that combining these services will provide.

3.3.2.5.5. Community Outreach Strategy

Proposers shall provide a detailed public awareness plan that specifies the methods and public outreach materials that will be used for program start-up and through the first eighteen (18) months. Specific attention should be given to methods that achieve high participation and Diversion in Organic Materials Collection programs, City special events, and on-going "how to" promotions. This will be appended as part of the signed MM&O Collection Services Contract.

If the proposer is proposing on Services Groups 1 and 2, the proposer must describe any change or improvement that combining these services will provide.

3.3.2.5.6. HHW Collection Plan

Proposers shall provide a subscription based Household Hazardous Waste (HHW) Collection plan that details the operations of the proposer's HHW Collection program. This service is supplemental to the Alameda County HHW collection program. The plan must include, but may not necessarily be limited to:

1. Acceptable and unacceptable materials;
2. Procedures for Collection, estimate for annual number of participants, and point(s) of contact for Customers wishing to participate;
3. Public education, and plans for public awareness of program;
4. Procedures for documenting HHW Collection and plans for measuring program effectiveness; and
5. Impacts on Alameda County HHW program, if any.

3.3.2.5.7. Sharps Collection Plan

Proposers shall provide a subscription based Sharps Collection plan that details the operations of the proposers Sharps Collection program. The plan must include, but may not necessarily be limited to:

1. Procedures for Collection, and point(s) of contact for Customers wishing to participate;
2. Public education, and plans for increasing public awareness of program; and
3. Procedures for documenting Sharps Collection and plans for measuring program effectiveness.

3.3.2.5.8. Employee and Labor Relations

Proposers shall provide a detailed Employee and Labor Relations Plan to include the following:

1. History as an employer;
2. Working condition commitments;
3. Assurances of its commitments to labor peace;
4. Information regarding how the proposer will protect against labor discord during the term of the MM&O Collection Services Contract; and
5. How company addresses equity and work conditions for positions that are not covered by collectively bargained agreements.

3.3.2.6 Forms (Technical Proposal: Section 6)

All proposers must complete MM&O Collection Services Forms 1 through 2 and 4 through 15, in the order they are listed at the end of this Section. Proposers are not required to complete MM&O Collection Services Form 3 if they elect to provide a letter of credit as proposal surety or they elect to provide a proposal bond that is substantially the same as that provided in MM&O Collection Services Form 3. The form of the letter of credit must be consistent with the requirements set forth is Section 24.03 of the MM&O Collection Services Contract. Except for MM&O Collection Services Form 3, proposers shall use only the forms and format provided. Any deviation from those provided forms may be grounds for rejection of the entire proposal. Specific Forms for use by the MM&O Collection Services proposers are included at the end of this Section. All Forms will be distributed electronically as Word documents. Forms 2A through 2K will be distributed electronically as Excel worksheets.

3.3.2.7 Appendix (Technical Proposal: Section 7)

Proposers may provide any additional information that they believe to be applicable to this proposal and include such information as an Appendix. Proposers should include information related to alternatives or exceptions in the Appendix.

3.3.3 Proposal Alternatives and Exceptions

Proposers may submit alternatives or exceptions to the services listed in this RFP to the extent that such alternative or exception is an improvement in service or price. If alternatives or exceptions are presented, the alternative or exception shall be included as the first item in the Appendix Section of the proposal and shall contain the Maximum Collection Service Rates related to the alternative or exception using the forms provided at the end of this Section and

shall include revised MM&O Collection Services Contract language. **Note that while the City will review proposal exceptions or alternatives submitted as part of the RFP process, the City is not obligated to evaluate or accept any alternative(s) or exception(s) submitted by proposers. Proposers should note that in the event of MM&O Collection Services Contract award, the proposer will not be allowed to request the discussion of any exceptions or alternatives that were not provided by the proposer in the proposal alternatives and exceptions portion of their proposal in the form and manner set forth in this Section 3.3.3.**

The City strongly suggests that proposers who hold "non-negotiable" positions in opposition to the requirements set forth in the MM&O Collection Services Contract consider submitting a written request to the City to consider those positions during the pre-proposal process and prior to the proposal submittal date. This will allow the City to provide a specific response to each item prior to the proposer submitting its proposal. This is important because once the proposals are submitted, the City is under no obligation to accept any exceptions or alternatives while the proposer is obligated to accept an award of the MM&O Collection Services Contract under the terms and conditions as stated in that MM&O Collection Services Contract.

3.3.4 Evaluation of Proposal

3.3.4.1 General

Proposals submitted by the proposers will be judged through the evaluation process described in this Section. The selected proposers will be chosen based on the outcome of this evaluation.

In order to be evaluated, proposals must comply with the following:

- Proposers must have attended the RFP release meeting and pre-proposal meeting.
- Proposals must be received by the submission date and time.
- Proposals must be submitted in conformance with the requirements of the RFP.

All proposals received by the submission date as indicated in this RFP will be reviewed to determine whether they are responsive. Proposers whose proposals are not responsive will be offered a debriefing session with City and will have the opportunity to protest the decision. Responsive proposals will then be distributed for evaluation and scoring. Furthermore, as part of the evaluation process, proposers may be asked to attend personal interviews to discuss their proposals.

If for any reason during the course of negotiations with the selected proposer, the City determines that a reasonable Contract cannot be negotiated, the City reserves the right to suspend negotiations with the selected proposer, contact the next ranked proposer and begin negotiations for the purpose of signing a MM&O Collection Services Contract with that selected proposer. The City further reserves the right to enter into simultaneous negotiations with two (2) or more proposers if reasonably competitive proposals are received for MM&O Collection Services.

3.3.4.2 Disqualification

Factors such as, but not limited to, any of the following may be considered just cause to disqualify a proposal without further consideration:

- Evidence of collusion, directly or indirectly, among proposers in regard to the amount, terms, or conditions of this proposal;

- Failure to direct all questions/inquiries through the City contact as set forth in Section 3.2.4 of this RFP;
- Any attempt to improperly influence any member of the evaluation team;
- Existence of any lawsuit, unresolved contractual claim or dispute between the City and the proposer and/or the proposer's related entities;
- Submittal of "non-negotiable" exceptions to the requirements of the MM&O Collection Services Contract;
- Evidence of willfully submitting incorrect information as part of the proposal; and
- Evidence of proposer's inability to successfully complete the responsibilities and obligations of the proposal.

3.3.4.3 Non-Conforming Proposal

A proposal shall be prepared and submitted in accordance with the provisions of these RFP instructions and specifications. Any alteration, omission, addition, variance, or limitation of, from or to a proposal may be sufficient grounds for non-acceptance of the proposal, at the sole discretion of the City.

3.3.4.4 Required Documents

Proposals will be reviewed to determine if all required documentation is included. Proposers who fail to submit the required documents with their proposal will be disqualified from further consideration.

3.3.4.5 Proposal Evaluation

The City reserves the right to award a MM&O Collection Services Contract that is most advantageous to the City and its residents and businesses. The following Table contains the criteria and weighting the City will use to evaluate proposals to provide MM&O Collection Services. Specific details on the criteria are listed below. In order to be evaluated, all proposals must be responsive and complete as per the submittal instructions.

TABLE 3-5
CITY OF OAKLAND MM&O COLLECTION SERVICES EVALUATION CRITERIA AND POINTS

Criteria	Points
1. Customer Rates	**35**
2. Zero Waste / Diversion Programs	**25**
3. Operational Approach	**20**
4. Experience & Performance	**5**
5. Customer Service	**5**
6. Financial Capacity	**5**
7. References	**5**
8. Economic Benefits – Preference Points	**6**

3.3.4.5.1. Evaluation Criteria

1. Customer Rates. The evaluation of customer rates is intended to provide an equitable basis for comparison between proposals. All customer rate information to be used in this evaluation will be as stated in the proposal. The proposals will be reviewed to verify that the proposed customer rates are consistent with the activities described in the proposal and the proposer's work plans. Evaluation criteria to be considered will include without limitation all information provided in MM&O Collection Services Form 2: Maximum Service Rate Proposal.

2. Zero Waste / Diversion Programs. Each proposal will be evaluated to assess the proposers' approach to:

   - Implementing Source Separated Collection Services as the primary and most important method of Diversion;
   - Implementing aggressive community outreach programs to meet Diversion goals;
   - Reducing environmental footprint of the operations through programs such as clean air vehicles, water conservation, stormwater attenuation, green building, energy efficiency, renewable energy generation, waste reduction and reuse programs; and
   - The Diversion plan as required in accordance with Section 3.3.2.5.3 of this RFP.

3. Operational Approach. Each proposal will be evaluated on their operational approach. This will include without limitation:

   - Safety;
   - Uniform Collection methods;
   - Transition plan;
   - Fuel type used for equipment and efficiency of routes;
   - Labor discussions (lockouts/strikes), agreement terms and history; and
   - The Collection Services operations plan as required in accordance with Section 3.3.2.5.2 of this RFP.

4. Experience and Performance. The experience of each proposer will be evaluated to determine the relative ability of each proposer to implement the MM&O Collection

Services programs as described in this RFP and to attain the City objectives for maximizing Diversion. Experience evaluation criteria and areas of experience to be considered will include without limitation:

- Qualifications and structure of project management team, relationships between management team and corporate management, and internal controls;
- Previous experience providing services to cities of similar size;
- Demonstrated expertise in implementing and maintaining Customer service programs, including the development and use of performance measures and benchmarking;
- Previous experience in successfully designing and implementing transition plans, relevant to this RFP;
- Experience in designing, implementing, and operating public outreach and information programs that promote high participation and Diversion;
- Demonstrated expertise in designing and using data management systems to assure accurate data collection, analysis and reporting;
- Litigation history;
- Successful operation of residential and Commercial Mixed Materials and Organics programs;
- Implementation and administration of complex Mixed Materials and Organics Collection systems, including equipment selection and route design; and
- Cost-effective Processing of Organic Materials with demonstrated success in attaining highest and best uses for such materials.

5. Customer Service. Each proposal will be evaluated to assess the proposers' approach and use of technology in the following areas:
   - Implementing and monitoring Customer service programs;
   - Accurately and consistently recording performance;
   - Customer billing;
   - The Customer service plans as required in accordance with Section 3.3.2.5.4 of this RFP;
   - Continuity and timeliness of service;
   - Performance measures; and
   - Measurements of outreach effectiveness.
6. Financial Capacity. Each proposal will be evaluated to assess the relative financial capacity and strength of the proposer. This will include without limitation:
   - An evaluation of financial statements, including a review of key financial ratios;
   - Proposer's capacity and plans for making needed start-up investments in equipment, which should be specifically addressed in the Proposals;
   - Insurance coverage; and
   - Indemnification.

7. References. Each proposal will be evaluated on the interviews with client references provided.

8. Economic Benefits – Preference Points. The length of term and the value of these contracts should provide an economic opportunity for Oakland residents and businesses. Therefore, the City has established six (6) preference points as part of the RFP and evaluation, which are designed to direct economic benefits to Oakland.

   - Local Business Presence and Participation. In an effort to maximize local business presence and participation the City will award up to three (3) preference points in half-point increments beyond the 100 points established for the proposal evaluation to proposals maximizing local business presence and participation. The proposal that has the highest economic value to Oakland will receive the three (3) points, and each proposal in order of economic value thereafter will receive points in half point increments.

   - Proposers may achieve local business presence and participation points by locating some or all portions of their operations in Oakland, for example, truck dispatch, processing, fueling, and call center. Additionally, proposers may demonstrate local business participation through the goods and services that they buy in Oakland, for example trucks, automotive and janitorial supplies, and professional services such as graphic designers, insurance and bonding.

   - Local Hire. The City will award up to one (1) local hire preference point in half point increments beyond the 100 points established for the proposal evaluation for a commitment to train and hire local disadvantaged workers. The proposer should delineate how they will achieve their commitment.

   - The City will award up to two (2) local hire preference points in half point increments for a proposer's commitment to maintain a certain total percent of full time equivalent positions as Oakland residents in their workforce on a year-by-year basis. This commitment may include management positions. Note this commitment would begin 90 days after July 1, 2015 to address job retention requirements.

3.3.4.5.2. Announcement of Award

The City will inform all proposers of its intent to award a MM&O Collection Services Contract in writing.

3.3.4.5.3. Protest Procedure

If an unsuccessful proposer wants to dispute the City's proposal ranking determination, the protest must be submitted in writing to the City Administrator appointed Protest Hearing Officer no later than five (5) City business days after announcement of the City's determination, detailing the grounds and factual basis and providing all supporting information. Protests will not be considered for disputes of proposal requirements and specifications, which must be addressed in accordance with Section 3.2.4 of the RFP. Failure to submit a timely written protest to the Protest Hearing Officer will bar consideration of the protest.

The address for submitting protests is:

City Administrator
Office of the City Administrator
City of Oakland

1 Frank Ogawa Plaza, 3rd Floor
Oakland, CA 94612

3.3.4.5.4. Contract Award

After the RFP evaluation process and Protest Period is complete, the City Administrator will recommend the top ranked proposer to the City Council for authorization to enter into negotiations. After completion of negotiations to the satisfaction of the City, the City Administrator will request authorization from the City Council to enter into a Contract with the proposer.

3.4 PROPOSAL FORMS

The City will receive written and sealed proposals to furnish all labor and equipment to provide the services as required in the MM&O Collection Services Contract. **MM&O Collection Services Forms 1 through 2 and 4 through 15 on the following pages are the required forms that must be completed by MM&O Collection Services proposers as part of the proposal**.

Proposers may use Form 3 or may provide the required proposal surety through the use of a proposal bond that is substantially the same as that provided in Form 3 or through the use of a letter of credit.

With the exception of Form 2, the forms are set up **with expandable text boxes** to allow proposers to input their information directly into **MM&O Collection Services Forms 1 through 15**. Form 2 is provided in Microsoft Excel format. Answers to questions that are not applicable should be included and marked "Not Applicable."

Instructions:

With the exception of Form 2, open the fill-in form document and fill in the form using Microsoft Word. Enter information in the shaded [ ] "fields" of the form. To move from field to field, use your mouse, the arrow keys or press Tab. Use your mouse or the spacebar to mark and unmark a checkbox.

To complete Form 2, open the fill-in form spreadsheet and fill in the form using Microsoft Excel. There are multiple sheets in the Excel workbook. To complete all forms, select from the tabs along the bottom of the workbook. Enter information in the shaded [ ] "fields" of the form. To move from field to field, use your mouse, the arrow keys or press Tab. Use your mouse or the spacebar to mark and unmark a checkbox.

Be sure to sign and date your forms where applicable.

The purpose of the forms contained herein is not intended in any way to limit the type, quality or quantity of data and information supplied by the proposer. Required Forms not completed in full may result in disqualification.

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MM&O COLLECTION SERVICES FORM 1
MM&O MAXIMUM COLLECTION SERVICE RATES PROPOSAL AND PAYMENT TO CITY: SUMMARY AND SIGNATURE

In preparing the MM&O Maximum Collection Service Rates Proposal Forms proposers should be aware of the following:

- All MM&O Maximum Service Rates proposed on these forms for ***City of Oakland*** shall be fixed through June 30, 2016, with the exception of the City CPI adjustment which will be effective on July 1, 2015, and should reflect service requirements and all one time and annual payments including franchise fees as specified in the MM&O Collection Services Contract.
- Proposer must complete MM&O Collection Services Form 1 if they are to be considered for Contract Award.
- Proposer shall ensure that **ALL** Government fees and charges, effective as of December 12, 2012, are included in the Proposed MM&O Maximum Collection Service Rates Forms.

The Undersigned hereby certifies as follows:

- That _____ has personally and carefully examined the specifications and instructions for the work to be done as set forth in this RFP.
- That _____ has made examination of the services as applicable to the Proposal, and fully understands the character of the work to be done.
- That _____ agrees to pay the CITY the Procurement Reimbursement Cost within thirty-(30-) days of execution of the MM&O Collection Services Contract.

That, having made the necessary examination, the undersigned hereby proposes to furnish all materials, vehicles, plans, equipment and facilities, and to perform all labor and services that may be required to do said work with the time fixed, and upon the terms and conditions provided in the Contract, at the Maximum Collection Service Rates set forth on MM&O Collection Services Form 2 - MM&O Maximum Collection Service Rates.

Note: Signatures shall be in accordance with Section 3.3.1 of this RFP.

PROPOSER _____

Signature _____

Print Name and Title _____

Signature _____

Print Name and Title _____

Firm/Trade Name _____

Individual: ☐ Partnership: ☐ Joint Venture ☐

Corporation _____, A _____ Corporation (State of Incorporation)

Date _____

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MM&O Collection Services Form 2
Maximum Collection Service Rates Proposal

Instructions for Completing Forms 2A-2K (Provided in Excel Workbook)

Prior to preparing the MM&O Collection Services Maximum Collection Service Rate Proposal Forms, proposers should review Article 7 of the MM&O Collection Services Contract, included as Section 5 of this RFP, to familiarize themselves with the Maximum Collection Service Rate adjustment methodology. In addition, it is the sole responsibility of the proposer to conduct their own due diligence and calculate and be responsible for the costs and other information quoted in the MM&O Collection Services Maximum Collection Service Rates Proposal Forms.

Disposal Facilities

Four (4) Disposal Facilities intend to provide proposals for Disposal Services in response to the City's Request for Proposals for Zero Waste Services. In the event proposers' Maximum Collection Service Rates would differ, depending on which Disposal Facility is selected by the City to provide Disposal Services, for each Disposal Facility, proposers must submit a separate set of forms with the facility name listed on every form for each Disposal Facility listed below. If the Maximum Collection Service Rates will not change, regardless of the Disposal Facility selected by the City, proposers must note this in the space provided for the Disposal Facility name.

1. Recology Hay Road
   6426 Hay Road
   Vacaville, CA 95687
2. Potrero Hills Landfill, Inc.
   3675 Potrero Hills Lane
   Suisun City, CA 94585
3. Altamont Landfill and Resource Recovery Facility
   10840 Altamont Pass Road
   Livermore, CA 94550
4. Keller Canyon Landfill
   901 Bailey Road
   Pittsburg, CA 94565

Proposed Maximum Collection Service Rates

(Forms 2A through 2G). The proposers Maximum Collection Service Rates shall consist of two (2) elements: a Disposal Rate Element and Collection Rate Element. Proposers should base their Maximum Collection Service Rates calculations on the service requirements set forth in the MM&O Collection Services Contract provided in Section 5 of this RFP document.

Disposal Rate Element. Proposers should provide a proposed Monthly Unit Generation Factor (Tonnage amount) representing the total **Tonnage** the proposer anticipates disposing at the Disposal Facility for the first Contract Year.

Proposers **should not** provide a Disposal Rate Element. The spreadsheet is set up to calculate this based on the Monthly Unit Generation Factor and will be adjusted by the City based on the actual Disposal Charge per Ton. An estimated $50.00 per Ton charge has been input for calculation purposes. Prior to evaluation of the Maximum Collection Service Rates, the actual proposed Disposal Rates will be entered.

MM&O COLLECTION SERVICES FORM 2
MAXIMUM COLLECTION SERVICE RATES PROPOSAL

Collection Rate Element. Proposers should provide a maximum Collection Rate Element that includes all costs of providing Collection Services including, but not limited to, Collection, Processing, transportation, disposal, government and franchise fee costs.

Default MFD Cart and Bin Collection (Forms 2B and 2C). The Default MFD Cart and Bin Collection Services shall include unlimited subscription to Organic Materials Collection.

Option 1 MFD Cart and Bin Collection (Forms 2D and 2E). Option 1 MFD Cart and Bin Collection Services shall have a separate charge for subscription to Organic Materials Collection.

Commercial Cart and Bin Collection (Forms 2F and 2G). The Commercial Cart and Bin Collection Service shall have a separate charge for subscription to Organic Materials Collection.

Commercial Non-Exclusive Recyclable Materials Collection (Form 2H). Proposers shall provide proposed Maximum Collection Service Rates for Commercial Non-Exclusive Recyclable Materials Collection.

SFD, MFD, and Commercial Temporary Roll-Off Box Collection (Forms 2I). The proposers Maximum Collection Service Rates shall consist of a pull rate only. This includes costs of providing Temporary Roll-Off Box Collection Services including, but not limited to, Collection and franchise fee costs. Proposers should base their Maximum Collection Service Rate calculations on the service requirements set forth in the MM&O Collection Services Contract provided in Section 5 of this RFP document. Disposal will be based on actual Disposal costs. The total rate to be paid by the Customer will be the pull rate and Disposal.

Emergency Service Rates (Form 2J). The proposers Maximum Collection Service Rates shall consist of a pull rate only. This includes costs of providing Temporary Roll-Off Box Collection Services including, but not limited to, Collection and franchise fee costs. Proposers should base their Maximum Collection Service Rate calculations on the service requirements set forth in the MM&O Collection Services Contract provided in Section 5 of this RFP document. Disposal will be based on actual Disposal costs. The total Customer rate will be the pull rate and Disposal.

Multiple Service Discount (Form 2K). Proposers proposing to offer MM&O Collection Services and RR Collection Services and/or Disposal Services shall indicate the discount, if any, that will be applied to all proposed Maximum Collection Service Rates proposed on MM&O Collection Forms 2A through 2J in the event both services are awarded to the proposer. Please note the franchise fees will not be adjusted due to the award of multiple services to a single proposer and the discounted rate will include the entire franchise fee as provided in 3.1.17.2.

Adjustments

The following adjustments will be collectively applied before any multiple service discounts proposed in MM&O Collection Form 2K, based on the City's decision to accept the proposed adjustment.

Lien Process / Property Assessment Adjustment. If the CITY does not provide a lien process / property assessment indicate the adjustment, if any, that will be applied to all proposed rates proposed on MM&O Collection Forms 2A through 2J.

Adjustment to all proposed rates on MM&O Collection Forms 2A through 2J: 0.00%

Call Center Adjustment. Indicate the adjustment, if any, if the CITY does not require the

MM&O COLLECTION SERVICES FORM 2
MAXIMUM COLLECTION SERVICE RATES PROPOSAL

call center to be located in Alameda County, California. Additionally, indicate the total estimated annual savings if the call center is located outside Alameda County, California.

Adjustment to all proposed rates on MM&O Collection Forms 2A through 2J: 0.00%

Estimated Savings Annually – Wages & Benefits: $0.00

Estimated Savings Annually – Administration: $0.00

Estimated Savings Annually – Operations: $0.00

Estimated Savings Annually – Capital: $0.00

Mitigating Inflation

In order to provide some mitigation for inflation between the time that the Maximum Collection Service Rates were proposed and the time when Collection Services will commence, the Maximum Collection Service Rates contained on Forms 2A through 2J, including the Franchise Fee, shall be adjusted on July 1, 2015 by the annual change in the Consumer Price Index – All Urban Consumers, Series ID cuura422sa0, Not Seasonally adjusted, San Francisco-Oakland-San Jose, CA for the prior calendar year, January 1, 2014 through December 31, 2014.

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MM&O COLLECTION SERVICES FORM 3
PROPOSAL BOND FORM

KNOW ALL PERSONS BY THESE PRESENTS:

THAT _____

(hereinafter called the principal), as principal and _____ a corporation organized and doing business under and by virtue of the laws of the State of _____, and duly licensed for the purpose of making, guaranteeing or becoming sole surety upon bonds or undertakings required or authorized by the laws of the State of California, as Surety, are held and firmly bound unto the City of Oakland, a municipal corporation, (hereinafter called the Obligee) in the just and full sum of One Hundred Thousand Dollars ($100,000) lawful money of the United States of America, for the payment of which, well and truly to be made, we hereby bind ourselves and each of our successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, WHEREAS, the above bounden principal as aforesaid, is about to hand in and submit the oblige a proposal for MM&O Collection Services.

In accordance with the plans and specifications filed in the office of the obligee and under the notice inviting proposals therefore.

NOW, THEREFORE, if the proposal as submitted by the said principal shall be accepted, and the Contract for such work or supplies be awarded to the principal, and the said principal shall fail, neglect or refuse to enter into a Contract to perform said work or deliver said supplies, and furnish good and sufficient bond therefore, then the amount of this bond shall be declared to be forfeited to said obligee City of Oakland as liquidated damages, it being agreed that said City will suffer damages as a result of such failure, neglect or refusal of the principal and that such damages are and will continue to be, impracticable and extremely difficult to determine.

IN WITNESS WHEREOF, said Principal and said Surety have caused these presents to be duly signed and sealed this _____ day of _____, 2012.

_____
_____
_____

(Acknowledgment of Surety is required. See reverse side.)

By _____
Attorney-in-Fact

MM&O COLLECTION SERVICES FORM 3
PROPOSAL BOND FORM

ACKNOWLEDGMENT

State of California, County of _____

On _____ before me, _____ (Insert name and title of the officer) personally appeared, _____ who proved to 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 authorized capacity(ies), and that 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 _____ **(Seal)**

	Proposal BOND				**to CITY OF OAKLAND A Municipal Corporation**	Dated ___, 2012	

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MM&O COLLECTION SERVICES FORM 4
SCHEDULE K PENDING DISPUTE DISCLOSURE FORM

Policy – All entities are required to disclose pending disputes with the City of Oakland when they submit bids, proposals or applications for a City contract or transaction involving:

- The purchase of products, construction, non-professional or professional services,
- Contracts with concessionaires, facility or program operators or managers,
- Contracts with project developers, including Disposition and Development Agreements, Lease Disposition and Development Agreements and other participation agreements,
- Loans and grants, or acquisition, sale, lease or other conveyance of real property, excluding licenses for rights of entry or use of City facilities for a term less than thirty (30) consecutive calendar days.

Disclosure is required at the time bids, proposals or applications are due for any of the above – described contracts or transactions when an entity is responding to a competitive solicitation and at the commencement of negotiations when bids, proposals or applications are solicited by or submitted to the City in a non-bid or otherwise non-competitive process.

The disclosure requirement applies to pending disputes on other City and Agency contracts or projects that: (1) have resulted in a claim or lawsuit against the City of Oakland (2) could result in a new claim or new lawsuit against the City of Oakland or (3) could result in a cross-complaint or any other action to make the City of Oakland a party to an existing lawsuit. "Claim" includes, but is not limited to, a pending administrative claim or a claim or demand for additional compensation.

Entities required to disclose under this Disclosure Policy include (1) any principal owner or partner, (2) any business entity with principal owners or partners that are owners or partners in a business entity, or any affiliate of such a business entity, which is involved in a pending dispute against the City of Oakland or Agency.

Failure to timely disclose pending disputes required by this policy may result in (1) a determination that a bid is non-responsive and non-responsible for price-based awards, or (2) non-consideration of a bid or proposal for a professional service contract or other qualification-based award. The City may elect to terminate contracts with entities that failed to timely disclose pending disputes and/or initiate debarment proceedings against such entities.

MM&O Collection Services Form 4
Schedule K Pending Dispute Disclosure Form

Individuals, Businesses or other entities should respond below:

1. Are you or your firm involved in a pending dispute or claim against the City of Oakland?

   No ☐ Yes ☐ *(check one)*

2. If you answered "Yes", list existing and pending lawsuit(s) and claim(s) with the title and date of the contract, a brief description of the issues, officials or staff Persons involved in the matter and the City or Agency department/division administering the contract.

Contract Title: _____

Date: _____ Official(s), Staff Person(s) involved: _____

Administering Department/Division: _____

Issues: _____

Contract Title: _____

Date: _____ Official(s), Staff Person(s) involved: _____

Administering Department/Division: _____

Issues: _____

(check) ☐ **Additional Disputes listed on Attachment**

By signing below, I certify that all representations and disclosures made herein are true, correct and complete.

Signature: _____

Print Name: _____

Title: _____ Date: _____

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MM&O COLLECTION SERVICES FORM 5
SCHEDULE N DECLARATION OF COMPLIANCE - LIVING WAGE ORDINANCE

The Oakland Living Wage Ordinance (the "Ordinance"). Codified as Oakland Municipal Code provides that certain employers under contracts for the furnishing of services to or for the City that involve an expenditure equal to or greater than $25,000 and certain recipients of City financial assistance that involve receipt of financial assistance equal to or greater than $100,000 shall pay a prescribed minimum level of compensation to their employees for the time their employees work on City of Oakland contracts.

The contractor or city financial assistance recipient (CFAR) agree as described in Section 3-C "Health Benefits" of the Ordinance, to pay employees a wage no less than the minimum compensation of $11.70 per hour with health benefits, or $13.45 per hour without benefits and to provide for annual increases pursuant to Section 3-A 'Wages" of the Ordinance. **Note: Effective July 1, of each year, Contractor shall pay the adjusted wage rates.**

(a) To provide at least twelve compensated days off per year for sick leave, vacation or personal necessity at the employees request, and at least ten additional days per year of uncompensated time off pursuant to Section 3-B “Compensated Days Off” of the Ordinance.

(b) Health Benefits – Said full-time and part-time employees paid at the lower living wage rate shall be provided health benefits of at least $1.75 per hour. Contractor shall provide proof that health benefits are in effect for those employees no later than 30 days after execution of the contract or receipt of City financial assistance.

(c) To inform employees that he or she may be eligible for Earned Income Credit (EIC) and shall provide forms to apply for advance EIC payments to eligible employees. There are several websites and other sources available to assist you. Web sites include but are not limited to: (1) http://www.irs.gov and (2) http://www.irs.gov/individuals/article/0,,id=96466,00.html.

(d) To permit access to work sites for authorized City representatives to review the operation, payroll and related documents, and to provide certified copies of the relevant records upon request by the City; and

(e) Not to retaliate against any employee claiming non-compliance with the provisions of this Ordinance and to comply with federal law prohibiting retaliation for union organizing.

Employment Questionnaire: Please respond to the following questions:

Questions	Responses	Comments
(1) How many permanent employees are employed with your company? (if less than 5, stop here)		
(2) How many of your permanent employees are paid above the Living Wage rate?		
(3) How many of your permanent employees are paid below the Living Wage rate?		

MM&O COLLECTION SERVICES FORM 5
SCHEDULE N DECLARATION OF COMPLIANCE - LIVING WAGE ORDINANCE

(4) Number of compensated days off per employee? (Refer to item "a" above.)		
(5) Number of trainees in your company?		
(6) Number of employees under 21 years of age, employed by a nonprofit corporation for after school or summer employment for a period not longer than 90 days.		

The undersigned authorized representative hereby obligates the proposer to the above stated conditions under penalty of perjury.

Company Name

Signature of Authorized Representative

Address

Type or Print Name

Phone

Date

Type or Print Title

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MM&O Collection Services Form 6
Schedule N-1 Equal Benefits - Declaration of Nondiscrimination/Equal Access
Completed by the Prime MM&O Collection Services Contractor ONLY

Section A. Vendor / Contractor / Consultant / CFAR[1] Information

Name of Company _____

Name of Company Contact _____

Address _____

City _____ State _____ Zip _____

Phone Number _____ Fax Number _____

Vendor Number _____ Federal ID or Social Security Number _____

Approximate Number of Employees in the U.S. _____

Are any of your employees covered by a collective bargaining agreement or union trust fund?

Yes ☐ No ☐ *(check one)*

Union Name (s) _____

Section B. Compliance

Does your company provide or offer access to any benefits to employees with spouses or to spouses of employees? *(please check one)* Yes ☐ No ☐

Does your company provide or offer access to any benefits to employees with domestic partners[2]? *(please check one)* Yes ☐ No ☐

[1] CFAR is a City Financial Recipient.

[2] Domestic Partner is defined as same sex couples or opposite sex couples registered as such with a state or local government domestic partnership registry.

MM&O COLLECTION SERVICES FORM 6
SCHEDULE N-1 EQUAL BENEFITS - DECLARATION OF NONDISCRIMINATION/EQUAL ACCESS
Completed by the Prime MM&O Collection Services Contractor ONLY

Section C. Compliance

Please check each benefit that applies

Benefits	Offered to Employees only	Offered to Employees and their spouses	Offered to Employees and their Domestic Partners	Not Offered at all	Documentation attached
Health	☐	☐	☐	☐	☐
Dental	☐	☐	☐	☐	☐
Vision	☐	☐	☐	☐	☐
Retirement (Pension, 401K, etc.)	☐	☐	☐	☐	☐
Bereavement	☐	☐	☐	☐	☐
Family Leave	☐	☐	☐	☐	☐
Parental Leave	☐	☐	☐	☐	☐
Employee Assistance Program	☐	☐	☐	☐	☐
Relocation & Travel	☐	☐	☐	☐	☐
Company Discount, Facilities & Events	☐	☐	☐	☐	☐
Credit Union	☐	☐	☐	☐	☐
Child Care	☐	☐	☐	☐	☐
Other	☐	☐	☐	☐	☐

Signature _____ Date: _____

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MM&O COLLECTION SERVICES FORM 7
PROPOSER TO MAKE EXAMINATION

The proposer agrees that it has satisfied itself by proposer's own investigation and research regarding all such conditions, and that proposer's conclusion to enter into the Contract and execution of the Contract is based upon such investigation and research, and that the proposer shall make no claim against the City because of any of the estimates, statements or interpretations made by any officer or agent of the City which may prove to be in any respect erroneous.

Signature _____ Name (typed) _____

Title _____ Date _____

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MM&O COLLECTION SERVICES FORM 8
CERTIFICATION OF NON-GRATUITIES

TO: THE CITY OF OAKLAND

CERTIFICATION

This is a written certification, signed under penalty of perjury, stating that no Persons acting on behalf of _____ has paid, or offered or attempted to pay, any elected or appointed official, officer or employee of City any compensation or consideration, in any form whatsoever, in connection with obtaining or entering into this Contract.

_____ _____

Name Title

_____ _____

Signature Date

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MM&O COLLECTION SERVICES FORM 9
CONFLICT OF INTEREST

FIRM NAME: _____ Date: _____

All proposers must disclose, below, the name of any officer, director, agent, or any relative of an officer, director, or agent who is an employee, elected official or appointed official of the City. Furthermore, all proposers must disclose, to the best of their knowledge, the name of any City employee, elected official or appointed official who has any direct or indirect economic interest in the proposer's firm or any of its branches or subsidiaries. "Economic interest" shall have the same meaning as that term is defined in Title 2, California Code of Regulations Sections 18703-18703.5.

The following officer, director, agent, or relative of an officer, director, or agent is an employee, elected official or appointed official of the City. *(Provide the full name of the individual, their relationship to the proposing company, and their position with the City. Indicate "None" if this is not applicable.)*

_____
_____
_____
_____

To the best of my knowledge, the following City employee, elected official or appointed official has a direct or indirect economic interest in this firm or any of its branches or subsidiaries. *(Provide the full name of the individual, their position with the City and their direct or indirect interest in the proposing company. Indicate "None" if this is not applicable.)*

_____
_____
_____
_____

_____ _____

Name Title

Signature _____ Date: _____

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MM&O COLLECTION SERVICES FORM 10
NON-COLLUSION AFFIDAVIT OF PROPOSER

State of _____ County of_____

_____, being duly sworn, deposes and says that:

1. He/She is_____ of_____ the proposer that has submitted the attached proposal;
2. He/She is fully informed respecting the preparation and contents of the attached proposal and of all pertinent circumstances respecting such proposal;
3. Such proposal is genuine and is not a collusive or sham proposal;
4. Neither said proposer nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest, including this affiant, has in any way colluded, connived, or agreed, directly or indirectly, with any other proposer, firm or Person to submit a collusive or sham proposal in connection with the Contract for which the attached proposal has been submitted or to refrain from proposing in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collision or communication or conference with any other proposer, firm, or Person to fix the price or prices in the attached RFP, or of any other proposer, or to fix any overhead, profit or cost component of the proposal or the response of any other proposer, or to secure through any collusion, connivance, or unlawful agreement any advantage against the City of Oakland, CA or any Person interested in the proposed Contract; and
5. The MM&O Collection Maximum Collection Service Rate proposal in the attached RFP is fair and proper and is not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the proposer or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

_____ _____
(Signed) (Title)

Subscribed and sworn to before me this_____day of _____, 2012

_____ My Commission Expires: _____

Notary Public, State of California

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1403 This page intentionally left blank.

MM&O COLLECTION SERVICES FORM 11
EXCEPTIONS TO CONTRACT

Proposers are to prepare the MM&O Collection Services Form 2: Maximum Collection Service Rates based on the program specifications set forth in the RFP documents without considering any exceptions that may be set forth on this form. In the event the proposer takes exception to the RFP specifications they may set forth those exceptions in the following manner.

- The exceptions are to be presented on a separate paper titled, "Form Exceptions to Contract".
- Each exception must be presented separately by stating: the specific exception, the page and line numbers of the exception, the suggested changes to the program related to the exception, the suggested changes in the Contract language related to the exception, the manner in which the proposed change would benefit the City, the Customers or both, and the specific dollar change in the MM&O Collection Maximum Collection Service Rate, as proposed by the proposer in this RFP, which would take place if the exception was accepted by the City.
- The exceptions must be followed with the following language without exception.
- "Except as set forth above, the proposer is in complete agreement with the proposed terms, conditions and business arrangements described in the RFP including the attached Contract. The proposer assumes the risk of all conditions foreseen or unforeseen and agrees to provide the MM&O Collection Services set forth in the Contract under whatever circumstances may develop other than as herein provided."
- The form must be signed by an individual authorized to commit the proposer's firm to the Contract in the manner set forth below.

Signature _____Name (typed) _____

Title _____ Date _____

Please note that if exceptions are taken, all required information as set forth above must be submitted. Exceptions taken without providing the required information will not be considered.

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MM&O COLLECTION SERVICES FORM 12A
MATERIAL RECOVERY FACILITY

Provide One Form Per Facility Site

1.	Name of Processing Facility		
2.	Location of Processing Facility		
3.	Proposer's role in the Processing Facility		
4.	Other contracting parties		
5.	Name, telephone number and address of Processing Facility owner		
6.	Types of materials accepted		
7.	Quantity of materials permitted by material type (tpd and tpy)	Material Type	TPD / TPY
			Pick One
			Pick One
			Pick One
			Pick One
			Pick One
8.	CalRecycle Permit Type and Number		
9.	Local Land-use Permit Number		
10.	Per Ton Processing fee (by material type)		$0.00

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MM&O COLLECTION SERVICES FORM 12B FACILITIES: MIXED MATERIALS PROCESSING FACILITY (Provide One Form Per Facility Site)		
1. Name of Processing Facility		
2. Location of Processing Facility		
3. Proposer's role in the Processing Facility		
4. Other contracting parties		
5. Name, telephone number and address of Processing Facility owner		
6. Types of materials accepted		
7. Quantity of materials permitted by material type (tpd and tpy)	Material Type	TPD / TPY
		Pick One
		Pick One
		Pick One
		Pick One
		Pick One
8. CalRecycle Permit Type and Number		
9. Local Land-use Permit Number		
10. Per Ton Processing fee (by material type)		$0.00

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MM&O Collection Services Form 12C
Facilities: Organic Materials Processing Facility
(Provide One Form Per Facility Site)

1.	Name of Processing Facility		
2.	Location of Processing Facility		
3.	Proposer's role in the Processing Facility		
4.	Other contracting parties		
5.	Name, telephone number and address of Processing Facility owner		
6.	Types of materials accepted		
7.	Quantity of materials permitted by material type (tpd and tpy)	Material Type	TPD / TPY
			Pick One
			Pick One
			Pick One
			Pick One
			Pick One
8.	CalRecycle Permit Type and Number		
9.	Local Land-use Permit Number		
10.	Per Ton Processing fee (by material type)	$0.00	

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MM&O COLLECTION SERVICES FORM 12D
FACILITIES: TRANSFER STATION FACILITY
(Provide One Form Per Facility Site)

1. Name of Transfer Station Facility		
2. Location of Transfer Station Facility		
3. Proposer's role in the Transfer Station Facility		
4. Other contracting parties		
5. Name, telephone number and address of Transfer Station Facility owner		
6. Name, telephone number and address of Processing Facility owner		
7. Types of materials accepted		
8. Quantity of materials permitted by material type (tpd and tpy)	Material Type	TPD / TPY
		Pick One
		Pick One
		Pick One
		Pick One
		Pick One
9. CalRecycle Permit Type and Number		

MM&O COLLECTION SERVICES FORM 12D FACILITIES: TRANSFER STATION FACILITY (Provide One Form Per Facility Site)	
10. Local Land-use Permit Number.....	
11. Per Ton transfer fee (by material type)	$0.00
12. Cost per Ton per mile transfer hauling fee (from transfer station to Disposal site selected by City)	$0.00

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MM&O COLLECTION SERVICES FORM 13
CART SPECIFICATIONS

1. Material to be Collected — Mixed Materials ☐ List Proposed Color _____
Recyclables ☐ (Blue)
Organic Materials ☐ (Green)

2. Manufacturer ..... _____

3. Material of Construction ..... _____

4. Recycled Content (percentage) ..... _____

5. Manufacturing Method (rotational molding, injection molding, other.) ..... _____

Container Size	**20 gal**	**32 gal**	**64 gal**	**96 gal**
6. Color				
7. Durability (in service years)				
8. Cost of Each Container				
9. Dimensions of Each Container (Length x Width x Height)				
10. Wheel Size (Carts only)				
11. Manufacturer's warranty (10-year minimum for Carts)				

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MM&O COLLECTION SERVICES FORM 14
VEHICLE SPECIFICATIONS

Complete One Form for Each Vehicle

1.	**Material to be Collected**	☐ Mixed Materials	☐ Recyclables	☐ Organic Materials	
2.	**Manufacturer and Model**…….				
	a. Cab and Chassis……				
	b. Body……				
	c. Engine…….				
	d. Transmission……..				
3.	**Cab and Chassis**:				
	a. Cab Height …….				inches
	b. Number of Axles ……...				
	c. Overall Length With Body Mounted ……...				inches
4.	**Body:**				
	a. Type of Body……..				
	b. Rated Capacity……..				cu. yd.
	c. Practical or Net Capacity……..				cu. yd.
	d. No. of Collection Compartments……				cu. yd.
	e. Net Capacity of Each Compartment ……..				cu. yd.
	f. Overall Body Length.....				inches
	g. Body Height ……..				inches
	h. Body Width ……...				inches
	i. Loading Height Above Ground……	Minimum			inches
	…….....	Maximum			inches
5.	**Weight**……	GVW	lbs.	Tare	lbs.
6.	**Will the vehicles be owned, leased, or other?**.....				

MM&O COLLECTION SERVICES FORM 14 VEHICLE SPECIFICATIONS Complete One Form for Each Vehicle		
7. Purchase cost of each vehicle……..	$0.00	
8. Fuel type……...		
9. Fuel usage……..		mpg
10. Emissions rating		
a. CO……		g/bhp/hr
b. HC (total hydrocarbons)……		g/bhp/hr
c. NO_x……		g/bhp/hr
d. Particulate Matter……..		g/bhp/hr
11. Safety Features…….		
12. Color…….		
13. GPS Monitoring and Tracking Features		
Use a separate page(s) to discuss advantages of this vehicle in terms of a) past experience; b) efficiency; c) ease of operations; d) cost of operations; and e) clean air standards.		

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MM&O COLLECTION SERVICES FORM 15 GUARANTEED MINIMUM DIVERSION RATE	
Year	**Minimum Diversion Rate**
7/1/2015 – 12/31/2015	0.00%
1/1/2016 – 12/31/2016	0.00%
1/1/2017 – 12/31/2017	0.00%
1/1/2018 – 12/31/2018	0.00%
1/1/2019 – 12/31/2019	0.00%
1/1/2020 – 12/31/2020	0.00%
1/1/2021 – 12/31/2021	0.00%
1/1/2022 – 12/31/2022	0.00%
1/1/2023 – 12/31/2023	0.00%
1/1/2024 – 12/31/2024	0.00%
1/1/2025 – 6/30/2025	0.00%
The following minimum Diversion rates are to be competed on or before July 1, 2023.	
7/1/2025 – 12/31/2025	0.00%
1/1/2026 – 12/31/2026	0.00%
1/1/2027 – 12/31/2027	0.00%
1/1/2028 – 12/31/2028	0.00%
1/1/2029 – 12/31/2029	0.00%
1/1/2030 – 6/30/2030	0.00%
7/1/2030 – 12/31/2030	0.00%
1/1/2031 – 12/31/2031	0.00%
1/1/2032 – 12/31/2032	0.00%
1/1/2033 – 12/31/2033	0.00%
1/1/2034 – 12/31/2034	0.00%
1/1/2035 – 6/30/2035	0.00%

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MM&O COLLECTION SERVICES FORM 16

COMBINED SCHEDULE C-1, P, V

Schedule C-1

"DECLARATION OF COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT"

(Applicable to all city departments on all contracts and to be completed by the Prime Contractor)

The Americans with Disabilities Act (ADA) requires that private organizations serving the public make their goods, services and facilities accessible to people with disabilities. Furthermore, the City of Oakland requires that all of its Contractors comply with their ADA obligations and verify such compliance by signing this Declaration of Compliance.

I certify that I will comply with the Americans with Disabilities Act by:

A. Adopting policies, practices and procedures that ensure non-discrimination and equal access to Contractor's goods, services and facilities for people with disabilities;

B. Providing goods, services and facilities to individuals with disabilities in an integrated setting, except when separate programs are required to ensure equal access;

C. Making reasonable modifications in programs, activities and services when necessary to ensure equal access to individuals with disabilities, unless fundamental alteration in the nature of the Contractor's program would result;

D. Removing architectural barriers in existing facilities or providing alternative means of delivering goods and services when removal of barriers is cost-prohibitive;

E. Furnishing auxiliary aids to ensure equally effective communication with persons with disabilities; and

F. If contractor provides transportation to the public, by providing equivalent accessible transportation to people with disabilities.

MM&O COLLECTION SERVICES FORM 16

COMBINED SCHEDULE C-1, P, V

Schedule P
"NUCLEAR FREE ZONE DISCLOSURE FORM"

I certify that:

A. Neither this Business Entity nor any of its subsidiaries, affiliates or agents engages in nuclear weapons work or anticipates entering into such work for the duration of its contract(s) with the City of Oakland, and

B. The appropriate individuals of authority are cognizant of their responsibility to notify the Office of Finance of the City of Oakland if the Business Entity or any of its subsidiaries, affiliates or agents subsequently engages in nuclear weapons work.

Schedule V
"AFFIDAVIT OF NON-DISCIPLINARY OR INVESTIGATORY ACTION"

I certify that the Equal Employment Opportunity Commission (EEOC), Department of Fair Employment & Housing (DFEH) or the Office of Federal Contract Compliance Programs (OFCCP) has not taken disciplinary or investigatory action against the Firm. If such action has been taken, attached hereto is a detailed explanation of the reason for such action, the party instituting such action and the status or outcome of such action.

By signing and submitting this form the prospective primary participant's authorized representative hereby obligates the proposer(s) to the Schedule C-1, Schedule P and Schedule V's stated conditions.

_____	_____
Date	Signature of Authorized Representative
_____	_____
Company Name	Type or Print Name
_____	_____
Address	Type or Print Title
_____, _____ _____	_____
City State Zip	Phone/Email

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Section 4 SERVICE REQUIREMENTS, PROPOSAL PREPARATION INSTRUCTIONS, AND PROPOSAL FORMS FOR RESIDENTIAL RECYCLING COLLECTION SERVICES

4.1 SERVICE REQUIREMENTS

4.1.1 Proposer To Make Examination

Each proposer shall make its own examination, investigation and research regarding the proper method of doing the work, all conditions affecting the work to be done, the labor, equipment and materials, and the quantity of the work to be performed. The proposer agrees that it has satisfied itself by proposer's own investigation and research regarding all such conditions, and that proposer's conclusion to enter into the RR Collection Services Contract and execution of the RR Collection Services Contract is based upon such investigation and research, and that proposer shall make no claim against the City because of any of the information provided in this RFP, estimates, statements or interpretations made by any officer or agent of the City that may prove to be in any respect erroneous, as provided for in RR Collection Form 7- Proposer to Make Examination.

4.1.2 Term of Contract

Contractors currently provide the services that are the subject of this RFP, under contracts that terminate on June 30, 2015. Table 4-1 displays the expected effective date and beginning and ending dates of services for RR Collection. The ending service date may be extended by up to two (2), five (5) year terms. Each extended term would be at the option of the City.

TABLE 4-1
RESIDENTIAL RECYCLING SERVICES CONTRACT TERM

Service	Estimated Date of Signing	Begin Service	End Service	Extension 1 End Service	Extension 2 End Service
Residential Recycling Collection	1/1/2014	7/1/2015	6/30/2025	6/30/2030	6/30/2035

4.1.3 Transition Schedule

The time between the formal RR Collection Services Contract signing and July 1, 2015 is intended to allow the RR Collection Service Contractor sufficient time to order equipment, prepare necessary routing based on current day boundaries, obtain permits and licenses, begin the public awareness campaign as part of the Contractor's transition program and coordinate with the City on the public awareness campaign.

4.1.4 Minimum Level of Service

Table 4-2 summarizes the basic services that must be provided by the RR Collection Services Contractor. If the Proposer wishes to offer additional services, the Proposer should clearly mark those additional services as "Additional Contractor-Provided Services" and the rates associated with providing these services should be listed separate from the rates of the basic services as described in the RFP.

The RR Collection Services Contract, set forth in Section 6 of these RFP documents, contain the specific terms and conditions related to the performance of the services. ***To the extent that there are any inconsistencies between other Sections of the RFP and the RR Collection Services Contract, the terms of the RR Collection Services Contract shall prevail.***

TABLE 4-2
RESIDENTIAL RECYCLING COLLECTION MINIMUM LEVEL OF SERVICE

Service	Service Summary
SFD Single Stream Recyclables Collection and Processing	Weekly automated/semi-automated Collection with 20, 32, or 64 (standard) gallon wheeled Carts.
Used Oil and Filter Collection and Processing	Weekly curbside Collection in RR Collection Services Contractor provided Containers.
Dry-Cell Battery Collection and Processing	Weekly curbside Collection of bagged household batteries placed on top of Recycling Container. Service requirements for MFDs to be determined by service provider and Customer.
MFD Single Stream Recyclables Collection and Processing	At least weekly Collection with 20, 32, 64, or 96 gallon wheeled Carts or 1-7 CY Bins.
Commercial Non-Exclusive Single Stream Recyclable Materials Collection and Processing (If awarded)	At Customers option: At least weekly Collection with 20, 32, 64, or 96 gallon wheeled Carts; or At least weekly Collection with 1, 1.5, 2, 3, 4, 6 or 7 CY Bins; or 6 - 40 CY Roll-Off Boxes Collected as determined by the needs of the Commercial Customer; or Compactors.
City Single Stream Recyclables Collection and Processing	At least weekly Collection with 32, 64 or 96 gallon wheeled Carts, 1-7 CY Bins, 6 – 40 CY Roll-Off Boxes or Compactors.
Collection Hours	6 am – 6 pm, Monday – Friday
Community Outreach Services	RR Collection Services Contractor provided transition and ongoing program support and coordination with City program.
Monitoring & Reports	Required data for reporting to be provided in an electronic format agreeable to the City.

TABLE 4-2
RESIDENTIAL RECYCLING COLLECTION MINIMUM LEVEL OF SERVICE

Service	Service Summary
Office	RR Collection Services Contractor must maintain a business office in Oakland, and must staff the office during the hours of 8 am – 6 pm Monday through Friday and Saturdays on which SFD or MFD RR Collection Services are provided. Include City Customer service phone number on all Customer service information and on the Collection Containers and vehicles. RR Collection Services Contractor must work with and provide data to the MM&O Collection Services Contractor on all Customer service and billing information related to services provided.
Billing	RR Collection Services Contractor to submit invoice for SFD and MFD Recycling Services to MM&O Collection Services Contractor. MM&O Collection Services Contractor will pay RR Collection Services Contractor within 10 days of City approval of invoice. RR Collection Services Contractor to provide billing services to all Non-Exclusive Commercial Customers serviced by RR Collection Services Contractor.

4.1.5 Contractor Provided Carts, Bins and Roll-Off Boxes

The current contractors, under the terms of the current service contracts, have provided the Garbage, Recyclable Material and Organic Material Carts currently used by City residents and businesses. **Under the new RR Collection Services Contract, the RR Collection Services Contractor must provide NEW Carts available in sizes of approximately: 20, 32, 64, and 96-gallon capacity.**

Carts will have heavy-duty wheels, attached hinged lids, and will be designed to be resistant to inadvertent tipping due to high winds. All new Carts must be compatible with the proposed Collection system. The City will approve the specific color of Carts (blue for Recyclable Materials). The City will also approve labeling, graphics, and Cart design (e.g., square, rectangular, tall, short).

The RR Collection Services Contractor will also be required to provide Bins ranging in size from 1 to 7 cubic yards, Compactors, and Roll-Off Boxes from 6 to 40 cubic yards capacity including covered Roll-Off Boxes for Collection from businesses and City Facilities.

4.1.6 Recyclable Materials

The RR Collection Services Contractor will be required to offer Residential Recycling Collection Services to all SFD and MFD Services Addresses in the Service Area as defined in the RR Collection Services Contract presented in Section 6.

The RR Collection Services Contractor will be required to provide Residential Recycling Collection Services to all SFD and MFD Service Addresses, along with all City Facilities.

RR Collection Services proposers will be required to provide a cost proposal to Collect Recyclable Materials from those Commercial Customers requesting such service. The City will designate either the MM&O or RR Collection Services Contractor as the provider of Non-Exclusive Commercial Recycling Services. The designated Contractor must Collect Recyclable Materials from a Commercial Customer if requested by that Customer at rates that do not exceed those approved by the City.

RR Collection Services Contractor will be required to furnish the necessary numbers and sizes of Recyclable Material Bins and/or Carts to accommodate RR Collection Services. Article 1 of the RR Collection Services Contract presented in Section 6 includes a listing of the minimum acceptable Recyclable Materials. All Recyclable Materials shall be returned to the economic mainstream in the form of raw material for new, reused, or reconstituted products through sale to end-users or intermediate brokers. The City reserves the right to include additional program materials and may provide additional RR Collection Services Contractor compensation, initiate pilot programs, and enter into new contracts for additional Processing.

4.1.7 Collection Equipment

The vehicle types proposed shall be specifically designed and manufactured for Collection of Recyclable Materials. The Collection vehicles shall be appropriate for the type of Collection methods and Containers anticipated to be used by the RR Collection Services Contractor. The vehicle(s) shall provide for a reasonable level of flexibility with regard to future materials that may be Collected.

In alignment with the City of Oakland's sustainable City goals, the City would like to minimize adverse impacts on the environment resulting from service delivery. During the term of the RR Collection Services Contract, the RR Collection Services Contractor shall provide Collection Service vehicles in full compliance with local, State and federal clean air requirements that have been adopted or are proposed to be adopted, including, but not limited to, the California Air Resources Board Heavy Duty Engine Standards as currently proposed to be contained in CCR Title 13, Section 2021 et seq; the Federal EPA's Highway Diesel Fuel Sulfur regulations and any other applicable air pollution control laws.

In addition, Proposers should note that the City is extremely interested in equipment plans that propose to exceed the minimum requirements discussed above.

4.1.8 Material Recovery Facility

The RR Collection Services Contractor shall provide a Material Recovery Facility(ies) ("MRF") for the purpose of Processing Source Separated Recyclable Materials Collected pursuant to the RR Collection Services Contract.

4.1.9 Diversion

4.1.9.1 Total Tons Collected and Diversion of Tons Collected

The City intends to reduce annual Tons sent to landfills, from the Tons Disposed by the current franchise hauler of approximately one hundred eighty five thousand (185,000) Tons in 2011 to approximately forty thousand (40,000) Tons by 2030. The City recognizes that the requested services for the RR Collection Services Contractor represent only a portion of the City's overall

waste stream. Sections 4.1.9.1.1 and 4.1.9.1.2 address the City's long-term goals, while providing programmatic flexibility to the City's MM&O Collection Services and RR Collection Services Contractors and affordable Diversion programs to the City's rate payers.

4.1.9.1.1. Total Tons Collected

The City is requiring that the RR Collection Services Contractor include the number of Tons to be Collected under the RR Collection Services Contract.

4.1.9.1.2. Diversion of Tons Collected

The City is requiring that the RR Collection Services Contractor include a minimum Diversion rate, as set forth in Article 8 of the RR Collection Services Contract (Section 6 of this RFP), in the Required Proposal Form (RR Collection Form 2A – Maximum Revenue).

4.1.10 Customer Service Office

The RR Collection Services Contractor will be required to maintain a Customer service office in the City of Oakland.

4.1.11 Customer Service

The RR Collection Services Contractor will be responsible for ensuring that all staff maintains a professional and courteous demeanor. Contractors shall be responsible for all employee interaction with Customers and City staff.

4.1.12 Contractor Compensation and Rate Adjustments

The RR Collection Service Contractor will be paid by the MM&O Collection Services Contractor based on the number of Tons of material Collected from SFD and MFD Service Addresses each month and the Per Collected Ton rate they propose, subject to the Tonnage Cap limitation discussed below. Payments will be made by the MM&O Contractor based on monthly invoices prepared and submitted by the RR Collection Services Contractor. The invoicing and payment terms are as set forth in Article 7 of the RR Collection Services Contract and as will be finalized in the Memorandum of Understanding between the City, the MM&O Collection Services Contractor and the RR Collection Services Contractor that will be included as an Exhibit to each Contract.

Each proposer must propose a maximum Tonnage figure for the period July 1, 2015 through December 31, 2015 and for calendar year 2016. The "Tonnage Cap" will be used for two purposes. First it will represent the maximum number of Tons that the RR Contractor will be paid for Collecting in any full or partial calendar year. Beginning with calendar year 2017, the Tonnage Cap will be adjusted to the greater of the actual amount of Tons Collected in the prior calendar year or the prior year's Tonnage Cap. Therefore a proposer who sets the Tonnage Cap too low is at risk for not being paid for the total Tons Collected during the first eighteen months of the Contract.

Second it will be used to calculate the Per Dwelling Unit Rate that will be charged to SFD and MFD Customers to provide the revenue needed to fund the RR Contractors Per Tons Collected Rates and will be part of the Cost evaluation process. Therefore a proposer who sets the Tonnage Cap too high is at risk for the resulting high SFD and MFD Per Dwelling Unit Rates.

Proposers must also propose Commercial Non-Exclusive Recyclable Materials Collection Services rates. The Contractor selected by the City to provide Commercial Non-Exclusive Recyclable Materials Collection Services will be compensated for those services using the approved rates.

In addition, the RR Contractor will be paid for ancillary services such as push charges based on specific rates proposed for each service.

The Per Collected Ton rate and the ancillary service rates (and the Non-Exclusive Commercial Collection Service Rates, if appropriate) will represent the Maximum Recycling Service Rates.

4.1.12.1 Rate Adjustments

The City will adjust the initial proposed Maximum Recycling Service Rates, including any franchise fees, as set forth in 4.1.15.2 of this RFP, included in the rate, during the month of March 2015 to mitigate changes in costs from the time the proposed rates were accepted by the City and July 1, 2015. The adjustment will be based on the change in the 2014 CPI as described in Article 7 of the RR Collection Services Contract.

The City will use the Refuse Rate Index (RRI) method as explained in Section 7.06 of the RR Collection Services Contract (located in Section 6 of this RFP) to adjust the Maximum Recycling Service Rates. The City **will not agree** to any exception to the RRI indices as written in the RR Collection Services Contract.

4.1.12.2 Customer Rates

The Per Collected Ton rate and the ancillary service rates (and the Non-Exclusive Commercial Collection Service Rates if appropriate), will represent the Maximum Recycling Service Rates.

4.1.13 Bad Debts

The RR Contractor will only be responsible for bad debts for ancillary services (and Non-Exclusive Commercial Recycling Collection Services if appropriate) provided under the terms of the RR Collection Services Contract.

4.1.14 Billing and Customer Service

The RR Collection Services Contractor will provide monthly invoices to the MM&O Contractor for Tons Collected and ancillary services, but will not be responsible for providing any billing services unless selected to provide Commercial Non-Exclusive Recyclable Materials Collection Services.

The following table outlines the RR Collection Services Contractor's invoicing, billing and Maximum Recycling Service Rates.

TABLE 4-3
MAXIMUM RECYCLING SERVICE RATES

RR Collection Services Contractor Billing and invoicing	▪ Responsible for invoicing MM&O Contractor for Tons Collected and ancillary services provided. ▪ Responsible for billing for Commercial recycling services provided.

TABLE 4-3 MAXIMUM RECYCLING SERVICE RATES	
RR Collection Services Contractor's Rate	▪ RR Collection Services Contractor rate to be expressed as $ per Ton Collected from SFD and MFD Services Addresses. ▪ RR Collection Services Contractor to assume one collection/week for all SFD and MFD units regardless of Container size. ▪ RR Collection Services Contractor compensation for additional Collection frequency included as ancillary services. ▪ RR Collection Services Contractor Tonnage for Non-Exclusive Commercial Recycling Collection Services Tons not included in Tons invoiced to MM&O Contractor. ▪ Commercial Recycling rate to be expressed $/month based on Recycling Container size and Collection frequency and ancillary services provided. ▪ RR Collection Services Contractor rate of $ per Ton Collected from SFD and MFD Service Addresses is compensation for Collection, transport, Processing, and Disposal of Residuals for SFD and MFD Recycling. o Includes Franchise Fee (annual flat fee, escalated by RRI, paid in equal monthly payments to City).
RR Collection Services Contractor's Payment	▪ Paid by MM&O Collection Services Contractor based on number of Tons Collected at the City approved $/Collected Ton rate subject to the Tonnage Cap. ▪ Tons Collected in excess of the Tonnage Cap cannot be invoiced.
RR Tonnage Cap	▪ Represents the total Tons for which the $/Collected Ton rate can be paid in any full or partial calendar year. ▪ Proposed by Contractor in first 6 and 12 month period. ▪ As of January 1, 2017 adjusted each year to be the greater of the Tons Collected in the prior calendar year or the Tonnage Cap in the prior calendar year.

TABLE 4-3 MAXIMUM RECYCLING SERVICE RATES	
SFD and MFD Per Dwelling Unit Recycling Rate	▪ Calculated by City based on number of SFD and MFD Dwelling Units, the Tonnage Cap and the Per Collected Ton Rate. ▪ Included in SFD and MFD Customer invoices by MM&O Contractor to provide funds to pay RR Contractor monthly Per Ton Collected Invoices.
Rate Adjustments	▪ Initial rates adjusted March 1, 2015 by CPI. ▪ Annual RRI adjustment July 1, 2016 and thereafter.
Bad Debt	▪ RR Contractor only responsible for bad debt associated with ancillary services and Commercial Services.

4.1.15 Payments to the City

4.1.15.1 Reimbursement for the Cost of this Procurement Process

The City will require the RR Collection Services Contractor to reimburse the City for the cost of this procurement in the amount of Two Hundred Fifty Thousand Dollars ($250,000). This amount will not be exceeded. The reimbursement is a one-time payment due within thirty (30) days after execution of the RR Collection Services Contract award.

4.1.15.2 City Franchise Fee

The RR Collection Services Contractor shall, through agreement with the City, make payments for the right to obtain and operate the exclusive franchise for RR Collection Services and to reimburse City for the costs of undertaking the Zero Waste programs and compliance with State and local mandates. The initial franchise fee is Three Million Dollars ($3,000,000.00), adjusted by the annual change in the Consumer Price Index – All Urban Consumers, Series ID cuura422sa0, not Seasonally adjusted, San Francisco-Oakland-San José, CA for the prior calendar year, January 1, 2014 through December 31, 2014.

The City franchise fee will be due no later than the 15th day of each month beginning with the month of July 2015 and will continue each month throughout the term of the Contract. The City franchise fee will be adjusted each Contract Year as provided in Section 7.12 of the RR Collection Services Contract presented in Section 5 of this RFP..

4.1.15.3 Recyclable Material Revenues

The RR Collection Services Contractor will retain all or a portion of revenues from the sale of Recyclable Materials Collected under the terms of the RR Collection Services Contract. While the City believes it is appropriate for the successful RR Collection Services Contractor to retain

these funds, it also believes that Proposer should take these monies into account when completing their Maximum Recycling Service Rate Proposal Forms.

4.1.15.4 Revenue Sharing

Proposers are to provide a revenue sharing plan specifying the basis, if any, for sharing revenue related to Recyclable Materials with the City.

4.2 PROPOSAL CONDITIONS AND TERMS

4.2.1 RFP Document

This RFP document constitutes the complete set of proposal specifications and forms. All forms and applicable documents must be executed and submitted as described in this RFP. Proposals not submitted on the prescribed proposal forms shall be deemed non-responsive. By submitting a proposal, the proposer agrees to be subject to all terms and conditions specified herein. Except as otherwise set forth in this RFP, no exception to the terms and conditions shall be allowed. Submittal of a response to this RFP constitutes a binding offer by the proposer that shall be open for a period of no less than eighteen (18) months from the date of submittal.

4.2.2 Mistakes

Proposers are expected to examine the RFP documents, including the RR Collection Services Contract, proposal forms, and all other instructions provided herein. FAILURE TO DO SO WILL BE AT THE PROPOSER'S RISK. In the event of extension error(s), the unit price will prevail and the proposer's total offer will be corrected accordingly. In the event of addition error(s), the unit price will prevail and the proposer's total offer will be corrected accordingly.

4.2.3 Additional Terms and Conditions

Except as is set forth in Section 4.2.4 of this RFP, no additional terms and conditions included with the RFP shall be evaluated or considered. Any and all such additional terms and conditions shall have no force or effect, and are inapplicable to this RFP.

4.2.4 Interpretations and Inquires

Questions concerning the intent, meaning, and interpretation of the RFP document shall be submitted in writing and received via email, U.S. Postal Service or delivery service, no later than 4:00 p.m. PDT on October 10, 2012. When submitting questions, be specific, citing the RFP Section number, page number and line number where possible. Written inquiries shall be addressed to the Zero Waste Services RFP Process Coordinator:

Garrett Fitzgerald, Zero Waste Services RFP Process Coordinator
250 Frank H Ogawa Plaza, Ste. 5301
Oakland, CA 94612-2034
E-mail: zerowasterfp@oaklandnet.com

All proposers shall carefully examine the RFP document. Any ambiguities or inconsistencies shall be brought to the attention of the City in writing as soon as possible.

Submission of a proposal will serve as prima facia evidence that the proposer has examined the Contract and is fully aware of all conditions affecting the provision of RR Collection Services.

No Person is authorized to give oral interpretations of, or make oral changes to, the RFP document. Therefore, oral statements will not be binding and should not be relied upon. Any interpretation of, or changes to, the RFP document will be made in the form of a written addendum to the RFP document and will be furnished by the City to all proposers who attend the mandatory RFP release meeting and pre-proposal meeting. Only those interpretations of, or changes to, the RFP document that are made in writing and furnished to the proposers by the City may be relied upon.

4.2.5 Oral Agreements

No oral agreement or conversation with any elected official, officer, agent, or employee of the City, either before or after execution of the RR Collection Services Contract, shall affect or modify any of the terms or obligations contained in the Contract. Any such oral agreement or conversation shall be considered as unofficial information and is in no way binding upon the City or the proposer.

4.2.6 Qualification of Proposer

The proposer must be qualified by experience, adequate financing, staffing and equipment to do the work called for in the Contract.

4.2.7 Conflict of Interest

All proposers must disclose, with their proposal, using RR Collection Services Form 9-Conflict of Interest, the name of any officer, director, agent, or any relative of an officer, director, or agent who is an employee, elected official or appointed official of the City. Furthermore, all proposers must disclose, to the best of their knowledge, the name of any City employee, elected official or appointed official who has any direct or indirect economic interest in the proposers' firm or any of its branches or subsidiaries. "Economic interest" shall have the same meaning as that term is defined in Title 2, California Code of Regulations Sections 18703 – 18703.5.

4.2.8 Proposers Non-Collusion Affidavit

Any proposer submitting a proposal to this RFP must complete and execute RR Collection Services Form 10-Non-Collusion Affidavit of Proposer. If two (2) or more proposers intend to submit a proposal as part of a joint venture or partnership, notification must be provided as set forth in Section 1.7 of this RFP. This notification will be kept confidential until after submission of the proposals.

4.2.9 Legal Requirements

Proposers are required to comply with all provisions of federal, state, county, and local laws, ordinances, rules and regulations that are applicable to the services being offered in this RFP. Lack of knowledge of the proposer shall in no way be a cause for relief from responsibility or constitute a cognizable defense against the legal effects thereof.

4.2.10 Familiarity with Laws and Ordinances

The submission of a proposal for the RR Collection Services requested herein shall be considered as a representation that the proposer is familiar with all federal, state, and local laws, ordinances, rules, and regulations that affect those engaged or employed in the provision of such services, or equipment used in the provision of such services, or which in any way

affects the conduct of the provision of such services, and no plea of misunderstanding will be considered on account of ignorance thereof. The proposer's particular attention is directed to such relevant ordinances and resolutions of the City, as may be amended from time to time, under which the authority, terms, and conditions the RR Collection Services program is to be operated. If the proposer discovers any provisions in the RFP document that are contrary to or inconsistent with any law, ordinance, or regulation, they shall report it without delay.

4.2.11 Residential Recycling Services Contract

The City shall not be obligated to any proposer to enter into a RR Collection Services Contract despite the City's governing body prospectively authorizing by ordinance, award of the Contract to a proposer. The City shall be obligated to a proposer if and only if the City enters into a RR Collection Services Contract with the proposer, and further, no action will lie against the City to compel the City to execute any such Contract, or to recover from the City any damages, costs, lost profits, expenses, etc., that any proposer may incur if the City chooses not to execute such Contract. By submitting a proposal for the services, all proposers acknowledge and agree that no enforceable contractual relationship arises until the City executes the appropriate Contract, that no action shall require the City to fully execute such Contract at any time, and that each proposer waives all claims to damages, lost profits, costs, expenses, etc., as a result of the City not fully executing such Contract.

4.2.12 Facilities

The City reserves the right to inspect each proposer's facilities at any reasonable time, during normal working hours, with prior notice to determine that the proposer has a bona fide place of business and is a responsible proposer.

4.2.13 Insurance

The City has set forth the insurance requirements in Article 25 of the RR Collection Services Contract contained in Section 6 of this RFP. Proposers are strongly encouraged to review and obtain an understanding of these requirements before submitting a proposal.

4.2.14 Contract Modifications

The City reserves the right to make modifications to the Contract to more fully effectuate the intent of this RFP and the RR Collection Services program.

4.2.15 Proposer's Proposal Surety

Proposers are required to submit with their proposal a proposal bond executed by a surety company licensed to do business in the State of California in the amount of One Hundred Thousand Dollars ($100,000). In lieu of the proposal bond, proposers may provide an irrevocable letter of credit in the amount of One Hundred Thousand Dollars ($100,000). The letter of credit must be issued by an FDIC insured banking institution chartered to do business in the State of California, (consistent with the Uniform Customs and Practice for Documentary Credits, then current revision or similar uniform convention approved by City), in City's name, and be callable at the discretion of City.

The proposal bond shall be substantially the same as that provided in RR Collection Services Form 3-Proposal bond Form.

A proposal will not be considered unless accompanied by said proposal surety. Such surety shall be a guarantee that the proposer, if awarded the RR Collection Services Contract, will execute such Contract and furnish the performance security and other required information. If the proposer fails, refuses, or neglects to furnish the required performance security and information, the City may enforce the proposal surety as compensation for liquidated damages for the proposer's breach.

After the proposals are opened, checked, and duly considered, the City will release the proposer's surety as follows:

- Proposers, Other Than Three Highest Ranked - The surety of all except the three (3) highest ranked proposers will be released within ten (10) business days after the City Council has authorized negotiations with the top ranked proposers.
- Second and Third Ranked Proposers - The surety of these proposers will be released within ten (10) business days after the City has executed the RR Collection Services Contract.
- Successful Proposer - The surety of the successful proposer will be released when the performance security and all other required documents have been received, have been found to be consistent with the requirements of this RFP and any amendments thereto, and the executed Contract has been approved by the City.
- Proposals Rejected - If all proposals are rejected, all sureties will be returned within ten (10) business days after such rejection.

4.2.16 Withdrawal or Revision of Proposal Prior to Opening

At any time prior to the closing time for receiving proposals, a proposer may, without prejudice, withdraw, modify, or correct a proposal after it has been deposited with the City, provided a request is made in writing to the City's Zero Waste Services RFP Process Coordinator, whose name, address, and contact information are provided herein. Modification or corrections of proposals may be made by means of email or other written communications, provided such modifications or corrections are received by the City prior to the closing time set for receiving proposals. Communications provided under this Section of the RFP shall be on proposers letterhead and signed by the proposers authorized representative.

Proposals that are not submitted on the forms furnished by the City in Section 4.4 of this RFP and are not in conformity with the provisions of this RFP document may be deemed non-responsive. No corrections in proposals will be acceptable unless each correction is signed or initialed by the proposer. If initialed, the City may require the proposer to identify any corrections so initialed. A proposal in which omissions occur or which has been conditioned by the proposer in a manner that is unacceptable to the City may be rejected. Corrections may be made until the closing time set for receiving proposals.

4.2.17 Acceptance or Rejection of Proposals

The City reserves the following rights and options:

- To deem non-responsive any and all proposals that fail to meet the literal and exact requirements of the specifications provided in this RFP document;
- To accept the proposal that is, in the judgment of the City Administrator, in the best interest of the City and its residents;
- To reject any and all non-responsive proposals;

- To waive irregularities in any proposal as the City Administrator may elect to waive; and
- To reject all proposals and to issue subsequent requests for new proposals.

Any or all proposals will be rejected if there is reason to believe that collusion existed among the proposers. Proposals received from participants in such collusion will not be considered for the same work when and if re-advertised.

4.2.18 Award of Residential Recycling Collection Services Contract by City

The award of a RR Collection Services Contract, if made, will be that Contract which best fulfills the requirements and provides the best value to the City and the community. No award will be made until all necessary investigations have been made to determine the responsiveness and responsibility of the proposer under consideration. After opening the proposals, the City may require the selected proposer(s) to submit a verified statement disclosing all ownership interests, whether direct, indirect, or beneficial, and including intermediate and ultimate ownership interests where several levels of ownership exist, disclosing any single source in excess of thirty (30) percent of outstanding debt, and disclosing any Person or entity that has guaranteed in excess of thirty (30) percent of the proposer(s) outstanding debt furthermore, such disclosure shall contain any information of or relating to any and all common ownership, control, management, or common pecuniary benefit said proposing entity, its owners, management, or representatives possess or retain in any other entity now participating, or proposing to participate, in the RR Collection Services Contract with the City.

In the event that the City Council award of the Contract is not received within eighteen (18) months after opening of the proposals, the proposer may request that it be released from the Contract obligation and that its proposal surety be released, in which case the City shall release the proposer's surety within ten (10) business days of receipt of the request.

The foregoing action by the City or the proposer shall in no way provide any cause whatsoever for claim against the City by the proposer.

4.2.19 Addendum

The proposer shall sign each Addendum issued and attach it to the proposal in order to have the proposal considered.

4.2.20 Examination of the Site of the Work

By the submission of a proposal to do the work, the proposer certifies that a careful examination of all RFP documents has taken place, and that the proposer is fully informed concerning the requirements of the RFP document, the physical conditions to be encountered in the work, the quality and quantity of service to be performed, and of the materials and equipment to be furnished. The proposer will not be entitled to additional compensation upon subsequently finding that conditions require methods or equipment other than that anticipated in making the proposal. Negligence or inattention of the proposer in determining conditions of the Contract prior to submitting the proposal, or in any phase of the performance of the work, shall be grounds for refusal by the City to agree to proposed additional compensation for additional work caused by such negligence or inattention by the proposer.

4.2.21 Subcontractors

Proposers intending to enter into contracts with subcontractors in order to provide the services requested in this RFP must include in their proposal responses a list of those potential subcontractors for approval by the City. Subcontractor contracts must meet the insurance and competitive wage requirements specified in the RR Collection Services Contract included in Section 6 of this RFP document.

4.3 PROPOSAL PREPARATION INSTRUCTIONS

4.3.1 Preparation of Proposals

Seven (7) sets of the proposal (one single-sided original proposal and six (6) double-sided copies), all placed in three ring binders, each with a cover indicating the company name and proposal title, must be submitted. The cover of the original proposal shall be clearly marked *"Original Proposal"* and the covers of the proposal copies shall be clearly marked "*Proposal Copies"*. The City, at its discretion, may request additional copies. All blank spaces must be filled in and noted, in ink or typed, with amounts extended and totaled as appropriate. Proposer must also provide two (2) electronic copies of their proposal on CDs or USB flash drives. Proposals must be printed on recycled content paper with a minimum of thirty (30) percent post-consumer content.

All required original signatures must be in ink. All corrections made by the proposer to any part of the RFP document must be initialed in ink.

Only one (1) RR Collection Services proposal from any individual, firm, partnership, or corporation under the same or different names will be considered.

Proposals must be signed by an individual(s) authorized to negotiate and bind the proposer contractually.

No proposer shall take exception to the specifications set forth in this Section 4.3.1. Proposals taking exception to the specifications may be rejected as non-responsive.

4.3.2 Proposal Content

In order to expedite the evaluation process, each proposal shall be organized in accordance with this Section as outlined in Table 4-4. Instructions for preparing each Section of the proposal shown in the outline are given in the following subsections. Proposals that do not follow the specified format outlined below, or fail to provide the required documentation, may receive lower scores. In the event of any conflict between any of the Proposal documents, resolution thereof shall be in the City's sole discretion.

The proposers shall provide the information as requested and as applicable to the proposed services. Headings and section numbering utilized in the proposal shall be the same as those identified in Table 4-4. Proposals shall include the following information in the format indicated.

TABLE 4-4
OUTLINE FOR TECHNICAL PROPOSAL

Section	Proposal Outline
1	Cover Letter

TABLE 4-4 OUTLINE FOR TECHNICAL PROPOSAL	
	Proposal Surety
	Performance Security Commitment Letter
	Receipt of Signed Addenda
	Table of Contents
2	Executive Summary
3	Qualifications
4	Statement of Financial Qualifications
5	Technical Proposal
6	Forms
7	Appendix

4.3.2.1 Cover Letter, Proposal Bond, Performance Security Commitment Letter, Receipt of Signed Addenda, Table of Contents (Technical Proposal: Section 1)

4.3.2.1.1. Cover Letter

All proposals must be accompanied by a cover letter not exceeding the equivalent of four (4) single-sided pages and should provide as follows:

1. The name, addresses, telephone number, and email address of proposer's key contact Person.
2. Description of the type of organization (e.g. corporation, partnership, including joint venture teams and subcontractors) submitting proposals.
3. Name of the entity that will sign the RR Collection Services Contract, in the event one is awarded.
4. A written statement certifying that the proposer has examined, understood, and agreed to all requirements set forth in the RR Collection Services Contract.
5. A written statement warranting that the requirements of the RR Collection Services Contract as described in this RFP document, its enclosures, attachments, and all addenda, by listing all addenda and dates received, have been thoroughly reviewed and the proposer has conducted all due diligence necessary to confirm material facts upon which the proposal is based.
6. A written statement acknowledging that, should the City award the RR Collection Services Contract to the proposer, a payment in the amount set forth in Section 4.1.15.1 of this RFP will be paid by the proposer to the City for reimbursement of the cost of this procurement within thirty (30) days of execution of the RR Collection Services Contract.

Failure to provide this statement or taking exception to this requirement will result in disqualification.

7. A written statement acknowledging the validity of the proposal contents including the proposed Maximum Recycling Service Rates through June 30, 2015 or such earlier time as the proposed Maximum Collection Service Rates may be adjusted by the City.

4.3.2.1.2. Proposal Surety

In order to propose on Service Group 2 - RR Collection Services, proposers must submit a One Hundred Thousand Dollar ($100,000) proposal surety in accordance with Section 4.2.15 of this RFP.

4.3.2.1.3. Performance Security Commitment Letter

In order to propose on Service Group 2 – RR Collection Services, proposers must submit a One Million, Five Hundred Thousand Dollars ($1,500,000) Performance Bond Commitment Letter or a letter stating that the proposer will provide a Letter of Credit in accordance with the requirements of Section 24.01 of the RR Collection Services Contract.

4.3.2.1.4. Receipt of Addenda

Proposers shall acknowledge receipt of each addendum to this RR Collection Services portion of the Zero Waste Services RFP by signing in the space provided on the issued addendum and by submitting all addenda with their proposal.

4.3.2.1.5. Table of Contents

4.3.2.2 Executive Summary (Technical Proposal: Section 2)

Not to exceed two (2) single-sided pages. Proposers must highlight the major elements of the proposer's qualifications and proposal, including a brief description of the proposer's facilities to be used. All information should be provided in a concise manner.

4.3.2.3 Qualifications (Technical Proposal: Section 3)

4.3.2.3.1. Key Staff Persons

Include proposer's Contract Compliance Coordinator and Services Manager assigned to the City.

Proposers must identify each Person and provide resumes and job responsibilities for key staff proposed for the service identified herein. Of key importance to the City is demonstrated experience in providing RR Collection Services, knowledge of Collection Containers, experience operating automated and semi-automated Collection vehicles, expertise in implementing Recyclable Material Diversion programs, and coordination with the current hauler and City staff.

4.3.2.3.2. References

Proposers must provide a minimum of five (5) governmental clients that the City may contact to conduct a reference check. The proposer must be providing or have provided similar services as requested herein to the municipality within the last five (5) years. Proposers must identify the

number of residential and Commercial accounts serviced for each reference, the type of Diversion program, and the Diversion results for the last three (3) years.

4.3.2.3.3. Litigation History

The proposer must provide a history for the last ten (10) years of all claims settlements, arbitrations, litigation proceedings, and civil actions involving One Hundred Thousand Dollars ($100,000) or more, and all criminal actions in which the company, its parent company, subsidiaries, all partners, or principals were involved. For each case, the proposer must provide the following:

- The name of the claim, arbitration, litigation or action;
- The amount at issue or the criminal charges alleged; and
- The resolution of the case.

The proposer must also provide details of any current or threatened legal actions in California against the proposer or its parent company, subsidiaries, all partners, principals, or joint venture company(ies) by a governmental entity contracting with the proposer or its parent company for services relating to Solid Waste management, or against such a government entity by the proposer or its parent company or joint venture company(ies). For each action, the proposer must provide the following:

- The name of the action;
- The court in which the action is pending;
- The action number; and
- The amount at issue.

The proposer shall provide a list of all enforcement actions taken against it during the last five (5) years by any regulatory agency such as, but not limited to, the United States Environmental Protection Agency, Air Quality Management District, State Water Resources Control Board, or a Local Enforcement Agency under the California Integrated Waste Management Act. The list shall include the name of the regulatory agency and the date of the enforcement action.

The proposer shall inform the City if it has had a permit, franchise, license, entitlement or business license that has been revoked or suspended in the last five (5) years.

The proposer must list any liquidated damages, administrative fines, charges, or assessments that total Ten Thousand Dollars ($10,000) or greater in any one (1) calendar year during the last five (5) years that have been paid by the proposer to a public agency as a result of Collection services provided by proposer. The list shall include the name of the public agency, the date and amount of the liquidated damages, administrative fines, charges, or assessments, and the reason the public agency assessed the liquidated damages, administrative fines, charges, or assessments.

The proposer must list any claims against a bid, proposal, or performance bond and the results and failure to receive a bid, proposal, or performance bond, or any contractual defaults or termination in the last twenty (20) years.

4.3.2.4 Statement of Financial Qualifications (Technical Proposal: Section 4)

The proposer must provide copies of audited financial statements for the entity that is proposed to **sign** the RR Collection Services Contract for the most recent three (3) fiscal years. Audited financial statements should include: balance sheet, income statement, cash flow statement, footnotes, and subsidiary schedules. In the event that a proposer does not have audited financial statements, three (3) years of business tax returns, with supporting schedules, may be provided on an exception basis. However, tax returns are not an alternative to providing audited financial statements; if the proposer has audited financial statements, those must be provided.

- If the entity that will sign the RR Collection Services Contract has a parent company or is proposing a joint venture, the parent company or joint venture company(ies) must also provide audited financial statements for the most recent three (3) fiscal years. The parent company must provide a statement indicating its intent and means to provide financial assurance of performance.
- If the entity that will sign the RR Collection Services Contract has been in existence less than three (3) years, the proposer must provide sufficient financial data to substantiate, to the satisfaction of the City, the proposer's financial capability and viability of the entity.
- In addition to the audited financial statements, the proposer must provide a statement from the Chief Financial Officer indicating that there has been no material change in the financial circumstances of the proposing entity (or its parent company or owners if they are providing financial assurance of performance) since the date of the last audited financial statements.
- Financing of the services and equipment will be the sole responsibility of the successful proposer. Each proposer must demonstrate that it can provide the required financing from either 1) internally generated funds, or 2) commitments from external sources.

The City reserves the right to require submission by the proposer, at no cost to the City, of an opinion by a Certified Public Accountant with regard to the financial status of such proposer, including ownership of, or interest in, equipment and facilities prior to award of an RR Collection Services Contract.

As is set forth in this RFP, the City will make reasonable efforts, but makes no representation that it will be able to maintain total confidentiality of proposer's financial information. A proposer that submits financial information that it asks to have treated as confidential should submit a statement justifying the request, cross reference it in the proposal and label it as a separate attachment, clearly identifying it as confidential. At all times, the City will comply with the provisions of the California Public Records Act.

4.3.2.4.1. Labor Agreements

Proposers must provide a copy of labor agreements under which they are providing current collection services in Alameda, Contra Costa, San Francisco, Santa Clara, and San Mateo Counties. Proposers who are not currently providing collection services under the terms of a labor agreement must provide documentation in a manner that is acceptable to the City of the wages and benefits paid to employees providing those collection services in Alameda, Contra Costa, San Francisco, Santa Clara, and San Mateo Counties. If the proposer intends to enter into any labor agreements related to the provision of RR Collection Services, the proposer must describe the nature of the agreements and when they will be implemented.

4.3.2.5 Residential Recycling Collection Service Technical Proposal (Technical Proposal: Section 5)

Proposers are required to provide a description of the manner in which the requested services are to be provided. The proposer's work plans as required below will be attached as Exhibits in the approved RR Collection Services Contract. The work plans must address and include those items as specified below.

The City will place significant emphasis on proposer's proposed work plans during the evaluation process. At a minimum, proposers shall include the following work plans:

4.3.2.5.1. Transition Plan

Proposers shall provide a detailed transition plan that describes the plans and schedule of events for the provision of new services. The transition plan must, at a minimum, address the following items:

1. What the Proposer will accomplish prior to the start of Residential Recycling Collection Services, provided in a timeline and described in concise terms. This shall include, among other things, order equipment, prepare necessary routing schedules and rote maps, obtain any permits and licenses, establish/build facilities, and begin the community outreach campaign;
2. How Customers will select the size and number of Carts and Bins and how these Carts or Bins will be delivered;
3. How the Contractor will implement the required SFD programs;
4. How the Contractor will implement the MFD programs;
5. How the Contractor will implement the City programs;
6. How the Contractor will implement the Commercial Non-Exclusive Recyclable Material programs, if selected;
7. What type of public education and outreach activities will occur; and
8. How the transition will be coordinated with the current services, current hauler, and with the City (switching of Containers, billing system, etc.).

In developing the transition plan, proposers should consider that the City strongly seeks to reduce disruption to Customers during the transition period

If the proposer is proposing on Services Groups 1 and 2, the proposer must describe any change or improvement that combining these services will provide.

4.3.2.5.2. Collection Services Operations Plan

Proposers shall provide a detailed Collection Services operations plan that presents the specific Collection programs that will be implemented in the City. This may be appended as part of the signed RR Collection Services Contract. This **must** address items as listed above and also include items listed in the following sub-sections 4.3.2.5.2.1 through 4.3.2.5.2.6:

If the proposer is proposing on Service Groups 1 and 2, the proposer must describe any change or improvement that combining these services will provide.

4.3.2.5.2.1. Vehicles

New Collection vehicles are required for RR Collection Services proposal. Proposers may include supervisory and administrative vehicles that are no more than five (5) years old.

1. For each Collection vehicle complete a vehicle specification form (RR Collection Services Form 14 - Vehicle Specifications);
2. A listing of the proposer's supervisory and administrative equipment and all accessories by type, model, year of manufacture, and anticipated remaining useful life, as of the date of the inventory;
3. For new Collection vehicles, delivery guarantees by manufacturers shall be included in the proposal;
4. How proposer's Collection vehicles will reduce air emissions, minimize noise and reduce wear and tear on the City's streets;
5. How the proposer will use technology, such as GPS, to track and monitor vehicle operation and use, and identify the proposed technology brand to be used;
6. The appearance of the vehicles, including the color and information to appear on the outside of the vehicle;
7. Vehicle maintenance program, including response/replacement/repair time for vehicles on route; and
8. The scheduled maintenance and cleaning of the vehicles.

If the proposer is proposing on Service Groups 1 and 2, the proposer must describe any change or improvement that combining these services will provide.

4.3.2.5.2.2. Containers

1. For each type of Container complete the appropriate Containers Specification Form (RR Collection Services Form 13 - Cart Specifications);
2. Past experience of other Collection programs with this type of Container;
3. Ease of cleaning and the appearance of the Containers, including their colors and information to be imprinted on the Containers; and
4. Container maintenance program, including response/replacement/repair time for Containers.

If the proposer is proposing on Service Groups 1 and 2, the proposer must describe any change or improvement that combining these services will provide.

4.3.2.5.2.3. Route Operations

1. The number of vehicles required for the Collection programs, and the number of routes to be performed by service line;
2. The number of vehicle passes per account;
3. Number of crew members required per vehicle and their responsibilities;

4. To the extent not discussed in sub-section 4.3.2.5.2.1 above, the advantages and disadvantages of the type of vehicle chosen (particularly with regard to backyard Collection, noise and the impact on the City's roads and street trees);
5. How drivers and dispatch will communicate while on route to resolve Customer service requests/complaints; and
6. Labor relations' history and impact on performance.

If the proposer is proposing on Service Groups 1 and 2, the proposer must describe any change or improvement that combining these services will provide.

4.3.2.5.2.4. Facilities

1. Complete a Facilities Specification Form for each facility to be used (RR Collection Services Form 12A – Material Recovery Facility);
2. Customer service office location;
3. The capacity of each facility and the ability to accommodate deliveries form City crews; and
4. Labor relations history and impact on performance.

If the proposer is proposing on Service Groups 1 and 2, the proposer must describe any change or improvement that combining these services will provide.

4.3.2.5.2.5. Safety

Assurances that all required plans are in place and a description of the following:

1. Employee safety requirements, including physical, drug, and alcohol testing requirements;
2. Hazardous Waste, E-Waste, and Universal Waste management protocol; and
3. Health and safety management procedures.

If the proposer is proposing on Service Groups 1 and 2, the proposer must describe any change or improvement that combining these services will provide.

4.3.2.5.2.6. Reporting

1. Detailed Zero Waste monitoring and reporting program, including electronic transmittal of reports to City;
2. Method used to track Tonnage Collected, delivered to market, Processed, and Residue Disposed; and
3. Process for reporting Customer complaints and dispute resolution to the City.

If the proposer is proposing on Service Groups 1 and 2, the proposer must describe any change or improvement that combining these services will provide.

4.3.2.5.3. Diversion Plan

Proposers must provide their approach in meeting or exceeding the material Diversion standard requirements specified in Section 4.1.9 of this RFP and in the RR Collection Services Contract presented in Section 6. Proposers must provide a material Diversion standard, which must be

tied to specific Collection methods and public education programs. Failure to provide the projected Tonnage cap and material Diversion standard may be grounds for disqualification. The Diversion plan will be appended as part of the signed RR Collection Service Contract. The Diversion plan must, at a minimum, include the following:

1. The methods used for the Diversion programs by program type (SFD, MFD, City, and Commercial);
2. Provide audit procedures detailing the Diversion of actual materials Collected from Oakland;
3. List of facilities to be used, as included in the Facility Specification Form (RR Collection Services Form 12 – Material Recovery Facility);
4. A schedule showing specific programs and tasks, milestones, and time frames for meeting the Diversion requirements, as specified in this RFP;
5. A table segregated by SFD and MFD services that estimates Tonnages for Recyclable Material delivered and Processed, and the estimated Residual Tonnages for each calendar year of the RR Collection Services Contract beginning with calendar year 2016; and
6. The overall Diversion outcome for all Tonnages handled, which much not be less than the minimum Diversion required in the RR Collection Services Contract.

If the proposer is proposing on Service Groups 1 and 2, the proposer must describe any change or improvement that combining these services will provide.

4.3.2.5.4. Customer Service Plan

Proposers shall provide a detailed Customer service plan that specifies the Customer service operations that will be used in the City. This will be appended as part of the signed RR Collection Services Contract. Customer service hours should be noted. The Customer service plan must include the following:

1. Protocol for receiving Customer calls and emails (or other messages), issuing work orders, closing work orders, and replying to Customers;
2. Information on Proposer's Customer Service office, including capacity, staffing, Customer Information System, and Website; and
3. Protocol for Customer ancillary service billing changes, and disputes.

If the proposer is proposing on Service Groups 1 and 2, the proposer must describe any change or improvement that combining these services will provide.

4.3.2.5.5. Community Outreach Strategy

Proposers shall provide a detailed public awareness plan that specifies the methods and public education materials that will be used for program start-up and throughout the first eighteen (18) months. Specific attention should be given to methods that achieve high participation and Diversion in recycling Collection programs, City special events, and on-going "how to" promotions. This will be appended as part of the signed RR Collection Services Contract.

If the proposer is proposing on Service Groups 1 and 2, the proposer must describe any change or improvement that combining these services will provide.

4.3.2.5.6. Employee and Labor Relations

Proposers shall provide a detailed Employee and Labor Relations Plan to include the following:

1. History as an employer;
2. Working condition commitments;
3. Assurances of its commitments to labor peace;
4. Information regarding how the proposer will protect against labor discord during the term of the RR Collection Services Contract; and
5. How company addresses equity and work conditions for positions that are not covered by collectively bargained agreements.

If the proposer is proposing on Service Groups 1 and 2, the proposer must describe any change or improvement that combining these services will provide.

4.3.2.6 Forms (Technical Proposal: Section 6)

All proposers must complete RR Collection Services Forms 1 through 2 and 4 through 15, in the order they are listed at the end of this Section. Proposers are not required to complete RR Collection Services Form 3 if they elect to provide a letter of credit as proposal surety or they elect to provide a proposal bond that is substantially the same as that provided in RR Collection Services Form 3. The form of the letter of credit must be consistent with the requirements set forth is Section 24.03 of the RR Collection Services Contract. Except for RR Collection Services Form 3, proposers shall use only the forms and format provided. Any deviation from those provided forms may be grounds for rejection of the entire proposal. Specific Forms for use by the RR Collection Services proposers are included at the end of this Section. All Forms will be distributed electronically as Word documents. Forms 2A through 2B will be distributed electronically as Excel worksheets.

4.3.2.7 Appendix (Technical Proposal: Section 7)

Proposers may provide any additional information that they believe to be applicable to this proposal and include such information as an Appendix. Proposers should include information related to alternatives or exceptions in the Appendix.

4.3.3 Proposal Alternatives and Exceptions

Proposers may submit alternatives or exceptions to the services listed in this RFP to the extent that such alternative or exception is an improvement in service or price. If alternatives or exceptions are presented, the alternative or exception shall be included as the first item in the Appendix Section of the proposal and shall contain the Maximum Recycling Service Rates related to the alternative or exception using the forms provided at the end of this Section and shall include revised RR Collection Services Contract language. **Note that while the City will review proposal exceptions or alternatives submitted as part of the RFP process, the City is not obligated to evaluate or accept any alternative(s) or exception(s) submitted by proposers. Proposers should note that in the event of RR Collection Services Contract award, the proposer will not be allowed to request the discussion of any exceptions or alternatives that were not provided by the proposer in the proposal alternatives and exceptions portion of their proposal.**

The City strongly suggests that proposers who hold "non-negotiable" positions in opposition to the requirements set forth in the RR Collection Services Contract consider submitting a written request to the City to consider those positions during the pre-proposal process and prior to the proposal submittal date. This will allow the City to provide a specific response to each item prior to the proposer submitting its proposal. This is important because once the proposals are submitted, the City is under no obligation to accept any exceptions or alternatives while the proposer is obligated to accept an award of the RR Collection Services Contract under the terms and conditions as stated in that RR Collection Services Contract.

4.3.4 Evaluation of Proposal

4.3.4.1 General

Proposals submitted by the proposers will be judged through the evaluation process described in this Section. The selected proposers will be chosen based on the outcome of this evaluation.

In order to be evaluated, proposals must comply with the following:

- Proposers must have attended the RFP release meeting and pre-proposal meeting.
- Proposals must be received by the submission date and time.
- Proposals must be submitted in conformance with the requirements of the RFP.

All proposals received by the submission date as indicated in this RFP will be reviewed to determine whether they are responsive. Proposers whose proposals are not responsive will be offered a debriefing session with City and will have the opportunity to protest the decision. Responsive proposals will then be distributed for evaluation and scoring. Furthermore, as part of the evaluation process, proposers may be asked to attend personal interviews to discuss their proposals.

If for any reason during the course of negotiations with the selected proposer, the City determines that a reasonable Contract cannot be negotiated, the City reserves the right to suspend negotiations with the selected proposer, contact the next ranked proposer and begin negotiations for the purpose of signing a RR Collection Services Contract with that selected proposer. The City further reserves the right to enter into simultaneous negotiations with two (2) or more proposers if reasonably competitive proposals are received for RR Collection Services.

4.3.4.2 Disqualification

Factors such as, but not limited to, any of the following may be considered just cause to disqualify a proposal without further consideration:

- Evidence of collusion, directly or indirectly, among proposers in regard to the amount, terms, or conditions of this proposal;
- Failure to direct all questions/inquiries through the City contact as set forth in Section 4.2.4 of this RFP;
- Any attempt to improperly influence any member of the evaluation team;
- Existence of any lawsuit, unresolved contractual claim or dispute between the City and the proposer and/or the proposer's related entities;
- Submittal of "non-negotiable" exceptions to the requirements of the RR Collection Services Contract;

- Evidence of willfully submitting incorrect information as part of the proposal; and
- Evidence of proposer's inability to successfully complete the responsibilities and obligations of the proposal.

4.3.4.3 Non-Conforming Proposal

A proposal shall be prepared and submitted in accordance with the provisions of these RFP instructions and specifications. Any alteration, omission, addition, variance, or limitation of, from or to a proposal may be sufficient grounds for non-acceptance of the proposal, at the sole discretion of the City.

4.3.4.4 Required Documents

Proposals will be reviewed to determine if all required documentation is included. Proposers who fail to submit the required documents with their proposal will be disqualified from further consideration.

4.3.4.5 Proposal Evaluation

The City reserves the right to award a RR Collection Services Contract that is most advantageous to the City and its residents and businesses. The following Table contains the criteria and weighting the City will use to evaluate proposals to provide RR Collection Services. Specific details on the criteria are listed below. In order to be evaluated, all proposals must be responsive and complete as per the submittal instructions.

TABLE 4-5
CITY OF OAKLAND RESIDENTIAL RECYCLING COLLECTION SERVICES EVALUATION CRITERIA AND POINTS

Criteria	Points
1. Customer Rates	**35**
2. Zero Waste / Diversion Programs	**25**
3. Operational Approach	**20**
4. Experience & Performance	**5**
5. Customer Service	**5**
6. Financial Capacity	**5**
7. References	**5**
8. Economic Benefits – Preference Points	**6**

4.3.4.5.1. Evaluation Criteria

1. Customer Rates. The cost evaluation of customer rates is intended to provide an equitable basis for comparison between proposals. All customer rate information to be used in this evaluation will be as stated in the proposal. The proposals will be reviewed to verify that the proposed customer rates are consistent with the activities described in the proposal and the proposer's work plans. Evaluation criteria to be considered will include without limitation all information provided in RR Collection Services Form 2: Maximum Recycling Service Rate Proposal.

2. Zero Waste / Diversion Programs. Each proposal will be evaluated to assess the Proposers' approach to:

- Implementing Source Separated Collection Services as the primary and most important method of Diversion;
- Approach to coordination with the MM&O Collection Services Contractor to promote Source Separated SFD and MFD recycling programs;
- Implementing aggressive community outreach programs to meet Diversion goals;
- Reducing environmental footprint of the operations through programs such as clean air vehicles, water conservation, stormwater attenuation, green building, energy efficiency, renewable energy generation, waste reduction and reuse programs; and
- The Diversion plan as required in accordance with Section 4.3.2.5.3 of this RFP.

3. Operational Approach. Each proposal will be evaluated on their operational approach. This will include without limitation:

- Safety;
- Uniform Collection methods;
- Transition plan;
- Fuel type used for equipment and efficiency of routes;
- Labor discussions (lockouts/strikes), agreement terms and history; and
- The Collection Services operations plan as required in accordance with Section 4.3.2.5.2 of this RFP.

4. Experience and Performance. The experience of each proposer will be evaluated to determine the relative ability of each proposer to implement the RR Collection Services programs as described in this RFP and to attain the City objectives for maximizing Diversion. Experience evaluation criteria and areas of experience to be considered will include without limitation:

- Qualifications and structure of project management team, relationships between management team and corporate management, and internal controls;
- Previous experience providing services to cities of similar size;
- Demonstrated expertise in implementing and maintaining Customer service programs, including the development and use of performance measures and benchmarking;
- Previous experience in successfully designing and implementing transition plans, relevant to this RFP;
- Experience in designing, implementing, and operating public outreach and information programs that promote high participation and Diversion;
- Demonstrated expertise in designing and using data management systems to assure accurate data collection, analysis and reporting;
- Litigation history;
- Implementation and administration of complex Recyclable Materials Collection systems, including equipment selection and route design;

- Successful operation of residential recycling programs that achieve high participation levels and Diversion rates; and
- Cost-effective Processing of Recyclable Materials with demonstrated success in attaining highest and best uses for such materials.

5. Customer Service. Each proposal will be evaluated to assess the Proposers' approach and use of technology in the following areas:

- Implementing and monitoring Customer service programs;
- Accurately and consistently recording performance;
- The Customer service plans as required in accordance with Section 4.3.2.5.3 of this RFP;
- Continuity and timeliness of service;
- Performance measures; and
- Measurements of outreach effectiveness.

6. Financial Capacity. Each proposal will be evaluated to assess the relative financial capacity and strength of the proposer. This will include without limitation:

- An evaluation of financial statements, including a review of key financial ratios;
- Proposer's capacity and plans for making needed start-up investments in equipment, both of which should be specifically addressed in the Proposals;
- Insurance Coverage; and
- Indemnification.

7. References. Each proposal will be evaluated on the interviews with client references provided.

8. Economic Benefits - Preference Points. The length of term and the value of these contracts should provide an economic opportunity for Oakland residents and businesses. Therefore, the City has established six (6) preference points as part of the RFP and evaluation, which are designed to direct economic benefits to Oakland.

   - Local Business Presence and Participation. In an effort to maximize local business presence and participation the City will award up to three (3) preference points in half-point increments beyond the 100 points established for the proposal evaluation to proposals maximizing local business presence and participation. The proposal that has the highest economic value to Oakland will receive the three (3) points, and each proposal in order of economic value thereafter will receive points in half point increments.
   - Proposers may achieve local business presence and participation points by locating some or all portions of their operations in Oakland, for example, truck dispatch, processing, fueling, and call center. Additionally, proposers may demonstrate local business participation through the goods and services that they buy in Oakland, for example trucks, automotive and janitorial supplies, and professional services such as graphic designers, insurance and bonding.
   - Local Hire. The City will award up to one (1) local hire preference point in half point increments beyond the 100 points established for the proposal evaluation for a

commitment to train and hire local disadvantaged workers. The proposer should delineate how they will achieve their commitment.

- The City will award up to two (2) local hire preference points in half point increments for a proposer's commitment to maintain a certain total percent of full time equivalent positions as Oakland residents in their workforce on a year-by-year basis. This commitment may include management positions. Note this commitment would begin 90 days after July 1, 2015 to address job retention requirements.

4.3.4.6 Announcement of Award

The City will inform all proposers of its intent to award a RR Collection Services Contract in writing.

4.3.4.7 Protest Procedure

If an unsuccessful proposer wants to dispute the City's proposal ranking determination, the protest must be submitted in writing to the City Administrator appointed Protest Hearing Officer no later than five (5) City business days after announcement of the City's determination, detailing the grounds and factual basis and providing all supporting information. Protests will not be considered for disputes of proposal requirements and specifications, which must be addressed in accordance with Section 4.2.4 of the RFP. Failure to submit a timely written protest to the Protest Hearing Officer will bar consideration of the protest.

The address for submitting protests is:

City Administrator
Office of the City Administrator
City of Oakland
1 Frank Ogawa Plaza, 3rd Floor
Oakland, CA 94612

4.3.4.8 Contract Award

After the RFP evaluation process and Protest Period is completed, the City Administrator will recommend the top ranked proposer to the City Council for authorization to enter into negotiations. After completion of negotiations to the satisfaction of the City, the City Administrator will request authorization from the City Council to enter into a Contract with the proposer.

4.4 PROPOSAL FORMS

The City will receive written and sealed proposals to furnish all labor and equipment to provide the services as required in the RR Collection Services Contract. **RR Collection Services Forms 1 through 2 and 4 through 15 on the following pages are the required forms that must be completed by RR Collection Services proposers as part of the proposal**.

Proposers may use Form 3 or may provide the required proposal surety through the use of a proposal bond that is substantially the same as that provided in Form 3 or through the use of a letter of credit.

With the exception of Form 2, the forms are set up **with expandable text boxes** to allow proposers to input their information directly into **RR Collection Services Forms 1 through 15**.

Form 2 is provided in Microsoft Excel format. Answers to questions that are not applicable should be included and marked "Not Applicable."

Instructions:

With the exception of Form 2, open the fill-in form document and fill in the form using Microsoft Word. Enter information in the shaded ▭ "fields" of the form. To move from field to field, use your mouse, the arrow keys or press Tab. Use your mouse or the spacebar to mark and unmark a checkbox.

To complete Form 2, open the fill-in form spreadsheet and fill in the form using Microsoft Excel. There are multiple sheets in the Excel workbook. To complete all forms, select from the tabs along the bottom of the workbook. Enter information in the shaded ▭ "fields" of the form. To move from field to field, use your mouse, the arrow keys or press Tab. Use your mouse or the spacebar to mark and unmark a checkbox.

Be sure to sign and date your forms where applicable.

The purpose of the forms contained herein is not intended in any way to limit the type, quality or quantity of data and information supplied by the proposer. Required Forms not completed in full may result in disqualification.

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RR COLLECTION SERVICES FORM 1
MAXIMUM RECYCLING SERVICE RATES PROPOSAL AND PAYMENT TO CITY: SUMMARY AND SIGNATURE

In preparing the RR Maximum Recycling Service Rates Proposal Forms proposers should be aware of the following:

- All RR Maximum Recycling Service Rates proposed on these forms for ***City of Oakland*** shall be fixed through June 30, 2016, with the exception of the adjustment on July 1, 2015, and should reflect service requirements and all one time and annual payments including franchise fees as specified in the RR Collection Services Contract.
- Proposer must complete RR Collection Services Form 1 if they are to be considered for Contract Award.
- Proposer shall ensure that **ALL** Government fees and charges, effective as of December 12, 2012, are included in the Proposed RR Maximum Recycling Service Rates.

The Undersigned hereby certifies as follows:

- That _____ has personally and carefully examined the specifications and instructions for the work to be done as set forth in this RFP.
- That _____ has made examination of the services as applicable to the Proposal, and fully understands the character of the work to be done.
- That _____ agrees to pay the CITY the Procurement Reimbursement Cost within thirty (30) days of execution of the RR Collection Services Contract.

That, having made the necessary examination, the undersigned hereby proposes to furnish all materials, vehicles, plans, equipment and facilities, and to perform all labor and services that may be required to do said work with the time fixed, and upon the terms and conditions provided in the Contract, at the Maximum Recycling Service Rates set forth on RR Collection Services Form 2 - RR Maximum Recycling Service Rates Proposal.

Note: Signatures shall be in accordance with Section 4.3.1 of this RFP.

PROPOSER _____

Signature _____

Print Name and Title _____

Signature _____

Print Name and Title _____

Firm/Trade Name _____

Individual: ☐ Partnership: ☐ Joint Venture ☐

Corporation _____, A _____ Corporation (State of Incorporation)

Date _____

2380

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RR Collection Services Form 2
Maximum Recycling Service Rates Proposal

Instructions for Completing Forms 2A-2C

Prior to preparing the RR Collection Services Maximum Recycling Service Rate Proposal Forms, proposers should review Article 7 of the RR Collection Services Contract, included as Section 6 of this RFP, to familiarize themselves with the Maximum Recycling Service Rates adjustment methodology. In addition, it is the sole responsibility of the proposer to conduct their own due diligence, calculate and be responsible for the costs and other information quoted in the RR Collection Services Maximum Recycling Service Rates Proposal Forms.

Proposed Maximum Revenue (Form 2A). The proposers rates shall consist of two (2) rate elements: a cost per Collected Ton rate element and a projected maximum Tonnage cap rate element. The Maximum Revenue will be calculated by multiplying these two elements together. Proposers should base their Maximum Revenue calculations on the Customer and service data provided by the City in this RFP. Additionally, the proposer must provide the City with a guaranteed material Diversion standard as set forth in Article 8 of the RR Collection Services Contract (Section 6 of this RFP).

Cost Per Collected Ton Rate Element. Proposers should provide a proposed cost per Collected Ton representing the total **dollar amount** the proposer anticipates Recyclable Materials Collection to cost. This shall include all costs of providing Recyclable Materials Collection Services including, but not limited to, Collection, Processing, Disposal of Recycling Residuals, and franchise fee costs. In order to provide some mitigation for inflation between the time that the Maximum Recycling Service Rates were proposed and the time when Collection Services will commence, the Maximum Recycling Service Rates, including the franchise fee, proposed in forms 2A through 2C shall be adjusted on July 1, 2015 by the annual change in the Consumer Price Index – All Urban Consumers, Series ID cuura422sa0, Not Seasonally adjusted, San Francisco-Oakland-San Jose, CA for the prior calendar year, January 1, 2014 through December 31, 2014.

Projected Tonnage Cap Rate Element. Proposers should provide projections for the total maximum Collected Tons for the period beginning July 1, 2015 through December 31, 2015, and the period beginning January 1, 2016 through December 31, 2016.

Ancillary Rates

Proposer shall provide proposed Maximum Recycling Service Rates for all ancillary rates as set forth in the Collection Services Contract in Section 6 of this RFP. Specifically this includes:

- Premium Backyard SFD Recycling Services
- MFD/Commercial Push Service
- MFD/Commercial Key Service
- MFD/Commercial Difficult to Service Collection Service
- MFD/Commercial Excess Frequency (2-5x/week service)
- Cart/Bin Cleaning Rate
- Cart/Bin Exchange Rate
- Cart/Bin Replacement Rate

RR COLLECTION SERVICES FORM 2
MAXIMUM RECYCLING SERVICE RATES PROPOSAL

Proposed Maximum Recycling Service Rates

Commercial Non-Exclusive Recyclable Materials Collection (Form 2B) Proposers shall provide proposed Maximum Recycling Service Rates for Commercial Non-Exclusive Recyclable Materials Collection. This shall include all costs of providing Commercial Non-Exclusive Recyclable Materials Collection Services including, but not limited to, Collection, Processing, Disposal of Recycling Residuals, and franchise fee costs.

Multiple Service Discount (Form 2C) Proposers proposing to offer RR Collection Services and MM&O Collection Services and/or Disposal Services shall indicate the discount, if any, that will be applied to all proposed Maximum Recycling Service Rates proposed on RR Collection Forms 2A through 2B in the event both services are awarded to the proposer. Please note the franchise fees will not be adjusted due to the award of multiple services to a single proposer.

Mitigating Inflation

In order to provide some mitigation for inflation between the time that the Maximum Recycling Service Rates were proposed and the time when Collection Services will commence, the Maximum Recycling Service Rates contained on Forms 2A through 2B, including the Franchise Fee, shall be adjusted on July 1, 2015 by the annual change in the Consumer Price Index – All Urban Consumers, Series ID cuura422sa0, Not Seasonally adjusted, San Francisco-Oakland-San Jose, CA for the prior calendar year, January 1, 2014 through December 31, 2014.

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RR COLLECTION SERVICES FORM 3
PROPOSAL BOND FORM

KNOW ALL PERSONS BY THESE PRESENTS:

THAT_____

(hereinafter called the principal), as principal and _____ a corporation organized and doing business under and by virtue of the laws of the State of _____, and duly licensed for the purpose of making, guaranteeing or becoming sole surety upon bonds or undertakings required or authorized by the laws of the State of California, as Surety, are held and firmly bound unto the City of Oakland, a municipal corporation, (hereinafter called the Obligee) in the just and full sum of One Hundred Thousand Dollars ($100,000) lawful money of the United States of America, for the payment of which, well and truly to be made, we hereby bind ourselves and each of our successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, WHEREAS, the above bounden principal as aforesaid, is about to hand in and submit the oblige a proposal for RR Collection Services.

In accordance with the plans and specifications filed in the office of the obligee and under the notice inviting proposals therefore.

NOW, THEREFORE, if the proposal as submitted by the said principal shall be accepted, and the contract for such work or supplies be awarded to the principal, and the said principal shall fail, neglect or refuse to enter into a contract to perform said work or deliver said supplies, and furnish good and sufficient bond therefore, then the amount of this bond shall be declared to be forfeited to said obligee City of Oakland as liquidated damages, it being agreed that said City will suffer damages as a result of such failure, neglect or refusal of the principal and that such damages are and will continue to be, impracticable and extremely difficult to determine.

IN WITNESS WHEREOF, said Principal and said Surety have caused these presents to be duly signed and sealed this _____day of _____, 2012.

_____
_____
_____

(Acknowledgment of Surety is required. See reverse side.)

By_____
Attorney-in-Fact

RR COLLECTION SERVICES FORM 3
PROPOSAL BOND FORM

ACKNOWLEDGMENT

State of California, County of _____

On _____ before me, _____ (Insert name and title of the officer) personally appeared, _____ who proved to 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 authorized capacity(ies), and that 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 _____ **(Seal)**

	Proposal BOND				**to CITY OF OAKLAND A Municipal Corporation**	Dated ___, 2012	

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RR COLLECTION SERVICES FORM 4
SCHEDULE K PENDING DISPUTE DISCLOSURE FORM

Policy – All entities are required to disclose pending disputes with the City of Oakland when they submit bids, proposals or applications for a City contract or transaction involving:

- The purchase of products, construction, non-professional or professional services,
- Contracts with concessionaires, facility or program operators or managers,
- Contracts with project developers, including Disposition and Development Agreements, Lease Disposition and Development Agreements and other participation agreements,
- Loans and grants, or acquisition, sale, lease or other conveyance of real property, excluding licenses for rights of entry or use of City facilities for a term less than thirty (30) consecutive calendar days.

Disclosure is required at the time bids, proposals or applications are due for any of the above –described contracts or transactions when an entity is responding to a competitive solicitation and at the commencement of negotiations when bids, proposals or applications are solicited by or submitted to the City in a non-bid or otherwise non-competitive process.

The disclosure requirement applies to pending disputes on other City and Agency contracts or projects that: (1) have resulted in a claim or lawsuit against the City of Oakland (2) could result in a new claim or new lawsuit against the City of Oakland or (3) could result in a cross-complaint or any other action to make the City of Oakland a party to an existing lawsuit. “Claim” includes, but is not limited to, a pending administrative claim or a claim or demand for additional compensation.

Entities required to disclose under this Disclosure Policy include (1) any principal owner or partner, (2) any business entity with principal owners or partners that are owners or partners in a business entity, or any affiliate of such a business entity, which is involved in a pending dispute against the City of Oakland or Agency.

Failure to timely disclose pending disputes required by this policy may result in (1) a determination that a bid is non-responsive and non-responsible for price-based awards, or (2) non-consideration of a bid or proposal for a professional service contract or other qualification-based award. The City may elect to terminate contracts with entities that failed to timely disclose pending disputes and/or initiate debarment proceedings against such entities.

RR COLLECTION SERVICES FORM 4
SCHEDULE K PENDING DISPUTE DISCLOSURE FORM

Individuals, Businesses or other entities should respond below:

1. Are you or your firm involved in a pending dispute or claim against the City of Oakland?

   No ☐ Yes ☐ *(check one)*

2. If you answered "Yes", list existing and pending lawsuit(s) and claim(s) with the title and date of the contract, a brief description of the issues, officials or staff Persons involved in the matter and the City or Agency department/division administering the contract.

Contract Title: _____

Date: _____ Official(s), Staff Person(s) involved: _____

Administering Department/Division: _____

Issues: _____

Contract Title: _____

Date: _____ Official(s), Staff Person(s) involved: _____

Administering Department/Division: _____

Issues: _____

(check) ☐ **Additional Disputes listed on Attachment**

By signing below, I certify that all representations and disclosures made herein are true, correct and complete.

Signature: _____

Print Name: _____

Title: _____ Date: _____

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RR COLLECTION SERVICES FORM 5
SCHEDULE N DECLARATION OF COMPLIANCE - LIVING WAGE ORDINANCE

The Oakland Living Wage Ordinance (the "Ordinance"). Codified as Oakland Municipal Code provides that certain employers under contracts for the furnishing of services to or for the City that involve an expenditure equal to or greater than $25,000 and certain recipients of City financial assistance that involve receipt of financial assistance equal to or greater than $100,000 shall pay a prescribed minimum level of compensation to their employees for the time their employees work on City of Oakland contracts.

The contractor or city financial assistance recipient (CFAR) agree as described in Section 3-C "Health Benefits" of the Ordinance, to pay employees a wage no less than the minimum compensation of $11.70 per hour with health benefits, or $13.45 per hour without benefits and to provide for annual increases pursuant to Section 3-A 'Wages" of the Ordinance. **Note: Effective July 1, of each year, Contractor shall pay the adjusted wage rates.**

(a) To provide at least twelve compensated days off per year for sick leave, vacation or personal necessity at the employees request, and at least ten additional days per year of uncompensated time off pursuant to Section 3-B “Compensated Days Off” of the Ordinance.

(b) Health Benefits – Said full-time and part-time employees paid at the lower living wage rate shall be provided health benefits of at least $1.75 per hour. Contractor shall provide proof that health benefits are in effect for those employees no later than 30 days after execution of the contract or receipt of City financial assistance.

(c) To inform employees that he or she may be eligible for Earned Income Credit (EIC) and shall provide forms to apply for advance EIC payments to eligible employees. There are several websites and other sources available to assist you. Web sites include but are not limited to: (1) http://www.irs.gov and (2) http://www.irs.gov/individuals/article/0,,id=96466,00.html.

(d) To permit access to work sites for authorized City representatives to review the operation, payroll and related documents, and to provide certified copies of the relevant records upon request by the City; and

(e) Not to retaliate against any employee claiming non-compliance with the provisions of this Ordinance and to comply with federal law prohibiting retaliation for union organizing.

Employment Questionnaire: Please respond to the following questions:

Questions	Responses	Comments
(1) How many permanent employees are employed with your company? (if less than 5, stop here)		
(2) How many of your permanent employees are paid above the Living Wage rate?		
(3) How many of your permanent employees are paid below the Living Wage rate?		

RR COLLECTION SERVICES FORM 5
SCHEDULE N DECLARATION OF COMPLIANCE - LIVING WAGE ORDINANCE

(4) Number of compensated days off per employee? (Refer to item "a" above.)		
(5) Number of trainees in your company?		
(6) Number of employees under 21 years of age, employed by a nonprofit corporation for after school or summer employment for a period not longer than 90 days.		

The undersigned authorized representative hereby obligates the proposer to the above stated conditions under penalty of perjury.

Company Name

Signature of Authorized Representative

Address

Type or Print Name

Phone

Date

Type or Print Title

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RR COLLECTION SERVICES FORM 6
SCHEDULE N-1 EQUAL BENEFITS - DECLARATION OF NONDISCRIMINATION/EQUAL ACCESS
Completed by the Prime RR Collection Services Contractor ONLY

Section A. Vendor / Contractor / Consultant / CFAR[1] Information

Name of Company _____

Name of Company Contact _____

Address _____

City _____ State _____ Zip _____

Phone Number _____ Fax Number _____

Vendor Number _____ Federal ID or Social Security Number _____

Approximate Number of Employees in the U.S. _____

Are any of your employees covered by a collective bargaining agreement or union trust fund?

Yes ☐ No ☐ *(check one)*

Union Name (s) _____

Section B. Compliance

Does your company provide or offer access to any benefits to employees with spouses or to spouses of employees? *(please check one)* Yes ☐ No ☐

Does your company provide or offer access to any benefits to employees with domestic partners[2]? *(please check one)* Yes ☐ No ☐

[1] CFAR is a City Financial Recipient.

[2] Domestic Partner is defined as same sex couples or opposite sex couples registered as such with a state or local government domestic partnership registry.

RR COLLECTION SERVICES FORM 6
SCHEDULE N-1 EQUAL BENEFITS - DECLARATION OF NONDISCRIMINATION/EQUAL ACCESS
Completed by the Prime RR Collection Services Contractor ONLY

Section C. Compliance

Please check each benefit that applies

Benefits	Offered to Employees only	Offered to Employees and their spouses	Offered to Employees and their Domestic Partners	Not Offered at all	Documentation attached
Health	☐	☐	☐	☐	☐
Dental	☐	☐	☐	☐	☐
Vision	☐	☐	☐	☐	☐
Retirement (Pension, 401K, etc.)	☐	☐	☐	☐	☐
Bereavement	☐	☐	☐	☐	☐
Family Leave	☐	☐	☐	☐	☐
Parental Leave	☐	☐	☐	☐	☐
Employee Assistance Program	☐	☐	☐	☐	☐
Relocation & Travel	☐	☐	☐	☐	☐
Company Discount, Facilities & Events	☐	☐	☐	☐	☐
Credit Union	☐	☐	☐	☐	☐
Child Care	☐	☐	☐	☐	☐
Other	☐	☐	☐	☐	☐

Signature _____ Date: _____

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RR COLLECTION SERVICES FORM 7
PROPOSER TO MAKE EXAMINATION

The proposer agrees that it has satisfied itself by proposer's own investigation and research regarding all such conditions, and that proposer's conclusion to enter into the Contract and execution of the Contract is based upon such investigation and research, and that the proposer shall make no claim against the City because of any of the estimates, statements or interpretations made by any officer or agent of the City which may prove to be in any respect erroneous.

Signature _____Name (typed) _____

Title _____ Date _____

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RR COLLECTION SERVICES FORM 8
CERTIFICATION OF NON-GRATUITIES

TO: THE CITY OF OAKLAND

CERTIFICATION

This is a written certification, signed under penalty of perjury, stating that no Persons acting on behalf of _____ has paid, or offered or attempted to pay, any elected or appointed official, officer or employee of City any compensation or consideration, in any form whatsoever, in connection with obtaining or entering into this Contract.

_____ _____

Name Title

_____ _____

Signature Date

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RR COLLECTION SERVICES FORM 9
CONFLICT OF INTEREST

FIRM NAME: _____ Date: _____

All proposers must disclose, below, the name of any officer, director, agent, or any relative of an officer, director, or agent who is an employee, elected official or appointed official of the City. Furthermore, all proposers must disclose, to the best of their knowledge, the name of any City employee, elected official or appointed official who has any direct or indirect economic interest in the proposer's firm or any of its branches or subsidiaries. "Economic interest" shall have the same meaning as that term is defined in Title 2, California Code of Regulations Sections 18703-18703.5.

The following officer, director, agent, or relative of an officer, director, or agent is an employee, elected official or appointed official of the City. *(Provide the full name of the individual, their relationship to the proposing company, and their position with the City. Indicate "None" if this is not applicable.)*

_____
_____
_____
_____

To the best of my knowledge, the following City employee, elected official or appointed official has a direct or indirect economic interest in this firm or any of its branches or subsidiaries. *(Provide the full name of the individual, their position with the City and their direct or indirect interest in the proposing company. Indicate "None" if this is not applicable.)*

_____
_____
_____
_____

_____ _____

Name Title

Signature _____ Date: _____

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RR COLLECTION SERVICES FORM 10
NON-COLLUSION AFFIDAVIT OF PROPOSER

State of _____ County of_____

_____, being duly sworn, deposes and says that:

1. He/She is _____ of_____ the proposer that has submitted the attached proposal;
2. He/She is fully informed respecting the preparation and contents of the attached proposal and of all pertinent circumstances respecting such proposal;
3. Such proposal is genuine and is not a collusive or sham proposal;
4. Neither said proposer nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest, including this affiant, has in any way colluded, connived, or agreed, directly or indirectly, with any other proposer, firm or Person to submit a collusive or sham proposal in connection with the Contract for which the attached proposal has been submitted or to refrain from proposing in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collision or communication or conference with any other proposer, firm, or Person to fix the price or prices in the attached RFP, or of any other proposer, or to fix any overhead, profit or cost component of the proposal or the response of any other proposer, or to secure through any collusion, connivance, or unlawful agreement any advantage against the City of Oakland, CA or any Person interested in the proposed Contract; and
5. The Maximum Recycling Service Rate proposal in the attached RFP is fair and proper and is not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the proposer or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

_____ _____
(Signed) (Title)

Subscribed and sworn to before me this _____ day of _____, 2012

_____ My Commission Expires: _____

Notary Public, State of California

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RR COLLECTION SERVICES FORM 11
EXCEPTIONS TO CONTRACT

Proposers are to prepare the RR Collection Services Form 2: Maximum Recycling Service Rates based on the program specifications set forth in the RFP documents without considering any exceptions that may be set forth on this form. In the event the proposer takes exception to the RFP specifications they may set forth those exceptions in the following manner.

- The exceptions are to be presented on a separate paper titled, "Form Exceptions to Contract".
- Each exception must be presented separately by stating: the specific exception, the page and line numbers of the exception, the suggested changes to the program related to the exception, the suggested changes in the Contract language related to the exception, the manner in which the proposed change would benefit the City, the Customers or both, and the specific dollar change in the Maximum Recycling Service Rates, as proposed by the proposer in this RFP, which would take place if the exception was accepted by the City.
- The exceptions must be followed with the following language without exception.
- "Except as set forth above, the proposer is in complete agreement with the proposed terms, conditions and business arrangements described in the RFP including the attached Contract. The proposer assumes the risk of all conditions foreseen or unforeseen and agrees to provide the RR Collection Services set forth in the Contract under whatever circumstances may develop other than as herein provided."
- The form must be signed by an individual authorized to commit the proposer's firm to the Contract in the manner set forth below.

Signature _____ Name (typed) _____

Title _____ Date _____

Please note that if exceptions are taken, all required information as set forth above must be submitted. Exceptions taken without providing the required information will not be considered.

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RR COLLECTION SERVICES FORM 12 MATERIAL RECOVERY FACILITY Provide One Form Per Facility Site		
1.	Name of Processing Facility	
2.	Location of Processing Facility	
3.	Proposer's role in the Processing Facility	
4.	Other contracting parties	
5.	Name, telephone number and address of Processing Facility owner	
6.	Types of materials accepted	
7.	Quantity of materials permitted by material type (tpd and tpy)	Material Type: Pick One / TPD / TPY
8.	CalRecycle Permit Type and Number	
9.	Local Land-use Permit Number	
10.	Per Ton Processing fee (by material type)	$0.00

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RR COLLECTION SERVICES FORM 13
CART SPECIFICATIONS

1. Material to be Collected — Mixed Materials ☐ List Proposed Color _____
Recyclables ☐ (Blue)
Organic Materials ☐ (Green)

2. Manufacturer ..... _____

3. Material of Construction ..... _____

4. Recycled Content (percentage) ..... _____

5. Manufacturing Method (rotational molding, injection molding, other.) ..... _____

Container Size	**20 gal**	**32 gal**	**64 gal**	**96 gal**
6. Color				
7. Durability (in service years)				
8. Cost of Each Container				
9. Dimensions of Each Container (Length x Width x Height)				
10. Wheel Size (Carts only)				
11. Manufacturer's warranty (10-year minimum for Carts)				

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RR COLLECTION SERVICES FORM 14
VEHICLE SPECIFICATIONS

Complete One Form for Each Vehicle

1.	**Material to be Collected**	☐ Mixed Materials	☐ Recyclables	☐ Organic Materials
2.	**Manufacturer and Model**…….			
	a. Cab and Chassis……			
	b. Body……			
	c. Engine…….			
	d. Transmission……..			
3.	**Cab and Chassis**:			
	a. Cab Height …….			inches
	b. Number of Axles ……...			
	c. Overall Length With Body Mounted ……...			inches
4.	**Body:**			
	a. Type of Body……..			
	b. Rated Capacity……..			cu. yd.
	c. Practical or Net Capacity……..			cu. yd.
	d. No. of Collection Compartments……			cu. yd.
	e. Net Capacity of Each Compartment ……..			cu. yd.
	f. Overall Body Length.....			inches
	g. Body Height ……..			inches
	h. Body Width ……...			inches
	i. Loading Height Above Ground……	Minimum		inches
	…….....	Maximum		inches
5.	**Weight**……	GVW	lbs.	Tare lbs.
6.	**Will the vehicles be owned, leased, or other?**.....			

RR COLLECTION SERVICES FORM 14 VEHICLE SPECIFICATIONS Complete One Form for Each Vehicle		
7. Purchase cost of each vehicle……..	$0.00	
8. Fuel type……...		
9. Fuel usage……..		mpg
10. Emissions rating		
a. CO……		g/bhp/hr
b. HC (total hydrocarbons)……		g/bhp/hr
c. NO_x……		g/bhp/hr
d. Particulate Matter……..		g/bhp/hr
11. Safety Features…….		
12. Color…….		
13. GPS Monitoring and Tracking Features		
14. Use a separate page(s) to discuss advantages of this vehicle in terms of a) past experience; b) efficiency; c) ease of operations; d) cost of operations; and e) clean air standards.		

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RR COLLECTION SERVICES FORM 15

COMBINED SCHEDULE C-1, P, V

Schedule C-1

"DECLARATION OF COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT"

(Applicable to all city departments on all contracts and to be completed by the Prime Contractor)

The Americans with Disabilities Act (ADA) requires that private organizations serving the public make their goods, services and facilities accessible to people with disabilities. Furthermore, the City of Oakland requires that all of its Contractors comply with their ADA obligations and verify such compliance by signing this Declaration of Compliance.

I certify that I will comply with the Americans with Disabilities Act by:

A. Adopting policies, practices and procedures that ensure non-discrimination and equal access to Contractor's goods, services and facilities for people with disabilities;

B. Providing goods, services and facilities to individuals with disabilities in an integrated setting, except when separate programs are required to ensure equal access;

C. Making reasonable modifications in programs, activities and services when necessary to ensure equal access to individuals with disabilities, unless fundamental alteration in the nature of the Contractor's program would result;

D. Removing architectural barriers in existing facilities or providing alternative means of delivering goods and services when removal of barriers is cost-prohibitive;

E. Furnishing auxiliary aids to ensure equally effective communication with persons with disabilities; and

F. If contractor provides transportation to the public, by providing equivalent accessible transportation to people with disabilities.

RR COLLECTION SERVICES FORM 15

COMBINED SCHEDULE C-1, P, V

Schedule P
"NUCLEAR FREE ZONE DISCLOSURE FORM"

I certify that:

A. Neither this Business Entity nor any of its subsidiaries, affiliates or agents engages in nuclear weapons work or anticipates entering into such work for the duration of its contract(s) with the City of Oakland, and

B. The appropriate individuals of authority are cognizant of their responsibility to notify the Office of Finance of the City of Oakland if the Business Entity or any of its subsidiaries, affiliates or agents subsequently engages in nuclear weapons work.

Schedule V
"AFFIDAVIT OF NON-DISCIPLINARY OR INVESTIGATORY ACTION"

I certify that the Equal Employment Opportunity Commission (EEOC), Department of Fair Employment & Housing (DFEH) or the Office of Federal Contract Compliance Programs (OFCCP) has not taken disciplinary or investigatory action against the Firm. If such action has been taken, attached hereto is a detailed explanation of the reason for such action, the party instituting such action and the status or outcome of such action.

By signing and submitting this form the prospective primary participant's authorized representative hereby obligates the proposer(s) to the Schedule C-1, Schedule P and Schedule V's stated conditions.

_____	_____
Date	Signature of Authorized Representative
_____	_____
Company Name	Type or Print Name
_____	_____
Address	Type or Print Title
_____, _____ _____	_____
City State Zip	Phone/Email

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Section 5 MM&O COLLECTION SERVICES CONTRACT

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MIXED MATERIAL and ORGANICS COLLECTION SERVICES CONTRACT

Executed Between

City of Oakland

and

[Insert Contractor name]

July 1, 2015

CITY OF OAKLAND

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ATTACHMENT 1	Contract between the CITY of Oakland and Disposal Contractor (To be inserted after award)
ATTACHMENT 2	Contract between the CITY of Oakland and Residential Recycling Contractor (To be inserted after award)
ATTACHMENT 3	City of Oakland Required Forms (To be inserted after award)

CITY OF OAKLAND

This Contract made and entered into [Insert Date] (the Effective Date), by and between the CITY of Oakland, State of California, hereinafter referred to as "CITY" and [Insert Contractor Name], a California corporation, hereinafter referred to as "CONTRACTOR".

RECITALS

(Note Recitals will be amended if Non Exclusive Commercial Recycling Services are awarded.)

WHEREAS; the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 ("Act") and subsequent additions and amendments (codified at California Public Resources Code Section 40000 et seq.), has declared that it is in the public interest to authorize and require local agencies to make adequate provisions for Solid Waste Collection within their jurisdiction; and,

WHEREAS; the State of California, through enactment of the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, et. seq.) also recognizes the important health and safety consideration to long-term planning for local government's adequate Disposal needs. The California Integrated Waste Management Act of 1989 declares that the responsibility for management of Solid Waste is a shared responsibility between the State and local governments. The State requires local governments to make adequate provision for at least fifteen (15) years of Garbage Disposal capacity to preserve the health, safety and well-being of the public. The California Integrated Waste Management Act of 1989 and Oakland City Charter Article X and Oakland Municipal Code Chapter 8.28 also authorize local governments to enter into exclusive franchise contracts to provide Garbage handling services for the health, safety and wellbeing of its citizens (California Public Resources Code Section 40059); and,

WHEREAS; pursuant to California Public Resources Code Section 40059(a) as may be amended from time to time, as well as Oakland City Charter Article X and Oakland Municipal Code Chapter 8.28, the CITY has determined that the public health, safety, and well-being require that an exclusive right be awarded to a qualified CONTRACTOR to provide for the Collection of Mixed Waste and Organic Materials, except for Collection of materials excluded by the CITY'S Municipal Code and this Contract, and other services related to meeting the Act's fifty (50) percent Diversion goal and other requirements of the Act; and,

WHEREAS; in 1990 the Alameda County Waste Reduction and Recycling Initiative Charter Amendment established a county-wide solid waste diversion rate goal of seventy five (75) percent by 2010; and,

WHEREAS, in 2002 the City Council of the City of Oakland passed Resolution No. 77500 C.M.S., to adopt a goal of 75% reduction of waste going to landfills by 2010 in support of the Measure D goal, and the implementation date established by the Alameda County Source Reduction and Recycling Board; and,

WHEREAS, in 2006 the City Council of the City of Oakland approved Resolution No.79774 C.M.S. which adopted **a** Zero Waste Goal by 2020**;** and

WHEREAS, in 2006 the City Council of the City of Oakland passed Resolution No. 80286 C.M.S., adopting a Zero Waste Strategic Plan; and,

WHEREAS; it is the intent of the CITY to provide for the Collection and Processing of certain subsets of Solid Waste defined as Mixed Materials, Garbage, Organic Materials and Bulky Goods in Article 1 of this Contract; and,

WHEREAS, the CITY has entered into Contracts to provide: i) Residential Recycling Collection Services and ii) Disposal Services within the CITY; and,

WHEREAS; the CITY further declares its intent to regulate and establish the maximum rates CONTRACTOR will charge Customers for the Collection, transportation, Processing, recycling, composting, and/or Disposal of Mixed Materials, Garbage, and Organic Material; and

WHEREAS; the CITY Council has determined through a competitive procurement process for Mixed Materials and Organics (MM&O) Collection Services that CONTRACTOR, by demonstrated experience, reputation and capacity, is qualified to provide for the Collection of Mixed Materials, Organic Materials and Bulky Goods within the corporate limits of the CITY, the transportation of such material to appropriate places for Processing, Recycling, Composting and/or Disposal; and CITY Council desires that CONTRACTOR be engaged to perform such services on the basis set forth in this Contract; and

WHEREAS; CONTRACTOR, through its proposal to the CITY, has proposed and represented that it has the ability and capacity to provide for the Collection of Mixed Materials, Organic Materials and Bulky Goods within the corporate limits of the CITY; the transportation of such material to appropriate places for Processing, Recycling, Composting and/or Disposal; and the Processing of materials; and

WHEREAS, CITY wishes to engage CONTRACTOR to provide the services specified within this Contract, in accordance with the terms and conditions of this Contract; and

WHEREAS, this Contract has been developed by and is satisfactory to CITY and CONTRACTOR.

Now, therefore, in consideration of the mutual covenants, conditions and consideration contained herein, CITY and CONTRACTOR hereby agree as hereinafter set forth:

ARTICLE 1. DEFINITIONS

For the purpose of this Mixed Materials and Organics Collection Services Contract ("Contract"), the definitions contained in this Article shall apply unless otherwise specifically stated. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Use of the masculine gender shall include the feminine gender. (Note: References to Collection of Recyclable Materials and Commercial recycling services will be amended if Commercial Non-Exclusive Recycling Services are not awarded.)

1.01 AB 32. The Global Warming Solutions Act, (California Public Safety Code 38500 et seq.) as amended, including rules and regulations promulgated thereunder as amended, which among other things, sets a greenhouse gas reduction goal by 2020.

1.02 AB 341. The California legislation (Stats. 2006, Ch. 476), as it may be amended from time to time, that, among other things, added Chapter 12.8 of Part 3 of Division 30 of the Public Resources Code (commencing with section 42649) imposing mandatory commercial recycling requirements and requirements that each jurisdiction implement an outreach and

education program and monitor compliance with the Mandatory Commercial Recycling requirements.

1.03 AB 939. The California Integrated Waste Management Act (Public Resources Code 40000 et seq.), as amended from time to time.

1.04 Approved Sharps Container. A receptacle that is approved by CITY for the Collection of Sharps.

1.05 Bin. A watertight metal or plastic Container with a hinged plastic lid and a capacity of between one (1) and seven (7) cubic yards, designed or intended to be mechanically dumped into a packer type truck, which is approved by CITY and labeled as specified by CITY. Bins may also include Compactors that are owned or leased by the MFD or Commercial Service Recipient.

1.06 Bulky Goods. Materials such as, but not limited to, stoves, refrigerators, water heaters, washing machines, clothes dryers, small air conditioning units, other large and small household appliances, including appliances containing Freon, furniture, carpets, tires, wood, household items, tires with or without rims, mattresses, clothing, Large Plant Debris, corrugated cardboard, materials generated from minor home repairs or remodeling and other similar materials that can be handled by two (2) people. Bulky Goods may also include E-Waste and U-Waste to the extent set forth in Exhibit 14, which is attached to and included in this Contract and as may be amended from time to time. Except for Bulky Goods Collected at CITY Facilities, Bulky Goods must be generated at the Service Address wherein the Bulky Goods are Collected. Bulky Goods do not include items herein defined as Unacceptable Waste or Construction and Demolition Debris.

1.07 Cart. A watertight heavy plastic receptacle with a rated capacity of approximately twenty (20), thirty two (32), sixty four (64) or ninety-six (96) gallons, having a hinged tight-fitting lid, and two (2) wheels, that is approved by CITY and is labeled as specified by CITY.

1.08 Change in Law. The adoption, promulgation, or modification of any enforceable federal, state or local rule, law, regulation, ordinance, permit or administrative agency guidelines duly adopted and promulgated officially in writing for uniform application occurring after the effective date of this Contract. Change in Law does not include changes initiated by CONTRACTOR. Change in Law shall not include such changes enacted or adopted prior to the effective date of this Contract but which do not take effect until after the date of this Contract.

1.09 CITY. The CITY of Oakland, California, a municipal corporation.

1.10 CITY Administrator. The CITY official who is responsible for the day-to-day operations of CITY agencies and departments or his/her designee.

1.11 CITY Bulky Goods Collection Service. The Collection of Bulky Goods from CITY Facilities in the Service Area, the delivery of the Bulky Goods to the appropriate facilities, and the Disposal, Processing and marketing of the Bulky Goods.

1.12 CITY Collection Services. CITY Mixed Materials Collection Service, CITY Organic Materials Collection Service, CITY Bulky Goods Collection Service, Street Litter Container Collection Service, Temporary Roll-Off Box Collection Service, and CITY Special Event Collection Service.

1.13 CITY Facilities. Those CITY properties or locations as set forth in Exhibit 4, which is attached to and included in this Contract and as may be amended.

1.14 CITY Mixed Materials Collection Service. The Collection of Mixed Materials from CITY Facilities in the Service Area and, either the delivery of the Mixed Materials to the appropriate Mixed Materials Processing Facility, the Processing of the Mixed Materials and the transfer of the Processing Residue to the Disposal Facility; or the delivery of the non-processed Mixed Materials to the Disposal Facility.

1.15 CITY Organic Materials Collection Service. The Collection of Organic Materials from CITY Facilities in the Service Area, the delivery of the Organic Materials to an Organic Materials Processing Facility, and the Processing and marketing of the Organic Materials.

1.16 CITY Special Event Collection Service. The Collection of Garbage, Recyclable Materials, Organic Materials and other materials as appropriate at CITY-sponsored special events.

1.17 Collect/Collection. To pick up, transport, and Process Discarded Materials.

1.18 Collection Services. SFD Collection Services, MFD Collection Services, Commercial Collection Services, and CITY Collection Services.

1.19 Commercial. A business establishment and/or industrial facility including, but not limited to, governmental, religious, and educational facilities.

1.20 Commercial Collection Services. Commercial Mixed Materials Collection Service, Commercial Non-exclusive Recyclable Materials Collection Service, Commercial Organic Materials Subscription Collection Service, Temporary Roll-Off Box Collection Service, and Commercial Special Events Collection Service.

1.21 Commercial Mixed Materials Collection Service. The Collection of Mixed Materials from Commercial Service Addresses in the Service Area and either the delivery of the Mixed Materials to the appropriate Mixed Materials Processing Facility, the Processing of the Mixed Material and the transfer of the Processing Residue to the Disposal Facility, or the delivery of the non-processed Mixed Materials to the Disposal Facility.

1.22 Commercial Non-Exclusive Recyclable Materials Collection Service. The Collection of Recyclable Materials from Commercial Service Addresses subscribing to such service in the Service Area, the delivery of the Recyclable Materials to a Material Recovery Facility, and the Processing and marketing of the Recyclable Materials.

1.23 Commercial Organic Materials Subscription Collection Service. The Collection of Organic Materials from Commercial Service Addresses in the Service Area subscribing to such service, the delivery of the Organic Materials to an Organic Materials Processing Facility, and the Processing and marketing of the Organic Materials.

1.24 Commercial Special Events Collection Service. Mixed Materials, Recyclable Materials and Organic Materials Collection, Disposal and processing services at special events such as street festivals.

1.25 Community Outreach. Any information (whether written or otherwise) directed by CONTRACTOR to Customers regarding the programs and services provided under this Contract and shall be subject to the prior review and approval of CITY. The party proposing to make such communication shall make reasonable good faith efforts to consult with the other party to ensure accuracy and consistency with the requirements and spirit of this Contract.

1.26 Compactor. Any Roll-Off Box or Bin which has a compaction mechanism, whether stationary or mobile.

1.27 Competitive Wages and Benefits. Wages and benefits equivalent to or better than collectively bargained contracts in use in Alameda, Contra Costa, San Francisco, Santa Clara, and San Mateo Counties.

1.28 Construction and Demolition Debris. Materials resulting from construction, remodeling, repair or demolition operations on any house, or residential property, Commercial building, pavement, or other structure. Construction and Demolition Debris includes but is not limited to rocks, soils, tree remains and other Plant Debris which results from land clearing or land development operations in preparation for construction.

1.29 Container. A Bin, Cart, Roll-Off Box, Compactor, street litter receptacle, or other item approved by CITY for use in containing materials set out for Collection under the terms of this Contract.

1.30 Contract or Franchise Contract. The written document and all amendments thereto, between CITY and CONTRACTOR, governing the provision of Collection Services as provided herein, including all exhibits hereto, as it may be amended from time to time.

1.31 Contract Manager. The CITY employee(s) designated by the CITY Administrator to act as his/her designee regarding the day to day management of this Contract.

1.32 Contract Year. Each twelve (12) month period from July 1st to June 30th beginning July 1, 2015.

1.33 CONTRACTOR. [Insert CONTRACTOR Name]

1.34 Covered Electronic Device or CED. Discarded electronic devices that the California Department of Toxic Substances Control (DTSC) has determined to be a covered electronic device (California Public Resources Code Section 42463). CEDs include cathode ray tube (CRT) devices (including televisions and computer monitors); LCD desktop monitors; laptop computers with LCD displays; LCD televisions; plasma televisions; portable DVD players with LCD screens; and other electronic devices as may be added by the DTSC from time to time.

1.35 Customer. The Person or Persons who have the legal right to initiate, cancel or make changes to Collection Services.

1.36 Difficult to Serve. A set-out site for Containers which has any of the following features:

1.36.1 A grade greater than fifteen (15) percent;

1.36.2 An obstructed vertical clearance of less than fifteen (15) feet;

1.36.3 A paved, concrete or similar surface over which Containers must be rolled that contains large deep grooves;

1.36.4 An unpaved surface over which Containers must be rolled;

1.36.5 A turn radius of less than fifty (50) feet; or

1.36.6 Is more than one hundred (100) feet from the public road.

1.37 Discarded Material. Garbage, Mixed Materials, Recyclable Materials, Organic Materials, or Bulky Goods Generated at a Service Address and placed in a manner and location that is designated for Collection pursuant to this Contract.

1.38 Disposal (Dispose). The disposition of Mixed Materials, Garbage and Residue received from CONTRACTOR and CITY at the Disposal Facility under the terms of this Contract, or a) the placement of any materials Collected pursuant to this Contract in landfills, including as "beneficial reuse" as defined by California Code of Regulations Title 27, Chapter 3, Article 1, Section 20686; or (b) disposition to "incinerators" as defined by Alameda County Waste Reduction and Recycling Initiative Charter Amendment (Measure D) SUBSECTION 64.150 T.

1.39 Disposal Contractor. (Insert Name).

1.40 Disposal Facility or Landfill. The [Insert Disposal Facility Name] Landfill located at [insert address] that is owned and operated by the Disposal Contractor.

1.41 Divert/Diversion. The avoidance of Disposal at the Disposal Facility or other landfill, or through "transformation" as defined by Public Resources Code Section 40201, of any materials Collected pursuant to this Contract, through Processing.

1.42 Dwelling Unit. Any individual living unit that includes a kitchen, and a room or suite of rooms, and is designed or occupied as separate living quarters for an individual or group of individuals. Dwelling Units include live/work units, as defined by Oakland Planning Code Section 17.65.160. Dwelling Units do not include work/live units, as defined by Oakland Planning Code Section 17.65.150.

1.43 E-Waste. Waste that is powered by batteries or electricity, such as computers, telephones, answering machines, radios, stereo equipment, tape players/recorders, phonographs, videocassette players/recorders, compact disc players/recorders, calculators and other items also defined as CEDs.

1.44 Fixed Body Vehicle. Any wheeled vehicle that does not rely on a Roll-Off Box or other detachable container to Collect, contain and transport material.

1.45 Food Scraps. Raw or cooked vegetable, fruit, grain, fish, and other items, including meat, bones, dairy products, cooking fats, oil or kitchen grease; paper, cardboard, and other compostable items that have been contaminated with food, cooking fats, oil or kitchen grease; compostable paper or plastics associated with food preparation or consumption such as paper towels, paper plates, paper cups, tissue, waxed paper and waxed cardboard; and other materials designated by CITY that are capable of being composted and that are set out separate from Mixed Materials for Collection as Organic Materials.

1.46 Force Majeure. Any acts of God, such as landslides, lightning, fires, storms, floods, pestilence, freezing, and earthquakes; explosions, sabotage, civil disturbances, acts of a public enemy, wars, terrorism, blockades, riots, or other industrial disturbances, eminent domain, condemnation or other taking, or other events of a similar nature, not caused or maintained by CITY or CONTRACTOR, which event is not reasonably within the control of the party claiming the excuse from its obligations due to such event, to the extent such event has a significant and material adverse effect on the ability of a party to perform its obligations thereunder. Force Majeure shall not include power outages, fuel shortages, strikes, work stoppage or slowdown, sickout, lockout, picketing or other concerted job action conducted by CONTRACTOR, CONTRACTOR'S employees or subcontractors, or directed at CONTRACTOR or subcontractor. Force Majeure shall include a Change in Law if such Change in Law prohibits a party's performance hereunder. Notwithstanding the foregoing, (i) no event relating to a Disposal Facility, other than a Disposal Facility operated by CONTRACTOR or a related party of CONTRACTOR, or the delivery of Garbage, Mixed Materials and/or Residue to that facility shall constitute a Force Majeure under this Contract unless (and then only to the extent) that such

event prevents the delivery of or acceptance of Garbage, Mixed Materials and Residues to or by that facility; (ii) no failure of performance by any subcontractor of CONTRACTOR shall be a Force Majeure unless such failure was itself caused by a Force Majeure; (iii) except as provided herein, no event which merely increases CONTRACTOR'S cost of performance shall be a Force Majeure; and (iv) no event, the effects of which could have been prevented by reasonable precautions, including compliance with agreements and applicable laws, shall be a Force Majeure.

1.47 Garbage. All, putrescible and non-putrescible waste, non-recyclable packaging and rubbish attributed to normal activities of a Service Address wherein the Garbage is generated and Collected, which is set out for Collection by the Service Recipient. Except for Garbage Collected at CITY Facilities, Garbage must be generated at the Service Address wherein the Garbage is Collected. Garbage does not include abandoned automobiles or those items defined herein as Unacceptable Waste.

1.48 Guarantor. [Insert Name].

1.49 Guaranty. The document contained in Exhibit 18, which is attached to and included in this Contract that is executed by the Guarantor guaranteeing the timely and full performance of CONTRACTOR'S obligations.

1.50 Generator. A Person, Commercial business or any other entity that produces Garbage, Mixed Materials, Organic Materials, or Bulky Goods.

1.51 Hazardous Waste. For purposes of this Contract, Hazardous Waste shall include those wastes defined as Hazardous Waste in Oakland Municipal Code Section 8.28.010 or as subsequently amended. Section 8.28.010 currently defines Hazardous Waste as any hazardous waste, material, substance or combination of materials which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or may pose a substantial present or potential risk to human health or the environment when improperly treated, stored, transported, Disposed or otherwise managed; and which requires special handling under any present or future federal, state or local law, excluding de minimis quantities of waste of a type and amount normally found in residential Garbage after implementation of programs for the safe Collection, recycling, treatment and Disposal of Household Hazardous Waste in compliance with Sections 41500 and 41802 of the California Public Resources Code. "Hazardous Waste" shall include, but not be limited to: (a) substances that are toxic, corrosive, inflammable or ignitable; (b) petroleum products, crude oil (or any fraction thereof) and their derivatives; (c) explosives, asbestos, radioactive materials, toxic substances or related hazardous materials; and (d) substances defined, regulated or listed (directly or by reference) by applicable local, State or federal law as "hazardous substances," "hazardous materials," "hazardous wastes," "pollutant," "reproductive toxins," "toxic waste," or "toxic substances," or similarly identified as hazardous to human health or the environment, including those so defined in or pursuant to any of the following statutes: (i) the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, 42 USC Section 9601 et seq. (CERCLA); (ii) the Hazardous Materials Transportation Act, 49 USC Section 1802, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC Section 6901 et seq.; (iv) the Clean Water Act, 33 USC Section 1251 et seq.; (v) California Health and Safety Code Section 25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USC Section 7901 et seq.; and (vii) California Water Code Section 13050; all rules and regulations adopted and promulgated pursuant to such statutes, and future amendments to or recodifications of such statutes, and any regulations adopted pursuant to these statutes after the date of this Contract,

as well as any subsequently enacted federal or California statute relating to the use, release or disposal of toxic or hazardous substances, or to the remediation of air, surface waters, groundwater, soil or other media contaminated with such substances; any other hazardous or toxic 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 hereinafter enacted, including, without limitation, friable asbestos, polychlorinated biphenyl's ("PCBs"), petroleum, natural gas and synthetic fuel products, and by-products. The parties intend that this definition not be limited to any particular statutory or regulatory regime and that it be construed as broadly as possible so that CONTRACTOR bears the responsibility for exercising due diligence as provided in this Contract in the investigation, monitoring, control, decontamination, removal, transportation, remediation, and/or safe disposal of Hazardous Waste as appropriate and as required in order to protect against actual or potential risk to public health and safety or the environment.

1.52 Household Hazardous Waste (HHW). Any Hazardous Waste generated at a SFD, MFD, or CITY Facility Service Address within the Service Area, including, but not limited to, cleaning products, automotive products, fuel, lubricants, E-Wastes, paints, painting supplies, fluorescent lamps, compact fluorescent lamps, varnishes, solvents, herbicides, pesticides, fertilizers, automobile batteries, household batteries, adhesives, and Universal Waste except those items defined in this Contract as Recyclable Materials, including Used Oil or Used Oil Filters, and dry cell household batteries when placed for Collection as set forth in this Contract or as directed by CITY.

1.53 HHW Subscription Collection Service. The on-call Collection of HHW from SFD and MFD Service Addresses subscribing to such service, when such Household Hazardous Waste is generated at such Service Address, and the appropriate Disposal of the Household Hazardous Waste.

1.54 Large Plant Debris. Oversized Plant Debris such as tree trunks, branches or untreated and unpainted wood with a diameter of more than six (6) inches and not more than two (2) feet, or a length of more than four (4) feet and no more than six (6) feet, or weighing not more than seventy-five (75) pounds.

1.55 Material Recovery Facility (or MRF). Any facility, selected by CONTRACTOR and approved or specifically designated by CITY, designed, operated, and legally permitted for the purpose of receiving and Processing Recyclable Materials, Organic Materials or Mixed Materials.

1.56 Maximum Service Rates. Those rates and ancillary charges that were approved by CITY and are contained in Exhibit 1 which is attached to and included in this Contract.

1.57 MFD or Multi-family Dwelling. Any residence with five (5) or more Dwelling Units, including any flat, apartment, condominium, town home, service–enriched housing or other residence, and other Dwelling Units in detached buildings on a single parcel, and excluding a hotel, motel, dormitory, sheltered nursing facility, rooming house, or other such similar facility as determined by CITY.

1.58 MFD Bulky Goods Collection Service. The Collection of Bulky Goods from MFD Service Recipients in the Service Area, the delivery of the Bulky Goods to the appropriate facilities and the Disposal, Processing and marketing of the Bulky Goods.

1.59 MFD Collection Services. MFD Mixed Materials Collection Service, MFD Organic Materials Collection Service, Temporary Roll-Off Box Collection Service, Sharps Subscription Collection Service, HHW Subscription Collection Service, and MFD Bulky Goods

Collection Service. (Note: This definition may change depending on the CITY'S final decision on the Organics Collection program, the HHW collection program and the sharps collection program).

1.60 MFD Mixed Materials Collection Service. The Collection of Mixed Materials from MFD Service Addresses in the Service Area and the delivery of the Mixed Materials to the appropriate Mixed Materials Processing Facility, the Processing of the Mixed Materials and the transfer of the Processing Residue to the Disposal Facility.

1.61 MFD Organic Materials Collection Service. The Collection of Organic Materials from MFD Service Addresses in the Service Area and the delivery of that Organic Materials to an Organic Materials Processing Facility for Processing.

1.62 Mixed Materials. All Garbage, Recyclable Materials, Organic Materials, and Bulky Goods, excluding items that are Source Separated from Garbage or Collected for Recycling or Composting, Processing and marketing which are set out by the Service Recipient for Collection by CONTRACTOR. Except for Mixed Materials Collected at CITY Facilities, Mixed Materials must be generated at the Service Address wherein the Mixed Materials are Collected. Mixed Materials do not include items defined herein as Unacceptable Waste.

1.63 Mixed Materials Extra Service Tag. A tag approved by CITY and provided by CONTRACTOR which may be purchased for use at SFD and MFD Service Addresses for the Collection of extra Garbage or Mixed Materials.

1.64 Mixed Materials Processing Facility. Any MRF or Organics Processing Facility selected by CONTRACTOR and approved or specifically designated by CITY, that is designed, operated, and legally permitted for the purpose of receiving and Processing Mixed Materials.

1.65 Non-Collection Notice. A form developed and used by CONTRACTOR, as approved by CITY, to notify Service Recipients of the reason for non-collection of materials set out by the Service Recipient for Collection by CONTRACTOR pursuant to this Contract.

1.66 Organic Materials ("Organics"). Plant Debris, Food Scraps, compostable food ware, compostable food containers, compostable paper, horse stable matter, etc. that are separated for inclusion in the SFD Organic Materials Collection Service, MFD Organic Materials Collection Service, Commercial Organic Materials Subscription Collection Service or CITY Organic Materials Collection Service programs. Except for Organic Materials Collected at CITY Facilities, Organic Materials must be generated at the Service Address wherein the Organic Materials are Collected. Organic Materials do not include items herein defined as Unacceptable Waste.

1.67 Organic Materials Extra Service Tag. A tag approved by CITY and provided by CONTRACTOR which may be purchased for use at Commercial Service Addresses subscribing to Commercial Organic Materials Subscription Collection Service for the Collection of extra Organic Materials.

1.68 Organic Materials Processing Facility. Any facility selected by CONTRACTOR and approved or specifically designated by CITY, which is designed, operated and legally permitted for the purpose of receiving and Processing Organic Materials or Mixed Materials.

1.69 Overage. An amount of material in excess of the capacity of the Container utilized at the Service Address for the set out of such material except where such material is set out through the use of an Extra Service Tag.

1.70 Person. An individual, association, partnership, corporation, joint venture, school, the United States, the State of California, any municipality or other political subdivision thereof, or any other entity whatsoever.

1.71 Plant Debris. Any vegetative matter resulting from normal yard and landscaping maintenance or unpainted and untreated wood that is not more than four (4) feet in its longest dimension or more than six (6) inches in diameter or weighs less than seventy five (75) pounds per individual piece and can be handled by two (2) persons. Plant Debris includes palm, yucca and cactus; grass clippings, leaves, pruning, weeds, branches, brush, holiday trees, and other forms of horticultural waste and except for material generated on public or CITY property must be generated at the Service Address from which the Plant Debris is Collected. Plant Debris does not include items defined herein as Unacceptable Waste.

1.72 Processing. An operation or series of operations, whether involving equipment, manual labor, or mechanical or biological processes, that sorts, enhances, upgrades, concentrates, decontaminates, packages or otherwise prepares Recyclable Materials, Organic Materials, Mixed Materials or Bulky Goods and returns them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.. Processing begins at the time the Recyclable Materials, Organic Materials, Bulky Goods or Mixed Materials are delivered to the Processing facility and ends when the finished Processed materials are sold or reused, and the Residue is properly Disposed.

1.73 Recyclable Materials. Those materials designated in this Contract or by CITY for Collection and Recycling under this Contract which are segregated from Mixed Materials by the Commercial Service Recipient at the source of generation. Recyclable Materials include those materials defined by CITY, including newspaper, mixed paper (including white and colored paper, magazines, telephone books, chipboard, junk mail, and high grade paper) glass containers, metal containers (ferrous, non-ferrous, and bi-metal containers including empty aerosol containers), aluminum foil and trays, milk and juice cartons, soup and juice boxes, all narrow neck rigid plastic containers, non-bottle rigid plastics, corrugated cardboard and dry cell household batteries when contained in a sealed heavy duty plastic bag and set out for Collection as required by CITY. CITY and CONTRACTOR may mutually agree to include additional materials or remove materials from this list of Recyclable Materials.

1.74 Residential Recycling (RR) Contractor. (Insert Name).

1.75 Residue. Materials remaining after the Processing of Mixed Materials, Recyclable Materials, Organic Materials, or Bulky Goods which cannot reasonably be Diverted.

1.76 Roll-Off Box. A metal Container of between six (6) and fifty (50) cubic yards that is normally loaded onto a motor vehicle and transported to an appropriate facility. A Roll-Off Box may be open topped or covered, at the discretion of CITY, with or without a compaction unit.

1.77 Service Address. The physical location of the SFD, MFD, Commercial or CITY property receiving Collection Services.

1.78 Service Area. That area within the corporate limits of the CITY of Oakland.

1.79 Service Recipient. A Person receiving Collection Services at the Service Address under the terms of this Contract.

1.80 SFD Collection Services. SFD Mixed Materials Collection Service, SFD Organic Materials Collection Service, Temporary Roll-Off Box Collection Service, Sharps Collection Service, HHW Subscription Collection Service, and SFD Bulky Goods Collection Service.

1.81 SFD Bulky Goods Collection Service. The Collection of Bulky Goods from SFD Service Addresses in the Service Area, the delivery of the Bulky Goods to the appropriate facilities and the Processing marketing and Disposal, of the Bulky Goods.

1.82 SFD Mixed Materials Collection Service. The Collection of Mixed Materials from SFD Service Addresses in the Service Area and either the delivery of the Mixed Materials to the appropriate Mixed Materials Processing Facility, the Processing of the Mixed Material and the transfer of the Processing Residue to the Disposal Facility, or the delivery of the non-processed Mixed Materials to the Disposal Facility.

1.83 SFD Organic Materials Collection Service. The Collection of Organic Materials from SFD Service Addresses in the Service Area, the delivery of the Organic Materials to an Organic Materials Processing Facility and the Processing and marketing of the Organic Materials.

1.84 Sharps. Hypodermic needles, pen needles, intravenous needles, lancets, and other devices that are used to penetrate the skin for the delivery of medications. Sharps must be Generated at the SFD or MFD Service Address wherein the Sharps are Collected.

1.85 Sharps Subscription Collection Service. The on-call Collection of Sharps in an Approved Sharps Container from SFD and MFD Service Addresses in the Service Area subscribing to the service, and the appropriate Disposal of the Sharps.

1.86 Single Family Dwelling or SFD. A detached or attached residence containing four (4) or fewer Dwelling Units when each Dwelling Unit is designed or used for occupancy by one (1) or more individuals.

1.87 Solid Waste. All putrescible and non-putrescible solid, semisolid, and liquid wastes, including Garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, Construction and Demolition Debris, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not Hazardous Waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semi-solid wastes as defined in California Public Resources Code Section 40191, as that section may be amended from time to time, but does not include Source Separated Recyclable Materials, abandoned vehicles and parts thereof, Hazardous Waste or low-level radioactive waste, medical waste, Unacceptable Waste or Plant Debris. Solid Waste may include Recyclable Materials, Compostable Materials, and Construction and Demolition Debris if such materials are not Source Separated from Solid Waste at the site of generation or Collected for Recycling, Composting, Processing and marketing.

1.88 Source Separation. The segregation of Recyclable Materials and Organic Materials from Garbage by or for the Generator at the Service Address at which the materials were generated for handling in a manner different from that of Garbage.

1.89 Street Litter Container Collection Service. The Collection of Garbage and Recyclable Materials from street litter Containers within the Service Area and the transport and delivery of the Collected materials to the appropriate facility.

1.90 Temporary Roll-Off Box Collection Service. The Collection of Discarded Materials from a Service Address, which are generated as a byproduct of activities at that Service Address other than permitted construction or demolition, through use of a temporarily placed box, and the delivery of those materials to the appropriate facility.

1.91 Ton (or Tonnage). A unit of measure for weight equivalent to two thousand (2,000) standard pounds where each pound contains sixteen (16) ounces.

1.92 Universal Waste ("U-Waste"). Materials that the California Department of Toxic Substances Control considers Universal Waste (California Code of Regulations Title 22, Div 4.5, Ch 23), including materials such as batteries, thermostats, lamps, cathode ray tubes, computers, telephones, answering machines, radios, stereo equipment, tape players/recorders, phonographs, video cassette players/recorders, compact disc players/recorders, calculators, some appliances, aerosol cans, fluorescent lamps, and certain mercury-containing devices.

1.93 Unacceptable Waste. Any and all waste, including but not limited to, Hazardous Waste, and Household Hazardous Waste, the acceptance or handling of which would cause a violation of any permit condition or legal or regulatory requirement, damage or threatened damage to CONTRACTOR'S equipment or facilities, or present a substantial endangerment to the health or safety of the public or CONTRACTOR'S employees; provided, that de minimis quantities or waste of a type and amount normally found in Garbage or Mixed Materials after implementation of programs for the safe Collection, Processing, treatment, and Disposal of Household Hazardous Waste in compliance with Sections 41500 and 41802 of the California Public Resources Code shall not constitute Unacceptable Waste. Unacceptable Waste does not include Used Oil, Used Oil Filters, dry cell household batteries, Household Hazardous Waste or Sharps when placed for Collection as set forth in this Contract or as otherwise directed by CITY.

1.94 Work Day. Any day, Monday through Saturday that is not a holiday as set forth in Section 6.11 of this Contract.

ARTICLE 2. REPRESENTATIONS AND WARRANTIES OF CONTRACTOR

CONTRACTOR hereby makes the following representations and warranties for the benefit of CITY as of the date of this Contract.

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

2.02 Corporate Authorization. CONTRACTOR has full legal right, power, and authority to execute, deliver, and perform its obligations under this Contract. The Board of Directors of CONTRACTOR (or the shareholders if necessary) has taken all actions required by law, its articles of incorporation, its bylaws or otherwise to authorize the execution and delivery of this Contract. The persons signing this Contract on behalf of CONTRACTOR have authority to do so.

2.03 Contract Duly Executed. The Persons signing this Contract on behalf of CONTRACTOR have been authorized by CONTRACTOR to do so, and this Contract has been duly executed and delivered by CONTRACTOR in accordance with the authorization of its Board of Directors or shareholders, if necessary, and constitutes a legal, valid, and binding obligation of CONTRACTOR enforceable against CONTRACTOR in accordance with its terms.

2.04 No Conflict With Applicable Law or Other Documents. Neither the execution and delivery by CONTRACTOR of this Contract nor the performance by CONTRACTOR of its obligations hereunder:

2.04.1 Conflicts with, violates or will result in a violation of any existing applicable law; or

2.04.2 Conflicts with, violates or will result in a breach or default under any term or condition of any existing judgment, order or decree of any court, administrative agency or other governmental authority, or of any existing Contract or instrument to which CONTRACTOR is a party, or by which CONTRACTOR or any of Contractor's properties or assets is bound; or

2.04.3 Will result in the creation or imposition of any lien, charge, or encumbrance of any nature whatsoever upon any of the properties or assets of CONTRACTOR which will interfere materially with CONTRACTOR'S performance hereunder.

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

2.06 Financial Ability, Disclosures, No Material Change. CONTRACTOR has sufficient financial resources to perform all aspects of its obligations hereunder. CONTRACTOR has provided CITY with audited financial statements which present fairly, in accordance with generally accepted accounting principles, the financial resources of CONTRACTOR. There has been no material adverse change in CONTRACTOR'S or CONTRACTOR'S parent company's financial circumstances since the date of the most recent financial statements.

2.07 Expertise. CONTRACTOR has the expert, professional, and technical capability to perform all of its obligations under this Contract.

2.08 CONTRACTOR’S Statements. CONTRACTOR’S proposal and any other supplementary information submitted to CITY that CITY has relied on in negotiations and entering into this Contract, do not: (i) contain any untrue statement of a material fact, or (ii) omit to state a material fact that is necessary in order to make the statements made, in light of the circumstances in which they were made, not misleading.

2.09 CONTRACTOR'S Investigation. CONTRACTOR has made an independent investigation (satisfactory to it) of the conditions and circumstances surrounding this Contract and the work to be performed by CONTRACTOR under the Contract, and enters into this Contract on the basis of that independent investigation.

2.10 Voluntary Use of Approved Disposal Facility. CONTRACTOR, without constraint and as a free-market business decision in accepting this Contract, agrees to use the Disposal Facility for the purposes of Disposing of all Mixed Materials not delivered to a Mixed Materials Processing Facility and Residue resulting from Processing of Mixed Materials Collected in the Service Area. Such decision by CONTRACTOR in no way constitutes a restraint of trade notwithstanding any Change in Law regarding flow control limitations or any definition thereof.

ARTICLE 3. TERM OF CONTRACT

3.01 Term. The term of this Contract shall be for a ten (10) year period beginning July 1, 2015 and terminating on June 30, 2025. CITY, in its sole discretion, shall have an option to extend the Contract for up to two (2) additional five (5) year periods.

3.01.1 First Extension. On or about May 1, 2023, CITY, in its sole discretion may extend this Contract by five (5) years by notifying CONTRACTOR of its intention to do so in writing.

3.01.2 Second Extension. On or about May 1, 2028, CITY, in its sole discretion may extend this Contract by five (5) years by notifying CONTRACTOR of its intention to do so in writing.

3.01.3 No Right to Extension. Nothing in the foregoing paragraphs or otherwise set forth in this Contract is intended to create a right in favor of CONTRACTOR to obtain either the first or second extension.

ARTICLE 4. CONTRACTOR'S COVENANTS; CITY OPTION TO TERMINATE

4.01 General. CONTRACTOR covenants that it shall obtain and deliver to CITY the document set forth in Section 4.02 below and use its best efforts to deliver it on or before June 1, 2015. If such document is not delivered to CITY in satisfactory form by June 15, 2015, CITY may terminate this Contract with absolutely no continuing financial obligations to CONTRACTOR and may resort to the rights and remedies provided for in Article 29 hereof.

4.02 Receipt of Performance Security. CONTRACTOR shall provide CITY with, and CITY shall accept if it complies with Article 24, the performance security described in Article 24 of this Contract.

4.03 Termination. This Contract may be terminated prior to the expiration of its initial term and any extension as may be provided only in accordance with the provisions of this Contract. At the expiration of the term provided for hereunder, or in the event of a termination as allowed under this Contract, CONTRACTOR, at its own expense for a period of up to six (6) months, shall cooperate fully with CITY, as reasonably necessary, to ensure an orderly transition to any and all new service providers, and CITY shall have no continuing obligations to CONTRACTOR other than those expressly provided for under this Contract. CONTRACTOR shall transfer, Process or Dispose of all materials that have been Collected or are in Process under this Contract as of the date of expiration or termination.

ARTICLE 5. SERVICES PROVIDED BY CONTRACTOR

(Note: this Article may be amended depending on the award of Non-Exclusive Commercial Recycling Collection Services)

5.01 Grant of Exclusive Contract. Except as otherwise provided in this Contract, CONTRACTOR is herein granted an exclusive Contract to provide Collection Services within the Service Area. No other services shall be exclusive to CONTRACTOR.

5.02 Limitations to Scope of Exclusive Contract. Nothing in this Contract shall limit the right of any Person to donate or sell his or her Recyclable Materials, Organic Materials, or Bulky Goods. Persons other than CONTRACTOR may pay to collect or collect at no charge such Mixed Materials, Garbage, Recyclable Materials, Organic Materials, or Bulky Goods. Similarly, nothing in this Contract shall limit the right of any Person to haul the Garbage, Mixed Materials, Recyclable Materials, Organic Materials, or Bulky Goods he or she Generates to a facility that holds all applicable permits.

5.03 Collection by Other Persons. Notwithstanding CONTRACTOR'S rights under this Contract as described above, the following materials may be Collected by Persons other than CONTRACTOR:

5.03.1 Recyclable Materials Collected from SFD, MFD, Commercial Service Addresses and CITY Facilities;

5.03.2 Construction and Demolition Debris removed from a site that requires a building or demolition permit;

5.03.3 Mixed Materials, Garbage, Organic Materials, Bulky Goods, or Recyclable Materials Collected and transported by CITY crews to the Disposal Facility, Materials Recovery Facility, Organic Materials Processing Facility, Mixed Materials Processing Facility or transfer station;

5.03.4 Recyclable Materials, Organic Materials or Bulky Goods that are Source Separated at any Service Address by the Generator and donated or sold;

5.03.5 Beverage containers delivered for Recyclable Materials under the California Beverage Container Recyclable Materials Litter Reduction Act, Section 14500, et seq.;

5.03.6 Organic Materials removed from a Service Address by a gardening, landscaping, or tree trimming service provider as an incidental part of a total service offered by that service provider rather than as a hauling service;

5.03.7 Source Separated Recyclable Materials, including but not limited to those collected by a Person under contract to CITY and those collected through private arrangements between the Generator and the collection company, which are recycled at a recycling facility that holds all applicable permits; provided, however, that loads that contain more than ten (10) percent by weight of non-recyclable material shall not be considered Source Separated Recyclable Materials;

5.03.8 Discarded Materials removed from a Service Address in a Fixed Body vehicle by a property management, maintenance, or cleanup service provider as an incidental part of the total on- property cleanup or maintenance service offered by the service provider rather than as a hauling service;

5.03.9 Animal waste and remains from slaughterhouses and butcher shops, or grease or vegetable oil waste for use as tallow ;

5.03.10 Waste vegetable oil used as an alternative fuel;

5.03.11 Homogeneous organic by-products such as spent hops or coffee bean chaff which are generated by food product manufacturers and processors delivered to destinations other than solid waste or compost facilities and used as livestock feed;

5.03.12 By-products of sewage treatment, including sludge, grit and screenings;

5.03.13 Hazardous Waste regardless of its source;

5.03.14 Mixed Materials, Garbage, Recyclable Materials, Organic Materials, or Bulky Goods that are removed from a Service Address by a company through the performance of a service that CONTRACTOR has elected not to provide;

5.03.15 Bulky Goods removed from a Service Address for a nominal charge by a retailer as an incidental part of a sale of merchandise; and

5.03.16 Bulky Goods removed from a Service Address for a nominal charge by a reuse facility or reuse business.

5.04 Prohibition. Nothing in Section 5.03 shall allow the Collection, through the use of a Roll-Off Box, of Mixed Materials, Garbage, Organics, Bulky Goods, or SFD, MFD or CITY Recyclable Materials for a fee by a service provider whose primary service is hauling.

5.05 Use of Other Persons. CONTRACTOR acknowledges and agrees that CITY may permit other Persons besides CONTRACTOR to Collect any and all types of materials excluded from the scope of this Contract, as set forth above, without seeking or obtaining approval of CONTRACTOR.

5.06 Applicable Law. The scope of this Contract shall be interpreted to be consistent with applicable law, now and during the term of the Contract. If future judicial interpretations of current law or new laws, regulations, or judicial interpretations limit the ability of CITY to lawfully provide for the scope of services as specifically set forth herein, CONTRACTOR agrees that the scope of the Contract will be limited to those services and materials which may be lawfully provided and that CITY shall not be responsible for any lost profits or losses claimed by CONTRACTOR to arise out of limitations of the scope of the Contract set forth herein. In such an event, it shall be the responsibility of CONTRACTOR to minimize the financial impact of such future judicial interpretations or new laws.

ARTICLE 6. SERVICE STANDARDS

(Note: this Article may be amended depending on the award of Non-Exclusive Commercial Recycling Collection Services)

6.01 Service Standards. CONTRACTOR shall perform all Collection Services under this Contract in a thorough and professional manner. Collection Services described in this Contract shall be performed regardless of weather conditions or difficulty of Collection.

6.02 Hours and Days of Collection.

6.02.1 SFD and MFD Collection Services shall be provided, commencing no earlier than 6:00 a.m. and terminating no later than 6:00 p.m., in accordance with the CITY Municipal Code, Monday through Friday with no service on Saturday (except for holiday service as set forth in Section 6.11 of this Contract in which case normal Collection hours may be utilized) or Sunday. The hours, days, or both of Collection may be extended due to extraordinary circumstances or conditions with the prior written consent of the Contract Manager.

6.02.2 Commercial Collection Services and CITY Collection Services shall be provided Monday through Saturday with limited Collection Services on Sunday.

CONTRACTOR shall endeavor to route collection vehicles in a manner that minimizes noise and traffic impacts during critical periods of the day, including: near residential properties from 6 pm to 6 am, near schools during pick-up and drop-off hours, in merchant districts during normal business hours, and in high traffic areas during peak commute hours. CONTRACTOR shall resolve complaints of noise and traffic impacts caused by CONTRACTOR'S activities to the satisfaction of CITY.

6.03 Transfer of Loads on Public Streets and Roads. CONTRACTOR is prohibited from transferring loads from one vehicle to another on any public right-of-way unless there is a necessity to do so because of the mechanical failure, truck fire or accidental damage to a vehicle without written permission from the Contract Manager.

6.04 Manner of Collection. CONTRACTOR shall provide Collection Services with as little disturbance as possible and shall leave any Cart or Bin in an upright position, with the lid closed, at the same point it was Collected without obstructing alleys, roadways, driveways, sidewalks or mail boxes. CONTRACTOR shall also lock any Bin and close or lock as appropriate any Container enclosure which it opened or unlocked as part of Collection Services.

6.05 Record of Non-Collection. When any Discarded Material, or other material set out for regular or special Collection, is not Collected by CONTRACTOR for sufficient reason, CONTRACTOR shall leave a Non-Collection Notice. A copy of any Non-Collection Notice, along with the name and address of the party noticed, shall be delivered to the Contract Manager within twenty-four (24) hours of CITY'S request.

6.06 Containers.

6.06.1 Carts. Carts are to be hot-stamped, embossed, or laminated, with a unique identification number and the words "City of Oakland", and in-molded with the type of materials to be Collected (i.e., Garbage, Organic Materials, Recyclable Materials), name and phone number of CONTRACTOR, and instructions for proper usage. In-molding on the Carts shall be on the lids. CONTRACTOR'S name shall not be included on the body of Carts. Labeling and graphics of the Carts shall be approved by CITY. Carts shall not contain any type of advertising without the written approval of the Contract Manager.

6.06.2 Bins. Bins, including those defined herein as Compactors are to be marked with a unique identification number, labeled with the type of materials to be Collected (i.e., Garbage, Organic Materials, Recyclable Materials), the size in cubic yards, CONTRACTOR'S name and phone number and instructions for proper usage and be in good working order. Labeling and graphics of the Bins shall be approved by CITY. Used Bins may be utilized providing they are newly painted, properly marked, in good working order and free of rust and holes. CITY retains the right to inspect any such used Bins and direct CONTRACTOR to replace such used Bin if it is deemed to be not acceptable. Bins shall not contain any type of advertising without the written permission and approval of the Contract Manager.

6.06.3 Roll-Off Boxes. Roll-Off Boxes, including those defined herein as Compactors are to be marked with a unique identification number, labeled with the size in cubic yards, CONTRACTOR'S name and phone number and instructions for proper usage, be in good working order, and at the discretion of CITY have lids. Labeling and graphics of the Roll-Off Boxes shall be approved by CITY. Used Roll-Off Boxes may be utilized, provided they are newly painted, properly marked, in good working order and free of rust and holes. CITY retains the right to inspect any such used Roll-Off Boxes and direct CONTRACTOR to replace such used Roll-Off Box if it is deemed to be not acceptable.

6.06.4 Purchase, Distribution, and Collection of Carts and Bins. CONTRACTOR shall be responsible for the purchase and distribution of fully assembled and functional Containers to Service Addresses in the Service Area based on the type and level of service received by each Service Address. CONTRACTOR shall also distribute Containers, as needed, to new Service Addresses during the term of this Contract. The distribution shall be completed no later than the next regularly scheduled Collection day after receipt of notification from CITY, the Customer or the Service Recipient.

6.06.4.1 CONTRACTOR shall be responsible for the Collection of abandoned, used, discarded, or unwanted Mixed Materials or Organic Materials Containers in the Service Area within three (3) Work Days of notification by CITY, a Service Recipient, or a Customer. The Containers shall be repaired or, if repair is not practical, Recycled. This service shall be provided at no additional cost to CITY, Customer or Service Recipient.

6.06.5 Repair or Replacement of Carts and Bins. CONTRACTOR shall be responsible for repair or replacement of Carts and their component parts, including but not be limited to, hinged lids, wheels, axles and labels, at no cost to customer. CONTRACTOR shall be responsible for securing replacement of all items covered by manufacturer warranty.

6.06.6 Replacement of Carts and Bins Provided by Previous CONTRACTOR. CONTRACTOR shall replace all Carts and Bins provided by the previous Contractor in accordance with the Transition Plan set forth in Exhibit 6 to this Contract at no cost or inconvenience to the Service Recipient or Customer. Carts and Bins replaced under the requirements of this Section shall not subject to the replacement limitations set forth below.

6.06.7 Replacement of Carts and Bins Damaged by CONTRACTOR. CONTRACTOR'S employees shall take care to prevent damage to Carts or Bins by unnecessary rough treatment. However, any Cart or Bin damaged by CONTRACTOR shall be replaced or repaired by CONTRACTOR, at CONTRACTOR'S expense, no later than the next regularly scheduled Collection day, at no cost or inconvenience to the Service Recipient or Customer. Carts and Bins replaced under the requirements of this Section shall not subject to the replacement limitations set forth below.

6.06.8 Replacement of Carts and Bins Due to Normal Wear and Tear. Upon notification to CONTRACTOR by a Service Recipient or Customer of the need for replacement or repair to a Cart(s) or Bin(s) due to normal wear and tear, CONTRACTOR shall replace or repair such Cart(s) or Bin(s) at CONTRACTOR'S expense, no later than the next regularly scheduled Collection day, at no cost or inconvenience to the Service Recipient or Customer. Carts and Bins replaced under the requirements of this Section shall not subject to the replacement limitations set forth below.

6.06.9 Replacement of Carts and Bins Required Through No Fault of CONTRACTOR. Upon notification to CONTRACTOR by CITY or a Service Recipient that the Service Recipient's Mixed Materials or Organics Cart(s), or Bin(s) have been stolen or damaged beyond repair through no fault of CONTRACTOR, CONTRACTOR shall deliver a replacement Cart(s), or Bin(s) to the Service Address no later than the next regularly scheduled Collection day, at no cost, subject to the limitations set forth below, or inconvenience to the Service Recipient or Customer. CONTRACTOR understands and agrees that the limitations set forth below in Section 6.06.9.1 do not apply to Cart or Bin replacements required under any other Sections of this Contract. CONTRACTOR shall maintain records documenting all Cart and Bin replacements occurring on a monthly basis.

6.06.9.1 Each Contract Year CONTRACTOR shall be required to provide SFD and MFD Service Addresses with a base number of Cart replacements under the provisions of Section 6.06.9 at no cost to the Customer, Service Recipient or CITY. In the initial Contract Year beginning July 1, 2015, the base number shall be eighteen thousand (18,000) Carts. In the Contract Year beginning July 1, 2016, the base number shall be eighteen thousand (18,000) plus the result of subtracting the number of Carts replaced at no cost under the requirements of Section 6.06.9 in the prior Contract Year from the base number from the prior Contract Year. In each subsequent Contract Year the base number shall be the base number from the prior Contract Year plus the result of subtracting the number of Carts replaced at no cost under the requirements of Section 6.06.9 in the prior Contract Year from the base number from the prior Contract Year.

6.06.9.2 In any Contract Year that CONTRACTOR provides Cart Replacements required under Section 6.06.9 in excess of the base number for that Contract Year, CONTRACTOR may invoice the Customer or Service Recipient requesting such replacement in accordance with the "Cart Replacement" Maximum Collection Service Rate set forth in Exhibit 1 to this Contract or as may be adjusted under the terms of this Contract from time to time.

6.06.9.3 CONTRACTOR shall provide Bin replacements under the provisions of Section 6.06.9 at no cost to the Customer, Service Recipient or CITY.

6.06.10 Reporting Requirements. No later than July 15, 2016 and annually thereafter during the term of this Contract, CONTRACTOR shall provide CITY with an electronic report of Cart and Bin Replacements provided during the preceding Contract Year in a form and format approved by CITY and using software approved by CITY. At a minimum the report shall include the following information:

6.06.10.1 Number of Carts replaced under the requirements of Section 6.06.6;

6.06.10.2 Number of Bins replaced under the requirements of Section 6.06.6;

6.06.10.3 Number of Carts replaced under the requirements of Section 6.06.7;

6.06.10.4 Number of Bins replaced under the requirements of Section 6.06.7;

6.06.10.5 Number of Carts replaced under the requirements of Section 6.06.8;

6.06.10.6 Number of Bins replaced under the requirements of Section 6.06.8;

6.06.10.7 Number of Carts replaced at no cost under the requirements of Section 6.06.9;

6.06.10.8 Number of Carts replaced in excess of the base number under the requirements of Section 6.06.9;

6.06.10.9 Number of Bins replaced under the requirements of Section 6.06.9; and

6.06.10.10 A calculation of the base number for Cart replacements under Section 6.06.9 for the prior Contract Year and the current Contract Year.

6.06.11 Cart or Bin Change. Upon notification to CONTRACTOR by CITY or a Customer that a change in the size or number of Carts or Bins is required, including a change to provide additional Mixed Materials or Organics capacity CONTRACTOR shall deliver such Carts or Bins to the Service Address no later than the next regularly scheduled Collection day.

6.06.11.1 Each SFD Service Address shall be entitled to receive unlimited free service exchanges, in the first Contract Year. Beginning on July 1, 2016, each SFD Service Address shall be entitled to receive one (1) free Mixed Materials Cart exchange and one (1) free Organic Materials Carts Exchange per Contract Year during the term of this Contract.

6.06.11.2 Each MFD Service Address shall be entitled to receive unlimited free service exchanges, in the first Contract Year. Beginning on July 1, 2016, each MFD Service Address shall be entitled to receive two (2) free service exchanges, per Contract Year during the term of this Contract. For the purposes of this Section, a service exchange represents the exchange of as few as one (1) and as many as the total number of Carts and Bins provided by CONTRACTOR to the Service Address.

6.06.11.3 Each CITY Facility shall be entitled to receive unlimited free service exchanges, per Contract Year during the term of this Contract. For the purposes of this Section, a service exchange represents the exchange of as few as one (1) and as many as the total number of Carts and Bins provided by CONTRACTOR to CITY Facility.

6.06.11.4 CONTRACTOR shall be compensated for the cost of those exchanges in excess of the limitations set forth herein per Contract Year, in accordance with the "Cart or Bin Exchange" Maximum Collection Service Rate as set forth in Exhibit 1 of this Contract.

6.06.12 Ownership of Carts. Except as set forth below, ownership of Carts shall rest with CONTRACTOR and upon termination of this Contract CONTRACTOR shall be responsible for removing all Carts in service from the Service Area and reusing or recycling such Carts. At its sole discretion, CITY may elect to exercise its rights to take ownership of Carts located at a Service Address at the end of this Contract. In addition, in the case of the termination of this Contract prior to the expiration of the initial term or optional extension term due to the default of CONTRACTOR as set forth in Article 29 of this Contract, CITY shall have the right to take possession of the Carts and shall retain such possession until satisfactory arrangements can be made to provide Collection Services using other equipment. Such time of possession shall not be limited and regardless of the time of possession there shall be no monies owing to CONTRACTOR from CITY for the use of the equipment. Upon the receipt of written notice from CITY, CONTRACTOR shall submit to the Contract Manager an inventory of Carts, including their locations.

6.06.13 Ownership of Bins. Ownership of Bins distributed by CONTRACTOR shall rest with CONTRACTOR except in the case of the termination of the Contract prior to the expiration of the initial term or optional extension term due to the default of CONTRACTOR as set forth in Article 29 of this Contract. Under such circumstances, CITY shall have the right to take possession of the Bins and shall retain such possession until satisfactory arrangements can be made to provide Collection Services using other equipment. Such time of possession shall not be limited and regardless of the time of possession there shall

be no monies owing to CONTRACTOR from CITY for the use of the equipment. Upon the receipt of written notice from CITY, CONTRACTOR shall submit to the Contract Manager an inventory of Bins, including their locations.

6.06.14 Ownership of Roll-Off Boxes. Ownership of Roll-Off Boxes distributed by CONTRACTOR shall rest with CONTRACTOR except in the case of the termination of the Contract prior to the expiration of the initial term or optional extension terms due to the default of CONTRACTOR as set forth in Article 29 of this Contract. Under such circumstances, CITY shall have the right to take possession of the Containers and shall retain such possession until satisfactory arrangements can be made to provide Collection Services using other equipment. Such time of possession shall not be limited and regardless of the time of possession there shall be no monies owing to CONTRACTOR from CITY for the use of the equipment. Upon the receipt of written notice from CITY, CONTRACTOR shall submit to the Contract Manager an inventory of Containers, including their locations.

6.07 Compactors. Compactor equipment may be owned by the Customer or leased from CONTRACTOR or any other source provided the Compactor Container is compatible with CONTRACTOR'S Collection vehicles.

6.08 Annual Inspection and Cleaning of Bins and Roll-Off Boxes. At least once each Contract Year, at no charge to CITY or the Customer, CONTRACTOR shall inspect all CONTRACTOR provided Bins and Roll-Off Boxes at the Service Address and shall replace those Bins or Roll-Off Boxes needing cleaning or repair, with clean, undamaged Bins or Roll-Off Boxes, and remove the dirty or damaged Bins or Roll-Off Boxes for cleaning or repair.

6.09 Extra Service Tags. CONTRACTOR shall make Mixed Materials Extra Service Tags readily available to SFD and MFD Service Addresses at a minimum through the mail, at CONTRACTOR'S office at (Insert Address) and at other retail locations as determined by CONTRACTOR. CONTRACTOR shall maintain a sufficient inventory of Mixed Materials and Organic Materials Extra Service Tags to accommodate Collection of requests from Service Recipients. Mixed Materials Extra Service Tags and Organic Materials Extra Service Tags sold by CONTRACTOR shall be priced in accordance with the Maximum Collection Service Rates set forth in Exhibit 1.

6.10 Labor and Equipment. CONTRACTOR shall provide and maintain all labor, equipment, tools, facilities, and personnel supervision required for the performance of CONTRACTOR'S obligations under this Contract. CONTRACTOR shall at all times have sufficient backup equipment and labor to fulfill CONTRACTOR'S obligations under this Contract. No compensation for CONTRACTOR'S services or for CONTRACTOR'S supply of labor, equipment, tools, facilities or supervision shall be provided or paid to CONTRACTOR by CITY or by any Customer except as expressly provided by this Contract.

6.11 Holiday Service. January 1st, Thanksgiving Day, and December 25th shall be legal holidays. CONTRACTOR shall not be required to provide Collection Services on the designated holidays. In any week in which one of these holidays falls on a Work Day, and CONTRACTOR elects to not provide Collection Services, SFD Collection Services for the holiday and each Work Day thereafter may be delayed one (1) Work Day for the remainder of the week with normally scheduled Collection Services being performed on the next Work Day. MFD, Commercial and CITY Collection Services shall be adjusted as agreed between CONTRACTOR and the Customer but must meet the minimum frequency requirement of one (1) time per week. CONTRACTOR shall notify Service Addresses and CITY at least thirty (30) calendar days in advance of changes to the Collection day because of a holiday schedule.

6.12 Processing and Disposal.

6.12.1 Compliance with Regulations. All materials Collected under this Contract shall be delivered to facilities that comply with the Department of Resources Recycling and Recovery regulations.

6.12.1.1 Regulatory Inquiry. In those instances where CONTRACTOR is required by any law or regulation to submit written or electronic materials related to the provision of Collection Services under the terms of this Contract to any regulatory agency, CONTRACTOR shall submit copies of such written or electronic materials to CITY simultaneously with CONTRACTOR'S submittal to such regulatory agency.

6.12.2 Permits and Approvals. CONTRACTOR must assure that all facilities selected by CONTRACTOR shall possess all necessary permits and approvals by local enforcement agencies to be in full compliance with all regulatory agencies to conduct all operations at the approved location. CONTRACTOR shall, upon written request from CITY, arrange for the facilities selected by CONTRACTOR to provide copies of facility permits, notices of violations, inspection areas or concerns, or administrative action to correct deficiencies related to the operation. Failure to provide facility information shall result in the levy of liquidated damages as specified in Article 22 of this Contract and may result in CONTRACTOR being in default under this Contract.

6.12.3 Disposal and Mixed Materials Processing Facilities. Except as set forth below, all Mixed Materials Collected as a result of performing Collection Services shall be transported to the Disposal Facility or the Mixed Materials Processing Facility. In the event the Facility being utilized by CONTRACTOR is closed on a Work Day, CONTRACTOR shall transport and deliver the Mixed Materials to such other legally permitted Disposal Facility or Mixed Materials Processing Facility as is approved by CITY. Failure to comply with this provision shall result in the levy of liquidated damages as specified in Article 22 of this Contract and may result in CONTRACTOR being in default under this Contract.

6.12.4 Material Recovery Facility. All Recyclable Materials Collected as a result of performing Commercial Non-Exclusive Recyclable Materials Collection Services shall be delivered to a fully permitted Material Recovery Facility (MRF) as designated by CONTRACTOR and approved by CITY. In the event the MRF is closed on a Work Day, CONTRACTOR shall transport and deliver the Recyclable Materials to such other legally permitted MRF as is approved by CITY. Failure to comply with this provision shall result in the levy of liquidated damages as specified in Article 22 of this Contract and may result in CONTRACTOR being in default under this Contract.

6.12.5 Organic Materials Processing Facility. All Organic Materials Collected as a result of performing Collection Services shall be delivered to a fully permitted Organic Materials Processing Facility as designated by CONTRACTOR and approved by CITY. In the event the facility is closed on a Work Day, CONTRACTOR shall transport and deliver the Organic Materials to such other legally permitted facility as is approved by CITY. CONTRACTOR shall ensure that all Organic Materials Collected pursuant to this Contract, is delivered to the approved Organic Materials Processing Facility. Failure to comply with this provision shall result in the levy of liquidated damages as specified in Article 22 of this Contract and may result in CONTRACTOR being in default under this Contract.

6.13 Inspections. CITY shall have the right to inspect CONTRACTOR'S facilities or Collection vehicles and their contents at any time while operating inside or outside the Service Area.

6.14 Commingling of Materials.

6.14.1 Mixed Materials, and Organic Materials. Mixed Materials and Organic Materials that have been Source Separated and set out for Collection shall not be commingled by CONTRACTOR prior to delivery to a transfer facility, the Disposal Facility, the Mixed Materials Processing Facility, MRF or Organics Processing Facility as appropriate without the express prior written authorization of the Contract Manager.

6.14.2 Mixed Materials Collected in Oakland. CONTRACTOR shall not at any time commingle any Mixed Materials Collected pursuant to this Contract, with any other material Collected by CONTRACTOR inside or outside the Service Area prior to delivery to a transfer facility, the Disposal Facility, or a Mixed Materials Processing Facility without the express prior written authorization of the Contract Manager.

6.14.3 Material Separation. Except for those materials Collected as part of the provision of SFD, MFD or City Bulky Goods Collection Services, Mixed Materials, Organic Materials, Recyclable Materials, and Bulky Goods shall not be mixed together in CONTRACTOR'S Collection equipment. Each category of material Collected shall be kept separated according to type or classification.

6.15 Spillage and Litter. CONTRACTOR shall not litter premises in the process of providing Collection Services or while its vehicles are on the road. CONTRACTOR shall transport all materials Collected under the terms of this Contract in such a manner as to prevent the spilling or blowing of such materials from CONTRACTOR'S vehicle. CONTRACTOR shall exercise all reasonable care and diligence in providing Collection Services so as to prevent spilling or dropping of Discarded Materials and shall immediately, at the time of occurrence, clean up such spilled or dropped materials in accordance with the "Spill Response Plan" approved by CITY in Exhibit 10 which is attached to and included in this Contract. CONTRACTOR shall also clean up any spillage or litter within two (2) hours upon notice from the Contract Manager.

6.15.1 Litter Cleanup. CONTRACTOR is required to clean up litter around the area of the Container, whether or not CONTRACTOR has caused the litter. In the event of more than four (4) recurring instances in any six (6) month period, not caused by CONTRACTOR, requiring CONTRACTOR to clean up litter around the Containers at a specific Service Address, CONTRACTOR shall discuss the litter directly with the Service Recipient and work with the Service Recipient and Customer, if they are not the same, to resolve the litter problem. In the event the litter problem cannot be resolved CONTRACTOR may notify the Contract Manager and request permission to bill such Customer in accordance with the "litter cleanup" Maximum Collection Service Rate as set forth in Exhibit 1 to this Contract.

6.15.2 Street Litter Containers. CONTRACTOR is required to clean up litter around street litter Containers whether or not CONTRACTOR has caused the litter.

6.15.3 Overage Cleanup. CONTRACTOR is required to Collect Discarded Materials, including materials not contained in bags with affixed Mixed Materials or Organics Excess Service Tags, placed for Collection in excess of the capacity of the Container. CONTRACTOR shall be compensated for Collection of Overages not contained in bags with affixed Mixed Materials or Organics Excess Service Tags in accordance with the "Overage" Maximum Service Rate set forth in Exhibit 1 to this Contract.

6.15.4 Damage to Public Streets. In the event where damage to public streets within CITY is caused by a hydraulic oil spill from CONTRACTOR'S vehicle, or a vehicle

load fire that is dumped onto the street for containment purposes, CONTRACTOR shall be responsible for all repairs to return the street to the same condition it was in prior to the spill or fire. CONTRACTOR shall also be responsible for all clean-up activities related to the spill or fire. Repairs and clean-up shall be performed in a manner satisfactory to the Contract Manager and at no cost to CITY.

6.15.5 Oil, Other Vehicle Fluid Spills or Vehicle Load Fires. In the event of a vehicle fluid spill from CONTRACTOR'S vehicle or vehicle load fire, CONTRACTOR shall immediately respond in the manner as set forth in the "Spill Response Plan" approved by CITY in Exhibit 10 of this Contract.

6.16 Ownership of Materials.

6.16.1 Title to Mixed Materials, Organic Materials, Recyclable Materials and Bulky Goods shall pass to CONTRACTOR at such time as said materials are placed in a Container and set out for Collection, or for those materials that are not required to be Containerized, at the time the materials are set out for Collection.

6.16.2 Title to other materials Collected as part of other Collection Services offered by CONTRACTOR under the terms of this Contract, except Sharps and HHW, shall pass to CONTRACTOR at the time the material is placed in a Container utilized by CONTRACTOR for Collection or at a CITY approved Drop-off site.

6.16.3 Title to Sharps Collected as part of the Sharps Collection Service shall pass to CONTRACTOR at the time (to be completed based on the sharps plan proposed by the successful proposer).

6.16.4 Title to HHW Collected as part of the HHW Collection Service shall pass to CONTRACTOR at the time (to be completed based on the sharps plan proposed by the successful proposer).

6.17 Hazardous Waste. Except as set forth in Sections 6.16.3 and 6.16.4 above, under no circumstances shall CONTRACTOR'S employees knowingly Collect Hazardous Waste, or remove unsafe or poorly containerized Hazardous Waste, from a Collection Container. If CONTRACTOR determines that material placed in any Container for Collection is Hazardous Waste, or other material that may not legally be accepted at the Disposal Facility or one of the Processing facilities, or presents a hazard to CONTRACTOR'S employees, CONTRACTOR shall have the right to refuse to accept such material. The Generator shall be contacted by CONTRACTOR and requested to arrange for proper Disposal. If the Generator cannot be reached immediately, CONTRACTOR shall, before leaving the premises, leave a Non-Collection Notice that indicates the reason for refusing to Collect the material and submit an incident report to Contract Manager.

6.17.1 If Hazardous Waste is found in a Collection Container that poses an imminent danger to people property, or the environment, CONTRACTOR shall immediately call 911 to notify the CITY of Oakland Fire Department. CONTRACTOR shall immediately notify CITY of any Hazardous Waste that has been identified, and submit an incident report to Contract Manager.

6.17.2 If Hazardous Waste is identified at the time of delivery to the Disposal Facility, or a Processing facility and the Generator cannot be identified, CONTRACTOR shall be solely responsible for handling and arranging transport and disposition of the Hazardous Waste.

6.18 Regulations and Record Keeping. CONTRACTOR shall comply with emergency notification procedures required by applicable laws and regulatory requirements. All records required by regulations shall be maintained at CONTRACTOR'S facility. These records shall include waste manifests, waste inventories, waste characterization records, inspection records, incident reports, and training records.

6.19 Transition. CONTRACTOR understands and agrees that the time between the formal Contract signing and July 1, 2015 is intended to provide CONTRACTOR with ample and sufficient time to, among other things, order equipment, prepare necessary routing schedules and route maps, obtain any permits and licenses, establish/build facilities, and begin the public awareness campaign as part of CONTRACTOR'S transition program as specified in Exhibit 6 which is attached to and included in this Contract and may be amended by mutual agreement of CITY and CONTRACTOR. CONTRACTOR shall be responsible for the provision of all Collection Services beginning July 1, 2015.

6.20 Property Damage. CONTRACTOR shall be responsible for the repair or replacement, if repair is not adequate, of any damages to public or private property caused by CONTRACTOR during the provision of Collection Services.

ARTICLE 7. CHARGES AND RATES

(Note: this Article may be amended depending on the award of Non-Exclusive Commercial Recycling Collection Services)

7.01 General. CONTRACTOR shall perform all services required by this Contract in consideration of the right to bill and collect, from Customers for whom Collection Services are provided, the Maximum Service Rates, which consist of the Maximum Collection Service Rates and the Maximum Recycling Service Rates, as set forth in Exhibit 1 and as may be adjusted under the terms of this Contract. CITY does not guarantee collection of such Maximum Service Rates. CONTRACTOR shall not look to CITY for payment of any sums under this Contract and CITY has no obligation to pay CONTRACTOR any public funds under this Contract except as set forth in Article 7, Section 12.07 and Article 18.

7.01.1 Rates are Comprehensive Compensation. The Maximum Collection Service Rates, as set forth in Exhibit 1 and as may be adjusted under the terms of this Contract, shall be the full, entire and complete compensation due to CONTRACTOR for furnishing all labor, materials, equipment, supplies and other things necessary to perform all the services required by this Contract in the manner and at the times prescribed. The Maximum Collection Service Rates include, without limitation, all costs for the items mentioned in the preceding sentence and also for all taxes, franchise fees, insurance, bonds, overhead, profit, and all other costs necessary to perform all the services required by this Contract in the manner and at the times prescribed. The Maximum Collection Service Rates include all costs associated with complying with all federal and State statutes, and CITY and County ordinances concerning public health, safety and environmental issues and all laws, regulations, rules, orders, judgments, degrees, permits, approvals, or other requirement of any governmental agency having jurisdiction over the services provided by CONTRACTOR under the terms of this Contract, including any current provisions that become effective on or which require compliance by a date after the effective date of this Contract.

7.01.1.1 Changes in Government Fees. The Maximum Collection Service Rates shall be adjusted each July 1st as needed, to account for changes in the then current government fees required to be paid by CONTRACTOR. However, no governmental

fees or charges to which CONTRACTOR agrees contractually or negotiates shall be passed through to Customers unless agreed to in writing by CITY.

7.01.1.2 Payment of Governmental Fees. CONTRACTOR shall pay, when and as due, any and all governmental fees to the appropriate federal, State, regional, or local governmental entities that levied the fees, and shall provide CITY with proof of such payments promptly upon request.

7.02 CONTRACTOR Billing. CONTRACTOR shall be responsible for the billing and collection of payments for all Collection Services. The rates charged by CONTRACTOR to Customers shall not exceed the Maximum Service Rates established by CITY and attached in Exhibit 1 to this Contract and as adjusted under the terms of this Contract. CITY shall approve the format and text for all Customer bills and notices.

7.03 CONTRACTOR as Billing Agent. CONTRACTOR shall Collect Maximum Recycling Service Rates as billing agent for services provided to Customers by CITY'S Residential Recycling Contractor. CONTRACTOR shall base its billings for Residential Recycling Collection Services on the SFD and MFD Maximum Recycling Service Rates as set forth in Exhibit 1 and Customer information provided by the Residential Recycling Contractor.

7.04 Production of SFD Customer Invoices. CONTRACTOR shall invoice SFD Customers for SFD Collection Services and SFD Recycling Collection Services in advance of service, on a bi-monthly basis beginning July 1, 2015. The invoice shall be remitted to the Customer no earlier than the first day of the period for which the service is being billed. The invoice shall be produced in a form and format that is approved by CITY.

7.04.1 The Collection Services rate shall be based on Container size and frequency of Collection and include all costs of providing Collection Services including Processing, Disposal and franchise fee costs. The SFD Recycling Collection Services rate shall be a flat maximum Per Dwelling Unit rate as provided by CITY and any ancillary charges as may have been provided by the Residential Recycling Contractor in the manner set forth in Section 7.04.2 below.

7.04.2 No less than fifteen (15) calendar days before the first day of each monthly billing period beginning on August 1, 2015, the Residential Recycling Contractor may provide a SFD ancillary service invoice to CONTRACTOR for any ancillary charges that it may have incurred. The ancillary service invoice is to be produced in the form and format approved by CITY and include, at a minimum, the Customer name, Service Address and billing address along with a specific description of each ancillary charge. To the extent the invoice is received in a timely manner and contains the necessary information in the required form and format CONTRACTOR shall include those ancillary charges in the invoices prepared for the upcoming billing cycle. In the event the ancillary service invoice is not received in a timely manner or the information is not provided in the required form and format, CONTRACTOR shall notify CITY and the Residential Recycling Contractor of the timing or format discrepancies and shall not be required to include the ancillary charges in the invoices prepared for the upcoming billing cycle.

7.05 Production of MFD Customer Invoices. CONTRACTOR shall invoice MFD Customers for MFD Collection Services and MFD Recycling Collection Services in advance, not less than monthly beginning July 1, 2015. The invoice shall be remitted to the Customer no earlier than the first day of the period for which the service is being billed. The invoice shall be produced in a form and format that is approved by CITY.

7.05.1 The Collection Services rate shall be based on Container size and frequency of Collection and include all costs of providing Collection Services including

Processing, Disposal and franchise fee costs. The MFD Recycling Collection Services rate shall be a flat maximum Per Dwelling Unit rate as provided by CITY and any ancillary charges as may have been provided by the Residential Recycling Contractor in the manner set forth in Section 7.05.2 below.

7.05.2 No less than fifteen (15) calendar days before the first day of each billing period beginning with the August 1, 2015 billing period, the Residential Recycling Contractor may provide a MFD ancillary service invoice to CONTRACTOR for any ancillary charges that it may have incurred. The ancillary service invoice is to be produced in the form and format approved by CITY and include, at a minimum, the Customer name, Service Address and billing address along with a specific description of each ancillary charge. To the extent the invoice is received in a timely manner and contains the necessary information in the required form and format CONTRACTOR shall include those ancillary charges in the invoices prepared for the upcoming billing cycle. In the event the ancillary service invoice is not received in a timely manner or the information is not provided in the required form and format, CONTRACTOR shall notify CITY and the Residential Recycling Contractor of the timing or format discrepancies and shall not be required to include the ancillary charges in the invoices prepared for the upcoming billing cycle.

7.06 Production of Commercial Customer Invoices. CONTRACTOR shall invoice Commercial Customers for Commercial Collection Services, in arrears but no less than twelve (12) times per year. Invoices shall be remitted no earlier than the first day of the month following the month for which the service is being billed. The invoice shall be produced in a form and format that is approved by CITY. The Commercial invoice shall include at a minimum, a Collection rate which shall be based on Container size and frequency of Collection and include all costs of providing Collection Services including Processing, Disposal and franchise fee costs.

7.07 Invoices for Temporary Roll-Off Boxes. Customers utilizing temporary Roll-Off Boxes shall be invoiced in arrears of the provision of service although a deposit may be required in advance.

7.08 Partial Month Service. If, during a month, a Customer is added to or deleted from CONTRACTOR'S Service Area, CONTRACTOR'S billing shall be pro-rated based on the service rate established in Exhibit 1 divided by four (4), and multiplied by the number of actual weeks in the month that service was provided to the Customer. CONTRACTOR shall refund customers who terminate service any pre-paid amount.

7.09 Customer Self Haul. On or before July 15, 2015 and annually thereafter during the term of this Contract, CITY shall provide CONTRACTOR with an electronic list of those Service Addresses that have obtained a self-haul permit. Beginning August 15, 2015 and monthly thereafter during the term of this Contract, CITY shall provide an electronic update of any additional Service Addresses that have obtained a self-haul permit.

7.10 CITY Provided Billing Inserts. CITY may provide educational and other material to CONTRACTOR for inclusion in the invoices provided by CONTRACTOR to SFD, MFD and Commercial Customers as set forth in Article 17.

7.11 Methods of Payment. CONTRACTOR shall provide the means for Customers to pay bills through the following methods: cash, checks, credit cards, internet payment service or automatic withdrawal from bank account. On-line (E-Pay) bill methods shall be password protected and comply with federal regulations protecting the privacy of Customer credit

information. CONTRACTOR shall provide evidence of such security certifications and advise CITY of CONTRACTOR'S security measures implemented for on-line payment.

7.12 Delinquent Service Accounts.

7.12.1 SFD invoices shall be delinquent when they are unpaid on the last day of the first month of the bi-monthly billing cycle. CONTRACTOR may charge late fees as set forth in Exhibit 1 and take such action as is legally available to collect or cause collection of past due amounts, including requesting permission of CITY to terminate Collection Services in accordance with the process set forth below.

7.12.2 MFD invoices shall be delinquent when they are unpaid on the last day of the monthly billing cycle. CONTRACTOR may charge late fees as set forth in Exhibit 1 and take such action as is legally available to collect or cause collection of past due amounts, including requesting permission of CITY to terminate Collection Services in accordance with the process set forth below.

7.12.3 Commercial invoices shall be delinquent when they are unpaid on the last day of the monthly billing cycle. CONTRACTOR may charge late fees as set forth in Exhibit 1 and take such action as is legally available to collect or cause collection of past due amounts, including requesting permission of CITY to terminate Collection Services in accordance with the process set forth below.

7.13 Delinquent Service Account Termination Process. CONTRACTOR may implement the following service termination process for SFD, MFD and Commercial Customers whose accounts are delinquent. (Note: Sections 7.13 through 7.13.12 represent the default service requested by the City. Sections 7.13.13 through 7.13.13.4 represent the alternative service requested by the City. Based on the final decision of the City, Sections 7.13 through 7.13.13.4 will be amended.)

7.13.1 CONTRACTOR may charge a delinquent Customer a late fee which is the greater of Five Dollars ($5.00) or one and one half (1.5) percent per month (not compounded). CONTRACTOR may take such action as is legally available to collect or cause collection of such past due amounts.

7.13.2 CONTRACTOR may issue a delinquency notice at any point after the account becomes delinquent. Sections 7.13.2.1 through 17.13.12 outline processes regarding notification and cure of such delinquencies and associated issues, including without limitation regarding notification and collection of delinquencies, termination of service, and CITY's option to subscribe to service on behalf of delinquent SFD and MFD property owners to whom CONTRACTOR has terminated service and to impose special assessments against delinquent properties to recover the costs of such service. With respect to the timelines related to the delinquency notices and hearings set forth in Sections 7.13.2.1 through 17.13.12, CITY reserves the right to modify the timelines by written policy adopted by the City Administrator, or his or her designee, after consultation with CONTRACTOR.

7.13.2.1 Delinquency notice will be sent to the property owner and billing address.

7.13.2.2 Delinquency notice will include information on Hearing scheduled approximately fifteen (15) calendar days after date of the notice to dispute the non-payment.

7.13.2.3 Delinquency notice will specify that failure to pay the bill may result in termination of service and that CITY will deem lack of service to be a nuisance.

7.13.2.4 For SFD and MFD Customers, delinquency notice will further provide that CITY may, in order to abate the nuisance, subscribe on behalf of the property owner at the property owner's expense beginning with the next billing cycle and impose as special assessment against the property on which the nuisance is maintained.

7.13.3 CONTRACTOR, subject to its compliance with the requirements of Section 7.13, has the right to terminate service if the bill remains unpaid thirty (30) days after issuing the delinquent notice.

7.13.4 CONTRACTOR and CITY will hold hearing concerning delinquent bills on the date specified in the delinquency notice (typically day forty five (45) in each billing cycle).

7.13.5 Following the Hearing (typically day forty six (46) in billing cycle), CONTRACTOR, on CITY'S behalf, will send final delinquency notice to property owner, billing address, and Service Address for the accounts with a past due balance notifying them that service will be terminated by CONTRACTOR on day sixty (60), if CONTRACTOR does not receive payment, and that CITY may declare the failure to maintain service for the property a nuisance. For SFD and MFD Customers, the final delinquency notice shall further provided that CITY may (a) subscribe to service on the property owner's behalf at the property owner's expense to abate the nuisance; and (b) impose a special assessment on the property for the costs associated with abating the nuisance.

7.13.6 No sooner than the first day of the next billing cycle, CONTRACTOR shall provide CITY a list of properties (Service Addresses) to which it will stop service for non-payment.

7.13.7 The next business day following its receipt of the list described in Section 7.13.6, or as soon as reasonably practicable thereafter, CITY will elect whether to declare the conditions on the property to be a nuisance and subscribe to service on behalf of property owner at the property owner's expense to abate nuisance.

7.13.8 Approximately ten (10) days following its election under Section 7.13.7, CITY will confirm status of delinquent accounts with CONTRACTOR and, for those properties for which the City has subscribed on behalf of the property owner, imposes a special assessment on those properties that are still delinquent. CITY will provide notice to property owner (as determined from County Assessor's or Recorder's records) by certified mail.[1]

7.13.9 Upon receipt of proceeds from the special assessment, CITY will forward the portion of the special assessment attributable to CONTRACTOR billing to CONTRACTOR. CITY'S financial liability to CONTRACTOR for payment for services rendered when CITY declares a nuisance and subscribes on behalf of the property owner is limited to the proceeds of such special assessments.

7.13.10 CONTRACTOR can require that in order to reestablish service the Customer must pay any past-due amounts. However, CONTRACTOR may not require that the assessment be paid off before resuming service.

[1] [Gov. Code section 38773.5(b) provides that notice by certified mail "shall be given at the time of imposing the assessment."]

7.13.11 CONTRACTOR may require a credit card, or at the discretion of the Service Recipient, a deposit equal to one billing cycle's payment, be maintained on file for any Customer whose account went into sixty (60) day delinquency.

7.13.12 CITY will continue to subscribe on Customer's behalf and impose special assessments for each billing cycle until it is notified by CONTRACTOR that Customer has cleared delinquent account with CONTRACTOR and subscribed to service. Throughout the period in which CITY has subscribed on behalf of the property owner, CONTRACTOR shall bill CITY and send a copy of such bill to the property owner and the last known billing address for the Customer. The bill shall indicate that CONTRACT has terminated service as a result of Customer's non-payment, that as a result CITY has declared the property a nuisance due to the Customer's failure to maintain service, that CITY has subscribed to service on behalf of the property owner at the property owner's expense to abate the nuisance, and that CITY will impose a special assessment for the costs of abating the nuisance, and that the Customer may avoid the imposition of further special assessments by paying its delinquent balances with CONTRACTOR and reinstating its account.

7.13.13 Delinquent Service Account Process. CONTRACTOR may implement the following delinquent service account process for SFD, MFD and Commercial Customers whose accounts are delinquent. (Alternative Service language, may be deleted based on final decision of CITY)

7.13.13.1 CONTRACTOR may charge a delinquent Customer a late fee which is the greater of Five Dollars ($5.00) or one and one half (1.5) percent per month (not compounded). CONTRACTOR may take such action as is legally available to collect or cause collection of such past due amounts.

7.13.13.2 CONTRACTOR may issue delinquent notice if unpaid by the last day of the first month of the billing cycle (i.e. July 31, 2015).

7.13.13.3 CONTRACTOR may issues 2nd delinquent notice on the 15th day of the second month of the billing cycle.

7.13.13.4 CONTRACTOR may issue 3rd delinquent notice on the last day of the billing cycle informing property owner that bill may be turned over to a collection agency.

7.13.13.5 CONTRACTOR may not stop service for SFD or MFD Customers but may stop service for Commercial Customers.

7.14 CONTRACTOR'S Payment to Residential Recycling Contractor.

7.14.1 Residential Recycling Contractor Invoice. In accordance with the terms and conditions of the Memorandum of Understanding between CONTRACTOR, CITY and the Residential Recycling Contractor as set forth in Exhibit 15 which is attached to and included in this Contract, CONTRACTOR shall receive a monthly invoice based on Tons of Recyclable Materials Collected, in the form and format set forth in Exhibit 15, from the Residential Recycling Contractor within ten (10) calendar days of the end of each month beginning with the month of July 2015.

7.14.2 Authorization of Payment by CITY. In accordance with the terms and conditions of the Memorandum of Understanding between CONTRACTOR, CITY and the Residential Recycling Contractor as set forth in Exhibit 15 to this Contract, CITY shall provide payment authorization to CONTRACTOR prior to the payment of each monthly invoice to the Residential Recycling Contractor.

7.14.3 Timing of Monthly Invoice Payment. In the event CONTRACTOR receives payment authorization from CITY as set forth in Section 7.14.2, no later than twenty (20) calendar days from the date the monthly invoice was due to CONTRACTOR, CONTRACTOR shall remit payment of the monthly invoice to the Residential Recycling Contractor no later than thirty (30) calendar days from the date the monthly invoice was due to CONTRACTOR and send a copy to the Contract Manager. In the event CONTRACTOR does not receive payment authorization from CITY as set forth in Section 7.14.2, within twenty (20) calendar days from the date the monthly invoice was due to CONTRACTOR, CONTRACTOR shall remit payment of the monthly invoice to the Residential Recycling Contractor within ten (10) calendar days of receipt of such payment authorization and shall send a copy to the Contract Manager.

7.14.4 Timing of Payment of Ancillary Charges. CONTRACTOR shall be responsible for payment to the Residential Recycling Contractor of those ancillary charges included in the SFD and MFD invoices provided for in Sections 7.04.2 and 7.05.2, only to the extent such ancillary charges are collected by CONTRACTOR. Such payment shall be made no later than ten (10) calendar days following the month in which the funds were collected and shall be accompanied by a remittance form in the format approved by CITY and include at a minimum the Customer name and billing address along with a specific description of each ancillary charge and the date invoiced with a copy to the Contract Manager.

7.14.5 Non-Payment of Monthly Invoice or Ancillary Charges. In the event CONTRACTOR does not provide payment of monthly invoices or ancillary charges to Residential Recycling Contractor in the time and manner set forth in this Section, CITY shall, within five (5) Work Days of receiving knowledge of such non-payment, draw such funds as are necessary from CONTRACTOR'S letter of credit established in Section 22.06 of this Contract to pay the Residential Recycling Contractor.

7.15 CONTRACTOR'S Maximum Service Rates. Maximum Service Rates shall consist of a Maximum Collection Service Rate, which includes all costs of providing Collection Services including but not limited to Collection, Processing, Disposal, and franchise fee costs, and such other charges as may be added by CITY during the term of this Contract and a Maximum Per Dwelling Unit Recycling Rate as approved by CITY. CONTRACTOR shall not be entitled to any compensation that is not listed in Exhibit 1. On or after July 1, 2015, and each subsequent July 1st, CONTRACTOR'S Maximum Service Rates shall be adjusted as set forth below.

7.16 Adjustments to Maximum Service Rates.

7.16.1 Annual Adjustment to Maximum Service Rates Prior to Start of Collection Services. In order to provide some mitigation for inflation between the time that the Maximum Service Rates were proposed and the time when Collection Services will commence, the Maximum Service Rates as set forth in Exhibit 1 to this Contract shall be adjusted on July 1, 2015 by the annual change in the Consumer Price Index – All Urban Consumers, Series ID cuura422sa0, Not Seasonally adjusted, San Francisco-Oakland-San Jose, CA for the prior calendar year, January 1, 2014 through December 31, 2014.

7.16.2 Annual Adjustment to Maximum Collection Service Rates After Start of Collection Services. Beginning on July 1, 2016, and annually thereafter during the term of this Contract CONTRACTOR, subject to compliance with all provisions of this Article, shall receive an annual adjustment in the Maximum Collection Service Rates as set forth in Exhibit 1 to this Contract in accordance with the provisions of Section 7.16.2.3.

7.16.2.1 Refuse Rate Index (RRI) Adjustment. Beginning on July 1, 2016, and annually thereafter during the term of this Contract, the Maximum Collection Service Rates set forth in Exhibit 1 shall be adjusted by the RRI adjustment as set forth below except that the adjustment shall never be more than five (5) percent up or down in any year regardless of the calculated adjustment exclusive of changes in governmental or regulatory fees or assessments which shall be a pass-through. If the five (5) percent ceiling or floor is applied to limit increases or decreases in the RRI in any year, the difference between five (5) percent and the percentage by which the Maximum Collection Service Rates would have been increased or decreased in the absence of the ceiling or floor will not be considered in any future year.

7.16.2.1.1. The RRI adjustment shall be the sum of the weighted percentage change in the annual average of each RRI component index number between the base year, which shall be the prior preceding calendar year ending December 31st and the preceding calendar year ending December 31st as contained in the most recent release of the source documents listed in Exhibit 2, which is attached to and included in this Contract. Therefore, the first Maximum Collection Service Rate adjustment using the RRI will be based on the percentage changes between the annual average of the RRI component indices for the calendar year ended December 31, 2014 and the annual average of the RRI component indices for the calendar year ended December 31, 2015. The RRI adjustment shall be calculated using the RRI methodology included in Exhibit 2.

7.16.2.2 Diversion Adjustment. Beginning with the July 1, 2017 rate adjustment, the diversion adjustment shall be applied to all Maximum Collection Service Rate adjustments. Except for those instances as set forth in Section 7.16.2.3.2 when the reciprocal of the diversion adjustment is required to be used, the diversion adjustment shall be the lesser of one hundred (100) percent or the percentage calculated by dividing the diversion rate achieved by CONTRACTOR in the calendar year immediately preceding the effective date of the rate adjustment by the minimum annual Diversion requirement for that calendar year, pursuant to Article 8 of this Contract and as set forth in Exhibit 8 which is attached to and included in this Contract. The diversion rate achieved by CONTRACTOR each calendar year will be calculated using Table B of Exhibit 8.

7.16.2.3 Annual Maximum Collection Service Rate Adjustment. The annual Maximum Collection Service Rate adjustment shall be calculated as follows.

7.16.2.3.1. In any year that the RRI adjustment results in a positive number, the Maximum Collection Service Rate adjustment shall be calculated by multiplying the RRI adjustment by the diversion adjustment.

7.16.2.3.2. In any year that the RRI adjustment results in a negative number, the Maximum Collection Service Rate adjustment shall be calculated by multiplying the RRI adjustment by the reciprocal of the diversion adjustment. For example if the diversion adjustment was ninety five (95) percent, the reciprocal of the diversion adjustment would be calculated by dividing one hundred (100) percent by ninety five (95) percent. (100.00% / 95%= 105.26%).

7.16.2.3.3. In any year that the Maximum Collection Service Rate adjustment is a negative number, CITY may, at its sole discretion, chose to postpone the implementation of the adjustment for one (1) year. In that event the current year rate would remain the same and the subsequent year rate would be calculated by first, applying the negative Maximum Collection Service Rate adjustment to the current rate and then applying the subsequent years Maximum Collection Service Rate adjustment to that rate. For example if the Year X rate was $100.00 and the Year X+1 Maximum Collection Service Rate adjustment was -

2.2% and the Year X+2 Maximum Collection Service Rate adjustment was +2.2% and CITY chose to not apply the negative Maximum Collection Service Rate adjustment in Year X+1 then the rate in Year X+1 would be $100.00 and the rate in Year X+2 would be $99.95 ($100.00 x -2.2% = $97.80 x 2.2% = $99.95).

7.16.2.3.4. In any year that CITY choses to postpone the implementation of a negative Maximum Collection Service Rate adjustment for one (1) year, CONTRACTOR shall retain those excess funds that it collects as a result of the Maximum Collection Service Rates not being reduced for that year in the Recycling stability account as set forth in Section 7.21.1 below for use in such manner as may be directed by the Contract Manager. An accounting of the funds shall be provided to the Contract Manager by the fifteenth (15th) day of each month after the month in which the funds are collected and shall be accompanied by such documentation as may be requested by CITY.

7.16.3 Annual Adjustment to Maximum Per Dwelling Unit Recycling Service Rate. The Maximum Per Dwelling Unit Recycling Service Rate shall be adjusted annually by CITY in the manner set forth in the Memorandum of Understanding included in Exhibit 15 of this Contract.

7.17 Required Information.

7.17.1 Financial Information. On or before February 1, 2016, and annually thereafter during the term of this Contract, CONTRACTOR shall deliver to CITY financial information for the specific services performed under this Contract for the preceding calendar year. Such financial information shall be in the format as set forth in Exhibit 2, or as may be further revised by CITY from time to time. If CONTRACTOR fails to submit the financial information in the required format by February 1st, it is agreed that CONTRACTOR shall be deemed to have waived the RRI adjustment for that year. CONTRACTOR'S failure to provide the financial information shall not preclude CITY from applying the RRI using the prior year's financial data, or pro forma data if no prior year financial data is available, if that application would result in a negative RRI.

7.17.2 Diversion Data. On or before February 1, 2017, and annually thereafter during the term of this Contract, CONTRACTOR shall deliver to CITY diversion data for the specific services performed under this Contract in the format specified by CITY. If CONTRACTOR fails to submit the diversion data in the required format by February 1st, it is agreed that CONTRACTOR shall be deemed to have waived the entire RRI adjustment for that year.

7.18 Adjustments. Annual Maximum Collection Service Rate adjustments shall be made only in units of one cent ($0.01). Fractions of less than one cent ($0.01) shall not be considered in making adjustments. The indices shall be rounded at four (4) decimal places for the adjustment calculations.

7.18.1 If CONTRACTOR'S failure to submit the financial and/or diversion information required under Sections 7.17.1 and 7.17.2 is the result of extraordinary or unusual circumstances as demonstrated by CONTRACTOR to the satisfaction of the Contract Manager, CITY, at its sole discretion, may consider the request for the annual Maximum Collection Service Rate adjustment.

7.18.2 As of May 15, 2016, and annually thereafter during the term of this Contract, the Contract Manager shall notify CONTRACTOR of the Maximum Collection Service Rate adjustment to the affected service rates to take place on the subsequent July 1st.

7.19 Adjustments Due to Changes In Law. CONTRACTOR agrees that no extraordinary adjustment shall occur or rate adjustment be provided except as set forth in Article 30.

7.20 CONTRACTOR'S Payments to CITY. CONTRACTOR shall make payment to CITY of a negotiated franchise fee, and such other fees as may be specified in this Contract.

7.20.1 Franchise Fee. The franchise fee for the fiscal year July 1, 2015 through June 30, 2016 shall be the initial franchise fee of Twenty Five Million Thirty Four Thousand Dollars ($25,034,000) adjusted by the annual change in the Consumer Price Index – All Urban Consumers, Series ID cuura422sa0, Not Seasonally adjusted, San Francisco-Oakland-San Jose, CA for the prior calendar year, January 1, 2014 through December 31, 2014. The franchise fee for the next fiscal year and each subsequent fiscal year shall be adjusted annually by the same percentage as the percentage used to adjust the Maximum Collection Service Rates for that fiscal year as set forth in Section 7.16.2, except that in no year shall the franchise fee adjustment be less than zero (0) percent. The franchise fee for each fiscal year shall be divided into twelve (12) equal payments, and paid monthly no later than the fifteenth (15th) day of each month for that month. The franchise fee payments will begin no later than July 15, 2015 and will continue each month throughout the term of this Contract.

7.20.2 Proposal Development and Cost Reimbursement Fee. No later than thirty (30) calendar days after the execution of this Contract by CITY and CONTRACTOR, CONTRACTOR shall submit proposal development and cost reimbursement fee to CITY in the amount of Seven Hundred Fifty Thousand Dollars ($750,000).

7.20.3 Revenue Sharing Payments. (Note this section will be amended to reflect the revenue sharing program proposed by CONTRACTOR)

7.20.4 Other Fees. CITY may set such other fees as it deems necessary. However, CONTRACTOR shall not be responsible for remitting such other fees to CITY until such time as the Maximum Service Rates as set forth in Exhibit 1 have been adjusted to include such other fees.

7.20.5 Acceptance of Payment. No acceptance by CITY of any payment 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 CONTRACTOR for any additional sums payable under the provisions of this Contract. All amounts paid shall be subject to independent audit and recalculation by CITY. If, after the audit, such recalculation indicates an underpayment CONTRACTOR shall pay to CITY the amount of the underpayment and shall reimburse CITY for all reasonable costs and expenses incurred in connection with the audit and recalculation within ten (10) Work Days of receipt of written notice from CITY that such is the case. If, after audit, such recompilation indicates an overpayment, CITY shall notify CONTRACTOR in writing of the amount of the overpayment, less costs and expenses incurred in connection with the audit and recalculation. CONTRACTOR may offset the amounts next due following receipt of such notice by the amount specified therein.

7.21 Stability Funds.

7.21.1 Recycling Stability Funds. Recycling stability funds represent the stabilization component of the SFD and MFD Per Dwelling Unit Recycling Rate, and are collected by CONTRACTOR for use in stabilizing recycling billing fluctuations. Recycling stability funds shall be maintained by CONTRACTOR in a separate interest bearing account,

whose interest accrues to the account. Recycling stability funds may only be used at the direction of CITY.

7.21.1.1 SFD Recycling stability funds are calculated by multiplying the stabilization component of the SFD Per Dwelling Unit Recycling Rate by the total number of SFD Dwelling Units associated with each of the invoices that were collected during each month.

7.21.1.2 MFD Recycling stability funds are calculated by multiplying the stabilization component of the MFD Per Dwelling Unit Recycling Rate by the total number of MFD Dwelling Units associated with each of the invoices that were collected during each month.

7.21.1.3 SFD and MFD Recycling stability fund account balances shall be reported to the Contract Manager no later than the tenth (10^{th}) day of each month beginning in August of 2015 and monthly thereafter during the term of this Contract.

7.21.2 Tonnage Cap Stability Funds. Tonnage cap stability funds represent the funds, as calculated below, collected by CONTRACTOR and retained by CONTRACTOR in a separate interest bearing account, whose interest accrues to the account. Tonnage Cap stability funds may only be used at the direction of CITY, to make up for shortfalls experienced by CONTRACTOR when required payments to the RR Contractor exceed Per Dwelling Unit Recycling Rate funds collected over any calendar year, or for the benefit of the SFD and MFD residents from whom they are collected, and are not available for other purposes. These funds shall only be used by CITY for stabilizing recycling billing fluctuations resulting from changes in the annual tonnage cap of the Residential Recycling Contractor, or subsidizing the cost of changes to the residential recycling programs. Tonnage cap stability funds are calculated by subtracting the amount invoiced by the Residential Recycling Contractor per Section 7.14.1 above for the preceding calendar year from the total Residential Recycling Contractor per Dwelling Unit Recycling rate funds collected in the preceding calendar year.

7.21.3 Tonnage Cap stability fund account balances shall be reported to the Contract Manager no later than the tenth (10^{th}) day of February beginning in February of 2016 and annually thereafter during the term of this Contract.

7.22 Billing Records. CONTRACTOR shall keep records, electronically or paper, of all billing documents and Customer account records, including but not limited to, invoices, receipts, and collection notices, each in chronological order, for a period of three (3) years after the date of receipt or issuance.

7.23 CITY Computer-Link Access to Customer Account and Service Information. CONTRACTOR shall provide CITY with a computer link to CONTRACTOR'S customer account and service information system. CONTRACTOR shall provide both hardware and software which meet CITY'S requirements, including a dedicated phone line for communication with CITY computer systems, if necessary, and shall provide CITY with training to access and sort data on the system. CITY shall have access to review, sort, and download all data in the system related to this Contract, but shall not modify or input data on-line. CITY shall be able to access via CONTRACTOR'S computer system, at a minimum, the following information: (i) all routing information from route audits to include name and address of Customer, Service Recipient and route number; (ii) records of daily Collection, Disposal, and Processing figures; (iii) names and addresses of Customers, Service Recipients and account classification (i.e., SFD, MFD, Commercial, Roll-Off Box), and service level (i.e., number and size of Containers, frequency of Collection); (iv) notes on location of Carts and Bins at Service Addresses; (v) record of missed pickups; and (vi) customer service log. Upon expiration or termination of this Contract, CITY shall have the immediate and permanent right to access and copy all such information

contained in CONTRACTOR'S customer account and service information system relevant to this Contract.

7.24 Collection Services Census Data. On or before July 15, 2016 and annually thereafter during the term of this Contract, CONTRACTOR shall deliver to CITY, Collection Services census data for all Service Addresses as of the preceding July 1st. This information shall be delivered electronically in a format approved by CITY, using software approved by CITY.

7.24.1 Census data for SFD Service Addresses shall consist of a list of SFD Service Recipients receiving, SFD Collection Services during the previous month and include at a minimum: (i) Service Recipient name and Service Address; (ii) name and address of Customer if different from Service Recipient and Service Address; and (iii) service level, separately for Mixed Materials and Organics (i.e., number and size of Containers, and frequency of Collection).

7.24.2 Census data for MFD and Commercial Service Addresses shall consist of the number of Service Recipients receiving MFD or Commercial Collection Services during the preceding month. The census data shall be segregated by Customer type, and include at a minimum: (i) Service Recipient name and Service Address; (ii) name and address of Customer if different from Service Recipient and Service Address; and (iii) service level, separately for Mixed Materials and Organics (i.e., number and size of Containers, and frequency of Collection).

ARTICLE 8. DIVERSION REQUIREMENTS

(Note: this Article may be amended depending on the award of Non-Exclusive Commercial Recycling Collection Services)

8.01 Minimum Annual Diversion Requirements. CONTRACTOR shall achieve minimum annual Diversion requirements beginning with Calendar year 2016 as set forth in Part 1 of Table A of Exhibit 8 to this Contract, or such other Diversion requirements as may be set in accordance with the provisions of Article 30 of this Contract. Annual Diversion rates shall be calculated for each calendar year using Table B of Exhibit 8, and the methodology therein, beginning with calendar year 2016.

8.02 Failure to Meet Minimum Annual Diversion Requirements. CONTRACTOR'S failure to meet the minimum annual Diversion requirement set forth in Part 1 of Table A of Exhibit 8 shall result in a diversion adjustment being applied to Maximum Collection Service Rate adjustments as specified in Section 7.16.2.2 of this Contract.

8.03 Minimum Diversion Requirement for Contract Extension. CONTRACTOR shall meet a minimum Diversion requirement of forty (40) percent in calendar year 2022, calculated as set forth in Section 8.01 of this Contract. In the event CONTRACTOR fails to meet the 2022 minimum Diversion requirement, CITY, at its sole discretion, may opt not to offer the Contract extension set forth in Section 3.01.1 of this Contract and terminate this contract no later than June 30, 2025.

8.04 Annual Diversion Requirements for Contract Extension(s). CONTRACTOR shall complete and provide to CITY Part 2 of Table A of Exhibit 8 to this Contract by entering annual Diversion requirements for each year of the extension(s), no later than March 31, 2023. Should CONTRATOR receive Contract extension(s) set forth in Article 3 of this Contract, the revised

Table B, including completed Part 2 shall be incorporated into Exhibit 8 of the Contract extension(s).

8.04.1 CONTRACTOR shall use a statistically significant method approved by CITY to calculate the Tonnage of finished Processed material, net of Residue, attributable to material Collected under this Contract. CONTRACTOR shall use a statistically significant method approved by CITY to calculate the Tonnage of Residue attributable to material Collected under this Contract.

ARTICLE 9. SFD COLLECTION SERVICES

9.01 SFD Collection Services. These services shall be governed by the following terms and conditions.

9.01.1 Size and Frequency of Service. CONTRACTOR shall offer Mixed Materials Carts in 20, 32, 64, and 96 gallon nominal Cart sizes, with the default Cart size being 32 gallons. CONTRACTOR shall offer Organic Materials Carts in 20, 32, 64 and 96 gallon nominal Cart sizes, with the default Cart size being 64 gallons. The size of the Cart shall be selected by the SFD Customer. Service Recipients receiving Backyard Collection Service as set forth in Sections 9.01.4, 9.01.5 or 9.01.6 below may set out their Mixed Materials or Organic Materials in their own can. Except as set forth in Sections 9.04 through 9.08, SFD Collection Services shall be provided one (1) time per week on a scheduled route basis. SFD Collection Services shall be scheduled so that a SFD Service Address receives SFD Mixed Materials Collection Service and SFD Organic Materials Collection Service on the same Work Day.

9.01.2 Manner of Collection. CONTRACTOR shall provide SFD Collection Services with as little disturbance as possible. Except in the case of backyard Collection Services CONTRACTOR shall leave any Cart in an upright position, with the lid closed, at the point of collection without obstructing alleys, roadways, driveways, sidewalks or mail boxes. In the case of Backyard Collection Service, CONTRACTOR shall remove the Containers from the back or side of the Service Address (or from such other location as agreed to by CONTRACTOR and the Service Recipient), shall empty the contents into the collection vehicle, and shall return the Containers to the location from which they were removed.

9.01.3 Curbside Collection Service. SFD Curbside Collection Service shall be provided where Mixed Materials and Organic Materials are placed within three (3) feet of the curb, or at edge of street pavement for streets without curbs.

9.01.4 Premium Backyard Collection Service. CONTRACTOR shall provide premium backyard Collection of Mixed Materials and Organic Materials to a SFD Service Address if requested by the SFD Customer for their convenience. CONTRACTOR shall be compensated for such services at the approved Maximum Collection Service Rates provided in Exhibit 1 for premium backyard Collection Service.

9.01.5 Exempt Backyard Collection Service. Notwithstanding any term or definition set forth in this Contract, CONTRACTOR shall provide exempt backyard Collection of Mixed Materials, and Organic Materials to SFD Service Addresses whose occupants meet the requirements for the exemption programs set forth below in Sections 9.01.6 through 9.01.8 and, based on information provided by CITY to CONTRACTOR, those Service Addresses receiving such service from the prior Collection Contractor. CONTRACTOR shall provide exempt backyard Collection of Mixed Materials, and Organic Materials to SFD Service Addresses at no additional charge to CITY or SFD Customer.

9.01.6 Frail Senior Exemption Program. CONTRACTOR shall provide exempt backyard Collection of Mixed Materials and Organic Materials to SFD Service Addresses whose occupants demonstrate that they meet the requirements set forth in this Section 9.01.6 through the submission of a complete application requesting this exemption along with all required documentation and certifications. Services shall begin on the next regularly scheduled Collection day of the Service Address after CONTRACTOR'S receipt of the completed application. No additional monies shall be due to CONTRACTOR for the exempt backyard Collection of Mixed Materials, and Organic Materials.

9.01.6.1 Applicant must be sixty (60) years of age or older.

9.01.6.2 Applicant must be the owner of record or primary renter.

9.01.6.3 The Dwelling Unit must be solely occupied by the applicant, unless all other occupants meet the requirements of frail senior exemption program as set forth in this Section 9.01.6, the disability exemption program as set forth in Section 9.01.7, or are under the age of twelve (12) years old.

9.01.6.4 Applicant must provide a signed statement from a registered Doctor of Medicine (M.D.) stating that bringing the wheeled Containers to curbside creates an undue physical hardship on the applicant.

9.01.7 Disability Exemption Program. CONTRACTOR shall provide exempt backyard Collection of Mixed Materials, and Organic Materials to SFD Service Addresses whose occupants demonstrate that they meet the requirements set forth in this Section 9.01.7 through the submission of a complete application requesting this exemption along with all required documentation and certifications. Services shall begin on the next regularly scheduled Collection day of the Service Address after CONTRACTOR'S receipt of the completed application. No additional monies shall be due to CONTRACTOR for the exempt backyard Collection of Mixed Materials, and Organic Materials.

9.01.7.1 Applicant must be the owner of record or primary renter.

9.01.7.2 The Dwelling Unit must be solely occupied by the applicant, unless all other occupants meet the requirements of frail senior exemption program as set forth in Section 9.01.6, the disability exemption program as set forth in this Section 9.01.7, or are under the age of twelve (12) years old.

9.01.7.3 Applicant must provide proof that is acceptable to CONTRACTOR of long term or permanent physical disability, which may include; 1) a signed statement from a registered Doctor of Medicine (M.D.); 2) proof or registration as a disabled driver as determined by the Department of Motor Vehicles; or 3) documentation of grant of permanent disability status by the State of California.

9.01.8 Curbside Placement Exemption. CONTRACTOR may petition CITY for exempt backyard Collection of Mixed Materials and Organic Materials from SFD Service Recipients other than as required by Sections 9.01.6 and 9.01.7

9.01.9 Collection Day. CONTRACTOR shall provide exempt backyard Collection of Mixed Materials and Organic Materials on the same Work Day that curbside Collection Service would otherwise be provided to the Service Address.

9.02 SFD Mixed Materials Collection Service. This service will be governed by the following additional terms and conditions:

9.02.1 Containerized Mixed Materials. CONTRACTOR shall provide SFD Mixed Materials Collection Service to all SFD Service Addresses in the Service Area whose Mixed Materials are properly containerized in Mixed Materials Containers, except as set forth in Section 9.02.2 below, regardless of whether or not the lid is fully closed, where the Containers have been placed within three (3) feet of the curb, paved surface of the public roadway, closest accessible roadway, or other such location agreed to by CONTRACTOR and Service Recipient which will provide safe and efficient accessibility to CONTRACTOR'S Collection crew and vehicle.

9.02.2 Collection of Mixed Materials Overage. CONTRACTOR shall also be required to Collect all Mixed Materials Overages that are set out for Collection regardless of whether or not the Mixed Materials Overages are properly contained in bags affixed with an Extra Service Tags. CONTRACTOR shall not be entitled to additional compensation for the Collection of Mixed Materials Overages unless such Overages are not contained in bags affixed with Extra Service Tags in which case CONTRACTOR shall obtain and retain pictorial evidence of such Overages and may be compensated for the Collection of such Overages in accordance with the "Overage" surcharge as set forth in Exhibit 1 or as may be adjusted under the terms of this Contract.

9.02.3 Disposal Facility or Mixed Materials Processing Facility. All Mixed Materials Collected as a result of performing SFD Mixed Materials Collection Services shall be transported and delivered to the Disposal Facility or Mixed Materials Processing Facility.

9.02.3.1 Residue From Mixed Materials Processing. An amount of Residue equal to the Residue generated as a result of Processing the Mixed Material Collected during the performance of SFD Mixed Materials Collection Services under the terms of this Contract shall be delivered to the Disposal Facility.

9.02.4 Additional Mixed Materials Capacity. Upon notification to CONTRACTOR by CITY or a SFD Customer that additional Mixed Materials capacity is requested, CONTRACTOR shall deliver such Mixed Materials Carts as are needed to meet the capacity requirements of the Service Address no later than the next regularly scheduled Collection day. CONTRACTOR may be compensated for the cost of providing additional Mixed Material capacity in accordance with the approved Maximum Collection Service Rate as provided in Exhibit 1 or as may be adjusted under the terms of this Contract.

9.03 SFD Organic Materials Collection Service. This service will be governed by the following terms and conditions.

9.03.1 Containerized Organic Materials. CONTRACTOR shall provide SFD Organic Materials Collection Service to all SFD Service Addresses in the Service Area whose Organic Materials, except as set forth in Sections 9.03.2, 9.04 and 9.05, are properly containerized in Organic Materials Containers, regardless of whether or not the lid is fully closed where the Containers have been placed within three (3) feet of the curb, paved surface of the public roadway, closest accessible roadway, or other such location agreed to by CONTRACTOR and Service Recipient, that will provide safe and efficient accessibility to CONTRACTOR'S Collection crew and vehicle.

9.03.2 Organic Materials in Excess of Container Capacity. SFD Service Recipients may set out unlimited additional Organic Materials each week in recyclable 32-gallon paper gardening bags, in bundles, or in Service Recipient's container, provided it meets the requirements of Oakland Municipal Code Section 8.28.140. No bag, bundle or container may exceed seventy five (75) pounds in weight. Branches and unpainted/untreated wood may not

exceed four (4) feet in length or six (6) inches in diameter, CONTRACTOR may limit the amount of Organic Materials to be Collected from a SFD Service Address to sixty four (64) gallons per week if it is able to show to the satisfaction of CITY that the Service Recipient is setting out Organic Materials generated from a location other than the Service Address.

9.03.2.1.1. In the event excess Organic Materials are set out in a plastic bag, CONTRACTOR may Collect the Organics as Mixed Materials Overage and invoice the SFD Customer at the Mixed Materials Overage Maximum Collection Service Rate as set forth in Exhibit 1 to this Contract.

9.03.2.1.2. CONTRACTOR shall not be required to Collect excess Organic Materials that are not set out in compliance with Section 9.03.2. In the event of non-collection CONTRACTOR shall deliver a Non-Collection Notice to the Service Address, which explains why Collection was not made and how the item(s) may be properly set out, and shall maintain a copy of such notice during the term of this Contract.

9.03.3 Organic Materials Processing Services. Except for Organic Materials Residue, CONTRACTOR shall ensure that all Organic Materials Collected pursuant to this Contract are Diverted .

9.03.4 Organic Materials Processing Facility. CONTRACTOR shall deliver all Collected Organic Materials to a fully permitted Organic Materials Processing Facility or a properly permitted transfer station. All expenses related to Organic Materials Processing and marketing will be the sole responsibility of CONTRACTOR.

9.03.5 Additional Organic Materials Capacity. Upon notification to CONTRACTOR by CITY or a SFD Customer that additional Organic Materials Cart capacity is requested in the form of a larger Cart or an addition Cart, CONTRACTOR shall deliver such Organic Materials Carts as are needed to meet the capacity requirements of the Service Address no later than the next regularly scheduled Collection day. CONTRACTOR shall not receive additional compensation for the Collection of a larger Organic Materials Cart. However CONTRACTOR may be compensated for the Collection of more than one (1) Organic Materials Cart in accordance with the approved Maximum Collection Service Rate as provided in Exhibit 1 or as may be adjusted under the terms of this Contract.

9.04 Curbside Holiday Tree Collection. CONTRACTOR shall Collect Holiday Trees from all SFD Service Addresses as part of the SFD Organic Materials Collection Service when such trees are in lengths of four (4) feet or less and are set out at the curb. CONTRACTOR shall provide this service beginning on the first Work Day after December 25th through the end of the second full work week in January or dates approved by CITY.

9.04.1 Contaminated Holiday Trees. Holiday trees that are flocked or contain tinsel or other decorations or are attached to a tree stand may be delivered to the Disposal Facility at the discretion of CONTRACTOR.

9.05 Bulky Goods Collection Service. This service will be governed by the terms and conditions set forth in Exhibit 14 and such changes to that Exhibit as may be agreed to between CITY and CONTRACTOR.

9.05.1 Annual Changes to Bulky Goods Collection Service Requirements. Beginning with Bulky Goods Collection Service for Contract Year July 1, 2016, through June 30, 2017 and annually thereafter during the term of this Contract, CITY and CONTRACTOR may mutually agree to changes in the Bulky Goods Collection Service program. Such mutually agreed to changes shall be documented through the revision of Exhibit 14 to this

Contract and the revised Exhibit 14 shall be signed by authorized representatives of CITY and CONTRACTOR.

9.06 Sharps Collection Service. The service will be governed by the following terms and conditions. (To be completed based on program proposed by selected proposer.)

9.07 HHW Collection Service. The service will be governed by the following terms and conditions. (To be completed based on program proposed by selected proposer.)

9.08 Temporary Roll-Off Box Collection Service. CONTRACTOR shall provide Temporary Roll-Off Collection Service to all SFD Customers in the Service Area subscribing to such service. CONTRACTOR shall respond to requests for service within two (2) Work Days of receipt of the request. CONTRACTOR shall be compensated for such services in accordance with the Maximum Collection Service Rates as set forth in Exhibit 1 to this Contract as may be adjusted in accordance with the terms of this Contract.

ARTICLE 10. MFD COLLECTION SERVICES

10.01 MFD Collection Services. These services shall be governed by the following terms and conditions.

10.01.1 Manner of Collection. CONTRACTOR shall provide MFD Collection Service with as little disturbance as possible and shall leave any Container in an upright position, with the lid closed, at the same point it was Collected without obstructing alleys, roadways, driveways, sidewalks or mail boxes. CONTRACTOR shall close or lock, as appropriate, Containers and Container enclosures that were opened by CONTRACTOR as part of the Collection process.

10.01.2 Collection Location. The default MFD Collection location shall be designated areas within the property confines, and in compliance with any applicable City codes and ordinances, unless with consent of the building owner/manager Collection may be from an alternate location, including at the curb.

10.01.3 Accessibility. CONTRACTOR shall Collect all Mixed Materials and Organic Materials Containers that are readily accessible to CONTRACTOR'S crew and vehicles and not blocked. However, CONTRACTOR shall provide "push services" and "key services" as necessary during the provision of MFD Collection Services. Push services shall include, but not be limited to, dismounting from the Collection vehicle, moving the Bins or Carts from their storage location for Collection and returning the Bins or Carts to their storage location. Push services may include unlocking and relocking the Bin or enclosure Key services shall include the provision of a master lock and key by CONTRACTOR to the Service Address for the convenience of CONTRACTOR. CONTRACTOR shall be compensated for providing "push services" and or "key services" in accordance with the approved Maximum Collection Service Rates as provided in Exhibit 1 or as may be adjusted in accordance with the terms of this Contract.

10.01.4 Difficult to Serve. If CONTRACTOR determines that the set--out location for Carts or Bins is Difficult to Serve, CONTRACTOR shall contact the MFD Customer to discuss a change in the set out location. In the event a new set out location is not agreed to between the CONTRATOR and MFD Customer, then CONTRACTOR shall be compensated for providing Difficult to Serve Collection Services in accordance with the approved Maximum

Collection Service Rates as provided in Exhibit 1 or as may be adjusted in accordance with the terms of this Contract.

10.02 MFD Mixed Materials Collection Service.

10.02.1 Containerized Mixed Materials. CONTRACTOR shall provide MFD Mixed Materials Collection Service to all MFD Service Addresses in the Service Area where the Mixed Materials are properly containerized in Mixed Materials Carts or Bins, except as set forth in Sections 10.02.5 or 10.04 regardless of whether or not the lid is fully closed.

10.02.2 Service Frequency. CONTRACTOR shall provide MFD Mixed Materials Collection Service at least weekly. However, in those instances where the scheduled Collection day falls on a holiday as set forth in Section 6.11 herein, the Collection day may be adjusted in a manner agreed to between the MFD Service Recipient and CONTRACTOR as long as service is received a minimum of one (1) time per week.

10.02.2.1 CONTRACTOR shall respond to requests for service utilizing Roll-Off Boxes within two (2) Work Days of the request from the MFD Customer.

10.02.3 Container Sizes. CONTRACTOR shall offer Mixed Materials Containers in 20, 32, 64 and 96 gallon nominal Cart sizes and in 1, 1.5, 2, 3, 4, 6 and 7cubic yard Bins. CONTRACTOR shall offer Roll-Off Boxes in 6, 10, 20, 30, and 40 cubic yard sizes with lids.

10.02.4 Minimum Capacity. CONTRACTOR shall provide Mixed Materials Container sizes and with Collection frequencies such that the total weekly capacity of Mixed Materials Collection Service is equal to the number of Dwelling Units in the MFD multiplied by twenty (20) gallons. The size and number of the Container(s) and the frequency (above the minimum) of Collection shall be determined by the MFD Customer. However, the size and frequency shall be sufficient to meet the minimum capacity set forth in this Section 10.02.4 and to provide that no Mixed Materials need be placed outside the appropriate Container on a regular basis.

10.02.4.1 For purposes of calculating minimum capacity in cubic yards under Section 10.02.4, the minimum gallons (calculated by multiplying the number of Dwelling Units in the MFD times twenty (20) gallons) shall be divided by two hundred (200) and the result calculated to the first decimal place. In those instances where the result does not equal a specific Container size offered by CONTRACTOR, the results shall be rounded to the nearest Container size, in accordance with the examples set forth below.

10.02.4.2 For example, if a MFD is composed of twelve (12) Dwelling Units then the minimum capacity would be calculated as two hundred forty (240) gallons, (12 Dwelling Units x 20 gallons per Dwelling Unit), which is equivalent to 1.2 cubic yards (240 gallons /200 gallons per cubic yard = 1.2 cubic yards), and rounded down to 1 cubic yard.

10.02.4.3 For example, if a MFD is composed of fifteen (15) Dwelling Units then the minimum capacity would be calculated as three hundred (300) gallons, (15 Dwelling Units x 20 gallons per Dwelling Unit) which is equivalent to 1.5 cubic yard (300 gallons /200 gallons per cubic yard = 1.5 cubic yards). Since CONTRACTOR offers a 1.5 cubic yard Bin rounding is not necessary.

10.02.4.4 For example, if a MFD is composed of twenty five (25) Dwelling Units then the minimum capacity would be calculated as five hundred (500) gallons, (25 Dwelling Units x 20 gallons per Dwelling Unit) which is equivalent to 2.5 cubic yard (500 gallons /200 gallons per cubic yard = 2.5 cubic yards), rounded up to 3 cubic yards.

10.02.5 Collection of Mixed Materials Overage. CONTRACTOR shall be required to Collect all Mixed Materials Overage that are set out for Collection regardless of whether or not the Mixed Materials Overages are properly contained in a bag affixed with an Extra Service Tag. CONTRACTOR shall not be entitled to additional compensation for the Collection Mixed Materials Overages unless such Overages are not contained in bags with affixed Extra Service Tags in which case CONTRACTOR shall obtain and retain pictorial evidence of such Overages and may be compensated for the Collection of such Overages in accordance with the approved "Overage" surcharge as provided in Exhibit 1 or as may be adjusted under the terms of this Contract.

10.02.6 Multiple Overages. In the case of repeated Overages of Mixed Materials CONTRACTOR may send written notification to the MFD Customer that includes dates of observed Overages, any previous notifications, photographic documentation of said Overages, and an offer to arrange for an appropriate change in Bin or Cart size, and /or Collection frequency. Should Overages persist after three (3) notifications and CONTRACTOR is unable to reach an agreement with the MFD Customer regarding an appropriate change in Bin or Cart size and/or frequency of Collection, CONTRACTOR may impose such service level increase as is needed to avoid the Overages and notify the MFD Customer and Contract Manager in writing. The MFD Customer may petition CITY regarding any change in Bin or Cart size and/or Collection frequency. Should three (3) months elapse with no Overage recurrence taking place following the change in service the Overage problem shall be considered resolved.

10.02.7 Additional Mixed Materials Capacity. Upon notification to CONTRACTOR by CITY or a MFD Customer that additional Mixed Materials capacity is requested, CONTRACTOR shall deliver such Mixed Materials Containers as are needed to meet the capacity requirements of the Service Address no later than the next regularly scheduled Collection day. CONTRACTOR may be compensated for the cost of providing additional Mixed Materials capacity in accordance with the approved Maximum Collection Service Rates as provided in Exhibit 1 or as may be adjusted under the terms of this Contract.

10.02.8 Mixed Materials Processing Facility. All Mixed Materials Collected as a result of performing MFD Mixed Material Collection Service shall be delivered to the Mixed Materials Processing Facility.

10.02.9 Residue from Mixed Materials Processing. An amount of Residue equal to the Residue generated as a result of Processing the Mixed Material Collected during the performance of MFD Mixed Materials Collection Service under the terms of this Contract shall be delivered to the Disposal Facility.

10.03 MFD Organic Materials Collection Service. This service will be governed by the following terms and conditions: (Note: based on the final decision of the City this section may be amended to reflect that there is a charge for this subscription service.)

10.03.1 Containerized Organic Materials. CONTRACTOR shall provide MFD Organic Materials Collection Service to all MFD Customers in the Service Area who request such service and whose Organic Materials are properly containerized in Organic Materials Carts or Bins, except as set forth in Sections 10.03.5 and 10.04, regardless of whether the lids are closed. CONTRACTOR shall provide all MFD Customers requesting this service with a written copy of the provisions of Section 10.03.7 regarding discontinuance of service.

10.03.2 Service Frequency. CONTRACTOR shall provide MFD Organic Materials Collection Service at least weekly. However, in those instances where the scheduled Collection day falls on a holiday as set forth in Section 6.11 herein, the Collection day may be

adjusted in a manner agreed to between the Service Recipient and CONTRACTOR as long as service is received a minimum of one (1) time per week.

10.03.3 Container Sizes. Except as set forth in Section 10.03.6 CONTRACTOR shall offer Organic Materials Containers in 32, and 64 gallon nominal Cart sizes.

10.03.4 Minimum Capacity. At a minimum, CONTRACTOR shall provide one (1) 32 gallon Organic Materials Cart to any MFD of twelve (12) or fewer Dwelling Units, and one (1) 64 gallon Organic Materials Cart to any MFD of thirteen or (13) more Dwelling Units.

10.03.5 Collection of Organic Materials Overages. CONTRACTOR shall be required to Collect all Organic Materials that are set out for Collection regardless of whether or not the Organic Materials are contained in an Organic Materials Cart CONTRACTOR shall be entitled to additional compensation for the Collection of Organic Materials Overages in accordance with the approved "Overage" surcharge as provided in Exhibit 1 or as may be adjusted under the terms of this Contract.

10.03.6 Additional Organic Materials Capacity. Upon notification to CONTRACTOR by CITY or a Customer that additional Organic Materials capacity is requested, CONTRACTOR shall deliver such Organic Materials Containers as are needed to meet the capacity requirements of the Service Address no later than the next regularly scheduled Collection day. CONTRACTOR must provide additional Container capacity if requested by the MFD Customer.

10.03.7 Reduction or Discontinuation of Service. CONTRACTOR shall retain the right to reduce capacity or discontinue provision of Organic Materials Collection Service to Service Addresses under the following circumstances.

10.03.7.1 The Organics Cart is found to be contaminated through the inclusion of more than ten (10) percent of materials that are not Organic Materials as defined herein more than four (4) times in any twelve (12) month period. Upon finding a fourth instance of such contamination in any twelve (12) month period CONTRACTOR shall notify the MFD Customer in writing that an additional violation of the contamination requirements of the program will result in the discontinuance of service.

10.03.7.2 The Mixed Materials Container is found to contain Organic Materials, as defined herein, of more than ten (10) percent more than four (4) times in any twelve (12) month period. Upon finding a fourth instance of such inclusion of Organic Materials in the Mixed Materials Container in any twelve (12) month period CONTRACTOR shall notify the MFD Customer in writing that an additional violation of the source separation requirements of the program will result in the discontinuance of service.

10.03.8 Organic Materials Processing Facility. CONTRACTOR shall deliver all Collected Organic Materials to a fully permitted Organic Materials Processing Facility. All expenses related to Organic Materials Processing and marketing will be the sole responsibility of CONTRACTOR.

10.03.9 Organic Materials Processing Services. Except for Organic Materials Residue CONTRACTOR shall ensure that all Organic Materials Collected pursuant to this Contract are Diverted.

10.04 Holiday Tree Collection. CONTRACTOR shall Collect Holiday Trees from all MFD Customers in the manner set forth in Exhibit 10 to this Contract. CONTRACTOR shall

provide this service beginning on the first Work Day after December 25th through the end of the second full work week in January or dates approved by CITY.

10.04.1 Contaminated Holiday Trees. Holiday trees that are flocked or contain tinsel or other decorations or are attached to a tree stand may be delivered to the Disposal Facility at the discretion of CONTRACTOR.

10.05 Bulky Goods Collection Service. This service will be governed by the terms and conditions set forth in Exhibit 14 and such changes to that Exhibit as may be agreed to between CITY and CONTRACTOR.

10.05.1 Annual Changes to Bulky Goods Collection Service Requirements. Beginning with Contract Year July 1, 2016 through June 30, 2017 and annually thereafter during the term of this Contract, CITY and CONTRACTOR may mutually agree to changes in the Bulky Goods Collection Service program. Such mutually agreed to changes shall be documented through the revision of Exhibit 14 to this Contract and the revised Exhibit 14 shall be signed by authorized representatives of CITY and CONTRACTOR.

10.06 Sharps Collection Service. The service will be governed by the following terms and conditions. (To be completed based on program proposed by selected proposer.)

10.07 HHW Collection Service. The service will be governed by the following terms and conditions. (To be completed based on program proposed by selected proposer.)

10.08 Temporary Roll-Off Box Collection Service. CONTRACTOR shall provide Temporary Roll-Off Collection Service to all MFD Customers in the Service Area subscribing to such service. CONTRACTOR shall respond to requests for service within two (2) Work Days of receipt of the request. CONTRACTOR shall be compensated for such services in accordance with the Maximum Collection Service Rates as set forth in Exhibit 1 to this Contractor as may be adjusted in accordance with the terms of this Contract.

ARTICLE 11. COMMERCIAL COLLECTION SERVICES

(Note: this Article may be amended depending on the award of Non-Exclusive Commercial Recycling Collection Services)

11.01 Commercial Collection Services. These services will be governed by the following terms and conditions.

11.01.1 Size and Frequency of Service. CONTRACTOR shall offer Mixed Organic Materials Carts in Materials Carts in 20, 32, 64 and 96 gallon nominal Cart sizes, and Recyclable Materials and 32, 64 or 96 gallon nominal Cart sizes. CONTRACTOR shall offer Mixed Materials, Recyclable Materials, and Organic Materials Bins in 1, 1.5 2, 3, 4, 6 and 7 cubic yard sizes. CONTRACTOR shall offer Mixed Materials, Recyclable Materials, and Organic Materials Roll-Off Boxes in 6, 10, 20, 30, and 40 cubic yard sizes with lids. However, in those instances where the scheduled Collection day falls on a holiday as set forth in Section 6.11 herein, the Collection day may be adjusted in a manner agreed to between the Commercial Customer and CONTRACTOR as long as service is received a minimum of one (1) time per week. The size of the Container and the frequency (above the minimum) of Collection shall be determined between the Commercial Customer and CONTRACTOR. However, size and frequency shall be sufficient to provide that no Mixed Materials, Recyclable Materials, or Organic Materials need be placed outside the Container on a regular basis. CONTRACTOR

shall respond to requests for services utilizing Roll-Off Boxes within two (2) Work Days of the request from the Commercial Customer. Commercial Customers may use a Compactor they own or lease provided that the Customer is completely responsible for its proper maintenance and that such Compactor shall be of a type that can be serviced by CONTRACTOR'S equipment.

11.01.2 Manner of Collection. CONTRACTOR shall provide Commercial Collection Services with as little disturbance as possible and shall leave any Container in an upright position, with the lid closed, at the same point it was Collected without obstructing alleys, roadways, driveways, sidewalks or mail boxes. CONTRACTOR shall close or lock, as appropriate, Containers and Container enclosures that were opened by CONTRACTOR as part of the Collection process.

11.01.3 Accessibility. CONTRACTOR shall Collect all Mixed Materials and Organic Materials Containers that are readily accessible to CONTRACTOR'S crew and vehicles and not blocked. However, CONTRACTOR shall provide "push services" and "key services" as necessary during the provision of Commercial Collection Services. Push services shall include, but not be limited to, dismounting from the Collection vehicle, moving the Bins or Carts from their storage location for Collection and returning the Bins or Carts to their storage location. Push services may include unlocking and relocking the Bin or enclosure Key services shall include the provision of a master lock and key by CONTRACTOR to the Service address for the convenience of CONTRACTOR. CONTRACTOR shall be compensated for providing "push services" and or "key services" in accordance with the approved Maximum Collection Service Rates as provided in Exhibit 1 or as may be adjusted in accordance with the terms of this Contract.

11.01.4 Difficult to Serve. If CONTRACTOR determines that the set-out location for Carts or Bins is Difficult to Serve, CONTRACTOR shall contact the Commercial Customer to discuss a change in the set out location. In the event a new set out location is not agreed to between the CONTRATOR and Commercial Customer, then CONTRACTOR shall be compensated for providing Difficult to Serve Collection Services in accordance with the approved Maximum Collection Service Rates as provided in Exhibit 1 or as may be adjusted in accordance with the terms of this Contract.

11.01.5 Multiple Overages. In the case of repeated Overages of Mixed Materials, Recyclable Materials, or Organic Materials, CONTRACTOR may send written notification to the Commercial Customer that includes dates of observed Overages, any previous notifications, photographic documentation of said Overages, and an offer to arrange for an appropriate change in Bin or Cart size, and/or Collection frequency. Should Overages persist after three (3) notifications and CONTRACTOR is unable to reach an agreement with the Commercial Customer regarding an appropriate change in Bin or Cart size and/or frequency of Collection, CONTRACTOR may impose such service level increase as is needed to avoid the Overages and notify the Commercial Customer and Contract Manager in writing. The Commercial Customer may petition CITY regarding any change in Bin or Cart size and/or Collection frequency. Should three (3) months elapse with no Overage recurrence taking place following the change in service the Overage problem shall be considered resolved.

11.02 Commercial Mixed Materials Collection Service. This service will be governed by the following additional terms and conditions.

11.02.1 Containerized Mixed Materials. CONTRACTOR shall provide Commercial Mixed Materials Collection Service to all Commercial Service Addresses in the Service Area where Mixed Materials are properly Containerized in Mixed Materials Containers,

regardless of whether the lid is fully closed where the Containers are accessible as set forth in Section 11.01.3 above.

11.02.2 Collection of Mixed Materials Overage. CONTRACTOR shall also be required to Collect all Mixed Materials Overages that are set out for Collection regardless of whether or not the Mixed Materials Overages are properly contained in a Container. CONTRACTOR shall obtain and retain pictorial evidence of such Overages and may be compensated for the Collection of such Overages in accordance with the approved "Overage" Maximum Collection Service Rate as provided in Exhibit 1 or as may be adjusted under the terms of this Contract.

11.02.3 Disposal and Mixed Materials Processing Facilities. All Mixed Materials Collected as a result of performing Commercial Mixed Materials Collection Services shall be transported and delivered to the Disposal Facility or the Mixed Materials Processing Facility.

11.02.3.1 Residue From Mixed Materials Processing. An amount of Residue equal to the Residue generated as a result of Processing the Mixed Materials Collected during the performance of Commercial Mixed Materials Collection Services under the terms of this Contract shall be delivered to the Disposal Facility.

11.03 Additional Mixed Materials Capacity. Upon notification to CONTRACTOR by CITY or a Commercial Customer that additional Mixed Materials capacity is requested, CONTRACTOR shall deliver such Mixed Materials Containers as are needed to meet the capacity requirements of the Service Address no later than the next regularly scheduled Collection Day. CONTRACTOR may be compensated for the cost of providing additional Mixed Materials capacity in accordance with the approved "Mixed Materials Collection" Maximum Collection Service Rates provided in Exhibit 1 or as may be adjusted under the terms of this Contract.

11.04 Commercial Non-Exclusive Recyclable Materials Collection Service. This service will be governed by the following additional terms and conditions.

11.04.1 Material Recovery Facility. All Recyclable Materials Collected as a result of performing Commercial Non-Exclusive Recyclable Materials Collection Service shall be delivered to the Material Recovery Facility. All expenses related to Recyclable Materials Processing and marketing will be the sole responsibility of CONTRACTOR.

11.04.2 Additional Recyclable Materials Capacity. Upon notification to CONTRACTOR by CITY or a Commercial Customer that additional Recyclable Materials capacity is requested, CONTRACTOR shall deliver such Recyclable Materials Containers as are needed to meet the capacity requirements of the Service address no later than the next regularly scheduled Collection day. CONTRACTOR maybe compensated for the cost of providing additional Recyclable Materials capacity in accordance with the approved "Commercial Recyclable Materials Collection" Maximum Recycling Service Rates provided in Exhibit 1 or as may be adjusted under the terms of this Contract.

11.05 Commercial Organic Materials Subscription Collection Service. This service will be governed by the following terms and conditions.

11.05.1 Containerized Organic Materials. CONTRACTOR shall provide Commercial Organic Materials Subscription Collection Service to all Commercial Customers in the Service Area that subscribe to such service and whose Organic Materials are properly containerized in Organic Materials Carts or Bins, regardless of whether the lids are closed,

where the Organic Materials Containers are accessible as set forth in Section 11.01.3. CONTRACTOR may be compensated for Commercial Organic Materials Collection Service in accordance with the approved "Commercial Organic Materials Collection" Maximum Collection Service Rates as provided in Exhibit 1.

11.05.2 Collection of Organic Materials Overages. CONTRACTOR shall be required to Collect all Organic Materials that are set out for Collection regardless of whether or not the Organic Materials are properly contained in a Container. CONTRACTOR shall obtain and retain pictorial evidence of such Overages and may be compensated for the Collection of such Overages in accordance with the approved "Overage" Maximum Collection Service Rate as provided in Exhibit 1 or as may be adjusted under the terms of this Contract.

11.05.3 Organic Materials Processing Facility. All Organic Materials Collected as a result of performing Commercial Organics Material Subscription Collection Services shall be delivered to the Organic Materials Processing Facility. All expenses related to Organic Materials Processing and marketing will be the sole responsibility of CONTRACTOR.

11.05.4 Additional Organic Materials Capacity. Upon notification to CONTRACTOR by CITY or a Commercial Customer that additional Organic Materials Capacity is requested, CONTRACTOR shall deliver such Organic Materials Containers as are needed to meet the capacity requirements of the Service Address no later than the next regularly scheduled Collection day. CONTRACTOR shall be compensated for the cost of providing additional Organic Materials Containers in accordance with the approved "Commercial Organic Materials Collection" Maximum Collection Service Rate provided in Exhibit 1 or as may be adjusted under the terms of this Contract.

11.06 Commercial Special Events Collection Service. CONTRACTOR shall offer Mixed Materials, Recyclable Materials and Organic Materials Collection, Disposal and processing services at special events in accordance with the approved "Special Events Collection" Maximum Service Rates provided in Exhibit 1 or as may be adjusted under the terms of this Contract. Such services shall include the delivery and pickup of Containers. CONTRACTOR will deliver Containers the day before the event and pick up Containers the day following the event, unless arranged otherwise with Customer. If the event is on a weekend or Collection holiday, CONTRACTOR will deliver Containers the last Work Day before the event and pick up Containers the first Work Day following the event, unless arranged otherwise with Customer.

11.07 Temporary Roll-Off Box Collection Service. CONTRACTOR shall provide Temporary Roll-Off Collection Service to all Commercial Customers in the Service Area subscribing to such service. CONTRACTOR shall respond to requests for service within two (2) Work Days of receipt of the request. CONTRACTOR shall be compensated for such services in accordance with the Maximum Collection Service Rates as set forth in Exhibit 1 to this Contract as may be adjusted in accordance with the terms of this Contract.

ARTICLE 12. CITY COLLECTION SERVICES

12.01 CITY Collection Services. CONTRACTOR has offered to donate the following services as corporate good will, and such provisions of donated services shall have no rate impact of any kind to CITY, or any SFD, MFD, or Commercial Customer.

12.01.1 Conditions of Service. CONTRACTOR shall provide CITY Collection Services to all CITY Facilities in the Service Area where Mixed Materials and Organic

Materials are properly containerized in Bins, Carts, or Roll-Off Boxes regardless of whether the lid is closed, and where the Bins, Carts, or Roll-Off Boxes are accessible as set forth in Section 12.01.4.

12.01.2 Size and Frequency of Service. CONTRACTOR shall offer Mixed Materials Carts in 20, 32, 64 and 96 gallon nominal Cart sizes, and Organic Materials Carts in 20, 32, 64 or 96 gallon nominal Cart sizes. CONTRACTOR shall offer Mixed Materials and Organic Materials Bins in 1, 1.5, 2, 3, 4, 6, and 7 cubic yard sizes. CONTRACTOR shall offer Mixed Materials and Organic Materials Roll-Off Boxes in 6, 10, 20, 30, and 40 cubic yard sizes with lids. Except for those services that utilize Roll-Off Boxes for Collection, each service shall be provided at least once every week on a scheduled route basis. However, in those instances where the scheduled Collection day falls on a holiday as set forth in Section 6.11 herein, or on a CITY holiday or business closure day, the Collection day may be adjusted in a manner agreed to between CITY and CONTRACTOR as long as service is received a minimum of one (1) time per week. The size of the Container and the frequency (above the minimum) of Collection shall be determined between CITY and CONTRACTOR. However, size and frequency shall be sufficient to provide that no Mixed Materials or Organic Materials need be placed outside the Container on a regular basis. For those services utilizing Roll-Off Boxes for Collection, the frequency of Collection shall be on a regular or irregular basis as determined solely by the needs of CITY.

12.01.3 Manner of Collection. CONTRACTOR shall provide CITY Collection Services with as little disturbance as possible and shall leave any Container an upright position, with the lid secure, at the same point it was Collected without obstructing alleys, roadways, driveways, sidewalks or other public areas. CONTRACTOR shall close or lock, as appropriate, Container enclosures that were opened by CONTRACTOR as part of the Collection process.

12.01.4 Accessibility. CONTRACTOR shall Collect all Mixed Materials and Organic Materials Containers that are readily accessible to CONTRACTOR'S crew and vehicles and not blocked. However, CONTRACTOR shall provide "push services" and "key services" as necessary during the provision of CITY Collection Services. Push services shall include, but not be limited to, dismounting from the Collection vehicle, moving the Bins or Carts from their storage location for Collection and returning the Bins or Carts to their storage location. Push services may include unlocking and relocking the Bin or enclosure Key services shall include the provision of a master lock and key by CONTRACTOR to the Service Address for the convenience of CONTRACTOR. CONTRACTOR shall not be compensated for providing "push services" and or "key services" to CITY.

12.01.4.1 Notification. CONTRACTOR shall notify CITY daily, by e-mail, of all situations that prevent or hinder Collection from any CITY Facility, unless otherwise directed by CITY.

12.02 Street Litter Container Service. During the term of this Contract, CONTRACTOR shall Collect and maintain those street litter Containers as are set forth in Exhibit 4 to this Contract. CITY may modify Exhibit 4 as needed, by providing written notice to CONTRACTOR, but such modification shall not increase the number of street litter Containers by more than ten (10) per Contract Year. This service shall include daily emptying of street litter Containers including liners and enclosures, and removal of debris atop or around Container, on Work days (Monday-Friday), and monitoring and emptying of Containers on Saturday and Sunday, as directed by CITY.

12.02.1 CONTRACTOR shall be responsible for repairing and maintaining all street litter Containers, including liners, doors, locks, and any other attached hardware or mechanisms. Maintenance includes graffiti removal and/or paint-over. Repair to damaged Containers, including removal or paint-over of graffiti, must be completed made within five (5) Work Days of incident.

12.02.2 CONTRACTOR shall be responsible for providing new street litter Containers as needed, replacing irreparably damaged Containers, and maintaining an adequate Container inventory. New street litter Containers shall have separate Garbage and Recyclable Materials capacity integrated into the Container and shall be approved by the Contract Manager. CONTRACTOR shall replace damaged Containers, and place new Containers requested by CITY within five (5) Work Days of incident or request.

12.02.3 CONTRACTOR shall take ownership of CITY street litter Containers owned by CITY upon implementation of Contract (July 1, 2015). CONTRACTOR shall be responsible for Recycling, Disposal, or sale of surplus or damaged street litter Containers. At end of Contract, CITY may exercise option to take ownership of any street litter Containers then in use.

12.02.4 CONTRACTOR shall also be responsible for Collection from those street litter Containers placed in conformance with CITY standards by Business Improvement Districts and Community Benefit Districts if notified by CITY. CITY shall provide CONTRACTOR thirty (30) day notice of such additions to the Collection list and limit such additions to no more than twenty (20) per calendar year.

12.02.5 CONTRACTOR may petition CITY to remove street litter containers from problematic or underutilized locations.

12.03 City Council and Mayor Roll-Off Boxes. CONTRACTOR shall provide delivery and Collection Services for Roll-Off Boxes requested by CITY Council and Mayor for use in the Service Area. CONTRACTOR shall allocate twelve (12) 20-cubic yard Roll-Off boxes to each of the eight (8) Council offices and the Mayor, for a total of up to one hundred eight (108) thirty-yard Roll-Off Boxes each calendar year. Any unused portion of this allocation shall carry forward to succeeding calendar years, up to a maximum of twenty four (24) additional 20-cubic yard Roll-Off Boxes that must be provided in any one (1) calendar year. Such services shall be provided in such a manner that all Collection, Processing and Disposal needs, and related staff support and public education materials for the event are adequately and properly provided for by CONTRACTOR.

12.03.1 CONTRACTOR is responsible for managing requests for Roll-Off Boxes from the offices of CITY Council and Mayor, and for monitoring the allocation and use of the Roll-Off Boxes. CONTRACTOR shall provide CITY a monthly report that shows the allocation of Roll-Off Boxes by office, including allocations that were carried forward, and use to-date for the current calendar year.

12.03.2 CONTRACTOR shall, in response to the written request of the offices of the City Council or Mayor, deliver and Collect Roll-Off Boxes for use in City Council and Mayor Roll-Off Box events. The appropriate office of the City Council or Mayor shall notify CONTRACTOR in writing not less than five (5) calendar days prior to the date of the need for the Roll-Off Box. The notice to CONTRACTOR shall specify the date of delivery and Collection of the Roll-Off Box(es), the location(s) for delivery, and the number of the Roll-Off Boxes to be delivered. CONTRACTOR shall remove the Roll-Off Box no later than the end of the first Work Day following the event day. CONTRACTOR shall transport and deliver the Collected materials

to a facility as is appropriate for the disposition of the materials and approved by the Contract Manager.

12.04 CITY Sponsored Events. CONTRACTOR shall deliver and collect up to thirty (30) Roll-Off Boxes per calendar year in support of CITY sponsored events, as requested by the Contract Manager. At such events where CONTRACTOR provides Roll-Off Boxes, CONTRACTOR shall also provide Carts for CITY'S temporary use if requested by the Contract Manager. CITY may designate Roll-Off Boxes for Mixed Materials, Recyclable Materials or Organic Materials Collection. CITY shall empty Carts prior to removal by CONTRACTOR. CONTRACTOR shall remove Roll-Off Boxes and Carts no later than the end of the first Work Day following the event day. CONTRACTOR shall transport and deliver the Collected materials to a facility as is appropriate for the disposition of the materials, and as approved by the Contract Manager.

12.05 CITY-Approved Adopt-a-Spot Mixed Material and Organics Services. CONTRACTOR shall provide up to One Hundred Fifty (150) 64-gallon Mixed Material or Organics Carts to CITY Adopt A Spot volunteers for use in cleaning and greening public spaces in Oakland. CITY shall provide CONTRACTOR with authorized list of Adopt A Spot volunteer Service Recipients annually. CONTRACTOR shall provide service to such Carts when they are set out for Collection with Service Recipient's other Containers. CONTRACTOR shall provide Mixed Material or Organic Carts and services at no additional cost to Customers, Service Recipients or CITY.

12.06 Temporary Roll-Off Box Collection Service. CONTRACTOR shall provide Temporary Roll-Off Collection Service to all CITY Facilities in the Service Area requesting such service at no charge to CITY. CONTRACTOR shall respond to requests for service within two (2) Work Days of receipt of the request.

12.07 CITY Delivered Materials. CONTRACTOR shall accept up to seven thousand five hundred (7,500) Tons of material (the "tonnage allowance") during the period July 1, 2015 through December 31, 2015 at no charge to CITY. Beginning Calendar Year 2016, and each subsequent Calendar Year, the Tonnage allowance shall be fifteen-thousand (15,000) Tons. In any Calendar Year, CITY shall be allowed to deliver dirt and debris, Garbage, Recyclable Materials, Organic Materials and Bulky Goods above the Tonnage allowance, but not more than the unused Tonnage allowance from the prior two (2) calendar years, at no charge to CITY. Source Separated Recyclable Materials delivered to CONTRACTOR'S facilities shall not count toward the Tonnage allowance established pursuant to this Section. CONTRACTOR shall be compensated for those Tons that exceed the Tonnage allowance for any calendar year, except as otherwise provided in this Section. Such compensation shall be based on the per Ton fee for Disposal at the Disposal Facility.

12.08 Illegal Dumping Notification and Collection. CONTRACTOR shall direct its Collection vehicle drivers to note (i) the addresses of any premises at which the driver observes that Garbage, Mixed Materials, Recyclable Materials, and/or Organic Materials Material is accumulating; and (ii) the address, or other location description, at which Garbage, Mixed Materials, Recyclable Materials, and/or Organic Materials has been dumped in an apparently unauthorized manner. CONTRACTOR shall deliver the address or description to CITY within three (3) Work Days of such observation. CONTRACTOR shall also provide Collection services at up to four (4) locations per Work Day of up to three (3) cubic yards of illegally dumped Garbage or Mixed Materials and unlimited amounts of Recyclable Materials and Organic Materials per location.

12.09 Provision of Compost. CONTRACTOR shall provide up to five hundred (500) cubic yards per Contract Year of premium quality compost or other soil amendment or mulch products delivered to locations in the Service Area and in amounts as directed by the Contract Manager. Should CITY require greater amounts of these products than five hundred (500) cubic yards per Contract Year CONTRACTOR shall provide such at a preferential price. Delivery of compost and other products shall be made no later than three (3) Work Days from receipt by CONTRACTOR of the request from the Contract Manager unless a later day is requested by the Contract Manager.

12.10 Disposal and Processing Facilities.

12.10.1 Mixed Materials Processing Facility and Disposal Facility. All Mixed Materials Collected as a result of CITY Collection Services shall be transported and delivered to the Disposal Facility or the Mixed Materials Processing Facility.

12.10.1.1 Residue From Mixed Materials Processing. An amount of Residue equal to the Residue generated as a result of Processing the Mixed Materials Collected during the performance of CITY Mixed Material Collection Service under the terms of this Contract shall be delivered to the Disposal Facility.

12.10.2 Organic Materials Processing Facility. All Organic Materials Collected as a result of performing CITY Collection Services shall be delivered to the Organic Materials Processing Facility. All expenses related to Organic Materials Processing and marketing will be the sole responsibility of CONTRACTOR.

12.10.3 Residue From Organic Materials Processing. An amount of Residue equal to the Residue generated as a result of Processing the Organic Materials Collected during the performance of CITY Organic Material Collection Service under the terms of this Contract shall be delivered to the Disposal Facility.

12.11 Modification of CITY Collection Services. CITY may from time to time direct modifications of CITY Collection Services. Any such modification which materially increases or decreases the cost of CONTRACTOR providing CITY Collection Services shall be handled pursuant to the procedures set forth in Article 30.

ARTICLE 13. COLLECTION ROUTES

13.01 Collection Routes. Within five (5) Work Days of receipt of a request from CITY, CONTRACTOR shall provide CITY with maps precisely defining Collection routes, and the travel routes to the Collection routes, together with the days and the times at which Collection shall regularly commence.

13.02 Subsequent Collection Route Changes. In the event a Collection route change will change the Collection day for a Service Address, CONTRACTOR shall provide a written plan, which is subject City approval, not less than sixty (60) days before the proposed date of implementation. Contractor shall coordinate implementation of route changes with the Residential Recycling Contractor and shall notify affected Service Addresses of the Collection route changes.

13.03 Route Map Update. CONTRACTOR shall revise the Customer route maps to show the addition of Customers added due to construction / occupancy and shall provide such revised maps to the Contract Manager upon request.

13.04 CONTRACTOR Audit of Routes. In addition to any other auditing requirements under this Contract, CONTRACTOR shall perform a comprehensive audit of SFD, MFD and Commercial Customer Routes every full or partial three (3) calendar years, and submit to CITY a written report on the results of that audit, no later than thirty (30) calendar days after completion of the audit. The report should include the testing protocols, and the details of the route audit findings along with recommendations, if any, on how CONTRACTOR will modify the current system to correct any errors noted during the audit. If CITY requests, CONTRACTOR shall cooperate fully with CITY to allow CITY to verify the accuracy of CONTRACTOR'S route audit report.

13.05 Coordination with Street Sweeping. CITY AND CONTRACTOR acknowledge that CONTRACTOR may have to modify Collection days to accommodate CITY's street sweeping schedule.

ARTICLE 14. COLLECTION EQUIPMENT

14.01 General Provisions. All equipment used by CONTRACTOR in the performance of Collection Services under this Contract shall be of a high quality. At the start of this Contract, all route Collection vehicles utilized by CONTRACTOR pursuant to this Contract shall be new 2014/2015 manufactured vehicles as specified in Exhibit 12 which is attached to and included in this Contract. The vehicles shall be designed and operated so as to prevent Collected materials from escaping from the vehicles. Hoppers shall be closed on top and on all sides with screening material to prevent Collected materials from leaking, blowing or falling from the vehicles. All trucks and Containers shall be watertight and shall be operated so that liquids do not spill during Collection or in transit.

14.02 Vehicle Registration, Licensing and Inspection. On or before July 1, 2015 and upon request by CITY thereafter during the term of this Contract, CONTRACTOR shall submit documentation to the Contract Manager to verify that each of CONTRACTOR'S Collection vehicles is in compliance with all registration, licensing and inspection requirements of the California Highway Patrol, the California Department of Motor Vehicles, and any other applicable laws or regulations. CONTRACTOR shall not use any vehicle that is not in compliance with applicable registration, licensing and inspection requirements to perform Collection Services. Each vehicle shall comply, at all times, with all applicable statutes, laws or ordinances of any public agency.

14.03 Clean Air Vehicles. During the term of this Contract, to the extent required by law, CONTRACTOR shall provide its Collection vehicles to be in full compliance with local, State and federal clean air requirements that were enacted or scheduled to be enacted, including, but not limited to, the California Air Resources Board Heavy Duty Engine Standards as currently proposed to be contained in CCR Title 13, Section 2020 et seq; the Federal EPA's Highway Diesel Fuel Sulfur regulations and any other applicable air pollution control.

14.04 Bulky Goods. Vehicles used for Collection of Bulky Goods containing Freon or other gases shall not use compactor mechanisms or mechanical handling equipment that may release Freon or other gases from pressurized appliances.

14.05 Global Positioning Systems (GPS). CONTRACTOR shall provide all route Collection vehicles equipped with fully functioning on-board GPS with direct and real-time linkages to CONTRACTOR'S Customer service system.

14.06 Vehicle Noise Level. All Collection operations shall be conducted as quietly as possible and must comply with U.S. EPA noise emission regulations currently codified at 40 CFR Part 205, California Vehicle Code Section 27207, and other applicable State, County, and CITY noise control regulations.

14.07 Safety Equipment. All Collection equipment used by CONTRACTOR shall have appropriate safety markings including, but not limited to, highway lighting, flashing and warning lights, clearance lights, and warning flags. All such safety markings shall be in accordance with the requirements of the California Vehicle Code, as may be amended from time to time. All Collection vehicles shall be equipped with audible back-up warning devices.

14.08 Vehicle Signage and Painting. Collection vehicles shall have signage in letters of contrasting color, at a size approved by CITY, on each side and the rear of each vehicle that clearly states that the Collection vehicle is servicing the CITY of Oakland provides CONTRACTOR'S name, CONTRACTOR'S Customer service telephone number, CITY'S Oakland Recycles logo and the number of the vehicle. CONTRACTOR shall repaint all vehicles (including vehicles striping) during the term of this Contract on a frequency as necessary to maintain a positive public image as reasonably determined by the Contract Manager.

14.09 Collection Vehicle Education Requirements. All new Collection vehicles shall include space for outdoor poster advertising to be utilized by CITY. No advertising shall be permitted other than the name and corporate logo of CONTRACTOR except promotional advertisement of the Recyclable Materials and Organic Materials programs.

14.10 Bin, Compactor and Roll-Off Box Signage, Painting, and Cleaning. All metal Bins, Compactors or Roll-Off Boxes furnished by CONTRACTOR shall be either painted or galvanized. All Bins, Compactors or Roll-Off Boxes shall display CONTRACTOR'S name, CONTRACTOR'S toll free customer service telephone number, and shall be kept in a clean and sanitary condition. Each Bin, Compactor or Roll-Off Box shall include a description of the type of material to be placed in the Container and shall be painted in a color and manner, acceptable to CITY, which is unique to that type of material. Such Bins, Compactors or Roll-Off Boxes as are provided by CONTRACTOR shall be steam cleaned and repainted by CONTRACTOR as frequently as necessary, but no more often than one (1) time per quarter, so as to maintain them in a sanitary condition. However, no more often than one (1) time per quarter, upon receipt of notification by CONTRACTOR of graffiti on a Bin, Compactor or Roll-Off Box, CONTRACTOR shall clean or replace such Bin, Compactor or Roll-Off Box within five (5) Work Days.

14.11 Vehicle Maintenance. CONTRACTOR shall maintain Collection vehicles in a clean condition and in good repair at all times and ensure that no Collected materials, oil, grease, or other substances will blow, fall out, escape or leak out of the vehicle, with the exceptions of vehicle emission. All parts and systems of the Collection vehicles shall operate properly and be maintained in a condition satisfactory to CITY. CONTRACTOR shall wash all Collection vehicles at least once a week. All washings shall be conducted in a manner that conforms to the BMP Guidelines for Non-Point Source Pollutants in the publication entitled Storm Water Best Management Practices Handbook for Industrial Commercial published by the California Storm Water Quality Association (CASQA).

14.12 Maintenance Log. CONTRACTOR shall maintain a maintenance log for all Collection vehicles. The log shall at all times be accessible to CITY for physical inspection upon request of Contract Manager, and shall show, at a minimum, each vehicles' CONTRACTOR assigned identification number, date purchased or initial lease, dates of performance of routine

maintenance, dates of performance of any additional maintenance, and description of additional maintenance performed.

14.13 Equipment Inventory. On or before July 1, 2015, and annually thereafter, CONTRACTOR shall provide to CITY an inventory of Collection vehicles and major equipment used by CONTRACTOR for Collection or transportation and performance of services under this Contract. The inventory shall indicate each Collection vehicle by CONTRACTOR-assigned identification number, DMV license number, the ages of the chassis and body, type of fuel used, the type and capacity of vehicle body, the date of acquisition, the decibel rating, the maintenance status, and the number of vehicles by type. CONTRACTOR shall submit to the Contract Manager, by web, cloud, or e-mail, an updated inventory annually, or more often at the request of the Contract Manager. Each vehicle inventory shall be accompanied by a certification signed by CONTRACTOR that all Collection vehicles meet the requirements of this Contract.

14.14 Reserve Equipment. CONTRACTOR shall have available to it, at all times, reserve Collection equipment that can be put into service and operation within one (1) hour of any breakdown. Such reserve equipment shall correspond in size and capacity to the equipment used by CONTRACTOR to perform the contractual duties.

14.15 Covering of Loads. All loads not in covered body trucks shall be tarped or restrained to prevent spilling.

14.16 Weight Restrictions. CONTRACTOR shall not load vehicles in excess of the manufacturer's recommendations or limitations imposed by federal, State or local weight restrictions on vehicles. CONTRACTOR acknowledges that CITY may document compliance with this provision of the Contract through review of scale tickets and records of the Disposal and Processing Facilities.

14.17 Vehicle Tare Weights. Between the time this Contract is executed and July 1, 2015, CONTRACTOR shall have the Disposal Contractor weigh and determine the unloaded ("tare") weight of each of CONTRACTOR'S vehicles that will be used to deliver Mixed materials and other materials to the Disposal Facility. CONTRACTOR shall, at least every two (2) years, have the Disposal Contractor reweigh and revise tare weights for all CONTRACTOR'S vehicles used to deliver Mixed Materials and other materials to the Disposal Facility.

14.17.1 When new vehicles are placed into service and immediately after any significant repairs to vehicles by CONTRACTOR, CONTRACTOR shall have the Disposal Contractor promptly weigh and determine the tare weight of each new vehicle. CONTRACTOR, CITY, and Disposal Contractor shall have the right to request re-taring of vehicles up to two (2) times per year, unless there is reasonable suspicion or evidence that tare weights are not accurate, in which case, tare weights may be updated more frequently to ensure accuracy. (This may be deleted if all material is transported in transfer trailers.)

ARTICLE 15. LOCAL OFFICE

15.01 Oakland Office. During the term of this Contract CONTRACTOR shall maintain an office in the Service Area. CONTRACTOR'S office shall provide toll-free telephone access to CITY residents, and shall be located where Customers can pay their bills or make service requests or inquires in person. The office shall be open and staffed from 8:00 am to 6:00 pm on Work Days, except for designated holidays. The office shall have a responsible person in charge who is familiar with the specific Collection Services provided by CONTRACTOR to CITY.

CONTRACTOR shall equip the office with a direct terminal connection to the customer service system operated at CONTRACTOR'S call center.

ARTICLE 16. CUSTOMER SERVICE

(Note: this Article may be amended depending on the award of Non-Exclusive Commercial Recycling Collection Services.)

16.01 Customer Service Program. CONTRACTOR shall develop, implement, and maintain a customer service program approved by CITY to ensure that all services provided under this Contract are high quality. CONTRACTOR'S customer service plan is set forth as Exhibit 9, which is attached to and included in this Contract.

16.02 CONTRACTOR'S Customer Service Center and Telephone and Email Access. CONTRACTOR shall maintain a Customer center located in Alameda County (Note: this may be amended based on the final selection of CITY) that provides toll-free telephone and email access to residents and businesses of CITY, and is staffed by trained and experienced Customer Service Representatives (CSRs). Such Customer service center shall have responsible persons in charge during Collection hours, and shall be open 8:00 a.m. to 6:00 p.m. on regularly scheduled Work Days (Monday through Friday) and when SFD or MFD Collection Services are scheduled to be provided on Saturday; and be staffed with a sufficient number of CSRs and equipped with sufficient telephone and email capacity such that:

16.02.1 Up to ten (10) incoming calls can be received at one time;

16.02.2 Customer or Service Recipient calls received during normal business hours are answered within five (5) rings;

16.02.3 Customer or Service Recipient on-hold waiting time shall be three (3) minutes or less based on a daily average;

16.02.4 During any on-hold waiting time and when the call center is closed, Customers or Service Recipients are offered the option to leave a voice message;

16.02.5 Any call "on-hold" in excess of one and one half (1.5) minutes shall have the option to remain "on-hold" or to be switched to a message center where the Customer can leave a message;

16.02.6 Customer or Service Recipient voice messages are returned in the order received and at latest by the close of the Work Day following the day the voice message is received; and

16.02.7 Customer or Service Recipient mails are responded to in the order received and at latest by the close of the Work Day following the day the email is received.

16.03 Telephone Access to the Residential Recycling Contractor. CONTRACTOR shall provide a local telephone number that allows callers to be automatically transferred to the Residential Recycling Contractor, as appropriate. It shall be CONTRACTOR'S responsibility to ensure that transferred callers experience no changes in volume or clarity from that associated with direct calls to CONTRACTOR. The Residential Recycling Contractor shall reasonably determine the appropriate volume for call transfers.

16.04 Multilingual/TDD Service. CONTRACTOR'S call center shall at all times during the normal business hours set forth in Section 16.02 maintain the capability of responding to telephone calls in English, Chinese (Cantonese), Vietnamese, Spanish, and such other

languages as reasonably may be directed by CITY in accordance with its Equal Access Program requirements. CONTRACTOR shall at all times maintain the capability of responding to telephone calls through Telecommunications Device for the Deaf (TDD) Services.

16.05 Website. CONTRACTOR shall develop and maintain a state-of-the-art website dedicated to services provided in CITY, which is accessible by the public. The web site shall include answers to frequently asked questions, rates for Collection Services, listing and description of Recyclable Materials and Organic Materials, Collection Service schedules and maps, and other related topics. The site shall have a link to CITY'S web site and a link to the Recyclable Materials Collection Contractor's website. CONTRACTOR shall arrange for CITY'S website to include an e-mail link to CONTRACTOR and a link to CONTRACTOR'S website. CONTRACTOR'S website shall provide the public the ability to e-mail comments inquiries and request services or service changes to CONTRACTOR.

ARTICLE 17. COMMUNITY OUTREACH SERVICES

(Note: this Article may be amended depending on the award of Non-Exclusive Commercial Recycling Collection Services)

17.01 Community Outreach Services. CONTRACTOR shall be required to implement, at its own expense, CONTRACTOR'S Community Outreach Strategy set forth in Exhibit 7 to this Contract. The Community Outreach Strategy will provide an overview of the Contractor's plans to engage the community in full use of the Collection Services and the Diversion goals of the Contract.

17.01.1 Transitional Outreach Plan. CONTRACTOR shall prepare and implement, at its own expense, a transitional outreach plan consisting of a community outreach campaign that makes aware and fully informs SFD, MFD, and Commercial Customers of the Collection Services, highlighting changes to the current services, relevant to the Customer experience, which will occur through execution of the Contract. The transitional outreach plan will be consistent with and informed by CONTRACTOR'S Community Outreach Strategy as set forth in Exhibit 7. The transitional outreach plan will be implemented beginning January 2015, or with execution of the Contract, whichever is later. The transitional plan will cover all CONTRACTOR'S community outreach services in Calendar Year 2015. The budget for the transitional plan shall be not more than One Million Dollars ($1,000,000).

17.01.2 Annual Outreach Plan. CONTRACTOR, at its own expense, shall prepare, submit and implement an annual outreach plan that is consistent with and informed by CONTRACTOR'S Community Outreach Strategy as set forth in Exhibit 7. CONTRACTOR shall submit the initial annual outreach plan for CITY approval no later than September 1, 2015, and subsequent annual outreach plans no later than September 1st each year thereafter. CITY shall review and respond to the proposal within forty five (45) days. Implementation of the annual outreach plan would begin on January 1st of each year. The annual outreach plan must include specific steps designed to increase Diversion and Customer participation in the Collection Services, and measure the effectiveness of these efforts. The annual outreach plan should target specific materials, or demographic or service sectors where improvements can be maximized. Outreach targets should be based on measured trends and patterns in recycling and disposal activities, participation, and tonnages by service sector, within the Service Area and within identified Service Area localities, as indicated by information obtained by both the Contract Manager and CONTRACTOR'S staff.

17.01.3 Community Outreach Budget. CONTRACTOR shall be required to allocate or spend no more than One Million Dollars ($1,000,000) in the first calendar year of the Contract, to implement the transitional outreach plan, and not more than Five Hundred Thousand Dollars ($500,000) per calendar year thereafter to implement the annual outreach plan. All such expenditures require prior written approval from CITY. CITY and CONTRACTOR may mutually agree to perform joint Public Outreach activities using all or some of the annual Public Outreach budget. Public relations activity costs cannot be applied to the Public Outreach budget. At the end of the calendar year, any funds in the approved annual outreach budget that remain unspent shall be carried forward to the following calendar year. However, in the event CONTRACTOR has unspent funds at the end of three (3) consecutive calendar years, the unspent funds shall be deposited in the Rate Stabilization Fund.

17.01.4 Community Outreach Professional Services. Contractor will engage the services of a professional firm or firms that specialize in community outreach, marketing, public relations, and graphic design that preferably are based in Oakland or the Bay Area. Such firms shall possess a minimum five (5) years' experience in marketing, communications and/or community outreach, including two (2) years' experience conducting outreach in a city comparable to Oakland in size and complexity; and knowledge of outreach best practices, such as community-based social marketing.

17.02 CITY Approval Required. All marketing, messaging or other mass communications, including but not limited to print, outdoor media, broadcast, web-based, e-mail, and telephone voice messages, directed to Customers or Service Recipients, must be approved by the Contract Manager prior to execution or delivery to the Customer or Service Recipient, regardless of whether these communications relate to the Collection Services. All public relations, press and community outreach activities that involve the Collection Services, or that are targeted to the Service Recipients or Customers, must have prior written approval from the Contract Manager, whether or not they are being paid for from the Community Outreach budget. CONTRACTOR shall not perform any work on Community Outreach materials or activities without prior written approval from the Contract Manager. All materials shall be submitted in writing for review and approval. Written authorization by the Contract Manager is required prior to final production of any Community Outreach materials.

17.03 Outreach Production Requirements. CONTRACTOR shall utilize designers, printers and mail houses located within the Service Area for the design, development, printing and mailing of all community outreach materials related to this Contract, unless otherwise approved by Contract Manager. In addition, unless Contract Manager has granted an exception in writing, the Community Outreach materials shall:

17.03.1 Be printed on one hundred (100) percent recycled paper with at least fifty (50) percent post-consumer recycled content using soy based (or other non-toxic) inks;

17.03.2 Include CITY'S Oakland Recycles logo and the CITY'S recycling hotline phone number;

17.03.3 Include four (4) languages whenever possible and/or needed; and

17.03.4 Be made accessible to those with disabilities, in accordance with all applicable federal, state, and local laws and regulations.

17.04 Copyrights. At CONTRACTOR'S sole expense, CONTRACTOR shall execute appropriate documents to assign to CITY the copyright to works created pursuant to this Contract if so requested by CITY. CONTRACTOR shall provide space in CONTRACTOR'S

printed public outreach materials, for CITY to include announcements, community information, articles, and photographs.

17.05 Annual Collection Service Notice. Each full or partial calendar year during the term of this Contract, CONTRACTOR shall publish and distribute separate notices to all SFD Customers and Service Recipients regarding the SFD Collection Service, to all MFD Customers and Service Recipients regarding MFD Collection Service, and to all Commercial Customers regarding Commercial Collection Service. To the extent appropriate, based on the category of Customer receiving the notice, it shall contain at a minimum: definitions of the materials to be Collected, procedures for setting out the materials, Collection and Disposal options for unacceptable materials such as Hazardous Waste, maps of the Service Area indicating the day of the week that Collection Service will be provided, and CONTRACTOR Customer service phone number, email address and website address. The notice shall be provided in English, Spanish, Vietnamese and Chinese (Cantonese) and such other languages as reasonably may be directed by CITY in accordance with its Equal Access Program requirements, and shall be distributed by CONTRACTOR no later than June 1, 2015 for the first partial calendar year and by November 15, 2016 and annually thereafter for the remaining term of the Contract.

17.06 Bill Inserts. CITY may provide educational and other material to CONTRACTOR for inclusion in the invoices provided by CONTRACTOR to SFD, MFD and Commercial Customers for Collection Services. CONTRACTOR shall not charge CITY for the inclusion of up to three (3) 8 ½" by 11" pages per billing. To the extent CITY provides the insert material in an electronic format, CONTRACTOR shall ensure that such materials are delivered or made available to Customers utilizing electronic billing options provided by CONTRACTOR. In the case of bill inserts developed jointly by CITY and CONTRACTOR, the cost of bill insert development and production shall be allocated to the annual community outreach budget.

17.07 Bulky Goods Collection Service. Outreach requirements for the Bulky Goods Collection Service program include an annual announcement sent to all residential Service Addresses, a mid-year reminder notice to all service addresses, and an appointment confirmation notice sent to Service Recipients following the scheduling of an appointment. These materials are described in the Bulky Services Agreement, attached as Exhibit 14, which may be modified as needed by agreement of CONTRACTOR and CITY.

17.08 CONTRACTOR'S Website. CONTRACTOR shall maintain a website that uses graphics and statistics illustrating CITY progress toward becoming a Zero Waste Community, and provides resources the community can use to support Zero Waste and Sustainability efforts, the Collection Services, and other programs as requested by CITY. CITY shall review and approve CONTRACTOR'S website content that is related to this Contract.

17.09 News Media Relations. CITY shall oversee all press activities including press releases, press conferences, press kits, press packets and general press inquiries regarding the Program. CONTRACTOR shall notify the Contract Manager by e-mail or phone of all requests for news media interviews related to the Collection Services program within twenty-four (24) hours of CONTRACTOR'S receipt of the request. Before responding to any news media inquiries involving controversial issues or any issues likely to affect participation or Customer perception of services, CONTRACTOR will discuss CONTRACTOR'S proposed response with the Contract Manager. Copies of draft news releases or proposed trade journal articles shall be submitted to CITY for prior review and approval at least five (5) Work Days in advance of release. Copies of articles resulting from media interviews or news releases shall be provided to CITY within five (5) Work Days after publication.

17.10 Compost for CITY Residents. CONTRACTOR shall make available a total of eighty (80) cubic yards per calendar year of pre-bagged compost for distribution to Oakland residents at two (2) annual compost give-back events within the jurisdictional limits of CITY during each of the first two (2) years of the Contract. CONTRACTOR shall work with CITY to determine the dates and locations of the give-back events.

17.10.1 CONTRACTOR shall be responsible for all aspects related to planning, managing, and staffing of the compost give-back event. Residents shall be required to show proof of residency to receive the compost product. No later than ten (10) Work Days following the compost give-back event, CONTRACTOR shall submit to CITY a written report identifying the number of residents who accepted materials; the number of bags given away; the total tonnage of material given away; a summary of feedback and suggestions provided by residents; and any suggestions CONTRACTOR proposes for the next compost give-back event(s).

ARTICLE 18. EMERGENCY SERVICE PROVISIONS

18.01 Emergency Services. CONTRACTOR shall provide emergency services (i.e., special collections, transport, processing,) at CITY'S request in the event of a declared local, State, or federal state of emergency, major accidents, disruptions or natural calamities. CONTRACTOR shall be capable of providing emergency services within twenty-four (24) hours of notification by CITY, or as soon thereafter as is reasonably practical in light of the circumstances. An emergency contact person designated by CONTRACTOR shall be accessible during the term of this Contract twenty-four (24) hours per day for the Contract Manager or other CITY Administrator designee to contact CONTRACTOR. CONTRACTOR shall receive additional compensation, above the normal compensation contained in this Contract, to cover the costs of rental equipment, additional personnel, overtime hours and other documented expenses based on the rates set forth in Exhibit 1 to this Contract provided CONTRACTOR has first secured written authorization and approval from CITY through the CITY Administrator.

18.02 In the event of an emergency as set forth above, the Contract Manager may grant CONTRACTOR a variance from regular routes and schedules. As soon as practicable after such event, CONTRACTOR shall advise the Contract Manager when it is anticipated that normal routes and schedules can be resumed. The Contract Manager shall make an effort through the local news media to inform the public when regular services may be resumed.

ARTICLE 19. RECORD KEEPING & REPORTING REQUIREMENTS

(Note: this Article may be amended depending on the award of Non-Exclusive Commercial Recycling Collection Services)

19.01 Record Keeping.

19.01.1 Accounting Records. CONTRACTOR shall maintain full, complete and separate financial, statistical and accounting records, pertaining to cash, billing, and provision of all Collection Services provided under this Contract, prepared on an accrual basis in accordance with generally accepted accounting principles. Such records shall be subject to audit and inspection by CITY. Gross Receipts derived from provision of the Collection Services

shall be recorded as revenues in the accounts of CONTRACTOR. These records shall be separate and segregated from other records maintained by CONTRACTOR for services outside the scope of this Contract as may be provided by CONTRACTOR. CONTRACTOR shall maintain and preserve all cash, billing and Disposal records for a period of not less than five (5) years following the close of each of CONTRACTOR'S fiscal years.

19.01.2 CONTRACTOR Payments to CITY. CONTRACTOR shall maintain records of all payments made to CITY for all items listed in Section 7.20.

19.01.3 Tonnage Records. CONTRACTOR shall maintain records of the incoming and outgoing quantities, measured in pounds, of (i) Mixed Materials, Recyclable Materials, and Organics Material, and Bulky Materials Collected, Processed, composted, and Disposed under the terms of this Contract, and (ii) Recyclable Materials and Organic Materials, by material type, sold, donated or given for no compensation, and Residue Disposed.

19.01.4 Records. CONTRACTOR shall maintain all other records reasonably related to provision of Collection Services, whether or not specified in this Article 19 or elsewhere in the Contract.

19.01.4.1 CONTRACTOR shall maintain a relational database that includes data from all required reports for the term of this Contract, and provide CITY with access to the database. Database shall be flexible to accommodate changing needs and conditions over the term of this Contract.

19.02 Reporting Requirements. Monthly reports shall be delivered to CITY no later than fifteen (15) calendar days after the end of the prior month. Quarterly reports shall be delivered to CITY no later than twenty (20) calendar days after the end of the reporting quarter. Annual reports shall be delivered to CITY no later than thirty (30) days after the end of each preceding calendar year. Monthly, quarterly and annual reports shall be provided electronically in forms and formats acceptable to the CITY.

19.02.1 Monthly Reports. CONTRACTOR shall provide reports that include the following data for each month and year to date.

19.02.1.1 Collection Service Account Data. Number of SFD and MFD buildings and units served; number of Commercial and CITY accounts served. Number of containers in service by Collection Service type, container size, and material type (e.g., Mixed Materials, Organic Materials), and container service location (e.g., curbside placement, Premium Backyard, Exempt Backyard). Number of Non-Collection Notices issued by Collection Service type and by reason for non-collection.

19.02.1.2 Collected Tonnage Data. Tonnage for all materials Collected, by Collection Service type and by material type, e.g., Mixed Material, Organic Materials. Bulky Goods Collection Service, including Collected tonnage, bulky goods item counts, and other data and information per Exhibit 14 of this Contract. Tonnage for all materials delivered to the transfer facility by CITY vehicles, and tonnage and pull data for CITY Roll-Off boxes serviced by CONTRACTOR.

19.02.1.3 Processed Tonnage Data. Tonnage for all Collected materials that are delivered to Processing facilities by Collection Service type, and by processing facilities.

19.02.1.4 Processed Materials Data. Tonnage of each material produced through the Processing of Collected materials at CONTRACTOR's Processing Facility, e.g., finished compost, old corrugated containers, mixed paper and other recycled

commodity grades, feedstock for biomass or refuse derived fuel, and energy products derived from CONTRACTOR's Processing of Organic materials (should CONTRACTOR produce such energy products). CONTRACTOR shall use a statistically significant method approved by CITY to calculate the Tonnage of finished Processed material, net of Residue, attributable to material Collected under this Contract.

19.02.1.5 Disposal Tonnage Data. Tonnage for all materials Collected that are transferred to the Disposal Facility without Processing, by Collection Service type. Tonnage for all Residue from Processing of Collected materials, by processing facility. CONTRACTOR shall use a statistically significant method approved by CITY to calculate the tonnage of Residue attributable to material Collected under this Contract.

19.02.1.6 Customer Service Data. Number of Customer and Service Recipient contacts, e.g., phone calls or electronic communications, by date, Collection Service type, and topic including but not limited to the topics listed.

19.02.1.7 Local Hire Requirement Update. CONTRACTOR shall provide monthly updates on its compliance with Local Hire Requirements in Article 55 of this Contract.

19.02.1.8 Roll-Off Box Report. CONTRACTOR shall provide a City Council and Mayor Roll-Off Box report that shows the allocation of Roll-Off Boxes by office, including allocations that were carried forward, and use to-date for the then current calendar year in compliance with Section 12.03.1.

19.02.2 Quarterly Reports. CONTRACTOR shall provide the following information each quarter:

19.02.2.1 Public Outreach and Information Activities. Report on all public outreach and information activities undertaken during the period, including distribution of outreach materials and other promotional activities.

19.02.2.2 Processing and Marketing Activities. Report on Recyclable Materials and Organic Materials Processing and marketing issues or conditions, if any, occurring during the previous quarter.

19.02.2.3 Customer Service Activities. Report on customer service and Call Center issues or conditions, if any, occurring during the previous quarter.

19.02.2.4 Operational Issues and Activities. Report on significant changes in Collection Service or Processing operations, instances of property damage or accidents, scavenging, or other operational issues.

19.03 Annual Reports. CONTRACTOR shall provide the following data and information each year.

19.03.1.1 Customer and Collection Services Data. List of all Customers serviced under this Contract including and sortable by Collection Service type, Customer name, Service Address (street number, street name, Zip Code), number of Containers billed for by Collection Service type, Container size, and material type, e.g., Mixed Material, Organic Material.

19.03.1.2 Local Business Presence and Participation. CONTRACTOR shall provide the Local Business Presence and Participation report per Article 54 of this Contract.

19.03.1.3 Local Hire Requirement Annual Report. CONTRACTOR shall provide an annual report on its compliance with Local Hire Requirements in Article 55 of this Contract.

19.03.1.4 Gross Receipts. CONTRACTOR shall provide a summary of the prior year's Gross Receipts received, by Collection Service type.

19.03.1.5 Equipment Inventory. Updated complete inventory of Collection vehicles used pursuant to this Contract, by vehicle chassis identification number, vehicle body identification number, license number and model year.

19.03.1.6 Business Tax Certificate. Copy of current business tax certificate.

19.04 Additional Reporting and Access to Information.

19.04.1 CONTRACTOR shall provide CITY with any additional data and information as requested by CITY, as may reasonably be provided. Such reports to be provided within a reasonable time following the request.

19.04.2 CONTRACTOR shall provide CITY with CONTRACTOR's Call Center records as requested by CITY, as may reasonably be provided.

19.04.3 CONTRACTOR shall provide a large wall map of the Service Area that shows Collection day of service for SFD and MFD routes. CONTRACTOR shall provide an updated map whenever route changes include a change to day of service.

19.04.4 CONTRACTOR shall provide CITY with Collection Route information as requested by CITY, as may reasonably be provided. Such information to be provided within a reasonable time following the request.

19.04.5 CONTRACTOR shall provide CITY with CONTRACTOR's Collection vehicle global positioning system (GPS) reports as requested by CITY, as may reasonably be provided.

ARTICLE 20. NONDISCRIMINATION

20.01 Nondiscrimination. In the performance of all work and services under this Contract, CONTRACTOR shall not discriminate against any person on the basis of such person's race, color, religion/religious creed, sex/gender, pregnancy, marital status, age, national origin/ancestry, physical and/or mental disability, medical condition, sexual orientation, gender identity, military or veteran status, or status in any other group protected by federal, State or local law. CONTRACTOR shall comply with all applicable local, state and federal laws and regulations regarding nondiscrimination, including those prohibiting discrimination in employment.

ARTICLE 21. SERVICE INQUIRIES AND COMPLAINTS

21.01 CONTRACTOR'S Customer Service. All Customer and Service Recipient inquiries and complaints about the Services shall be directed to CONTRACTOR. A representative of CONTRACTOR shall be available to receive the inquiries and complaints during normal business hours. All service inquiries and requests will be handled by CONTRACTOR in a prompt, courteous, and efficient manner. In the case of a dispute between

CONTRACTOR and a Customer, the matter may be reviewed and a decision made by the Contract Manager.

21.01.1 Customer Service System. CONTRACTOR will utilize an automated Customer service system to maintain a record of all inquiries and complaints in a manner prescribed by CITY. In addition thereto, CONTRACTOR shall maintain, at CONTRACTOR'S place of business, an automated Customer service system, listing all Customer service requests, complaints and CONTRACTOR notices. Said system shall contain the names and addresses of parties involved, date of such service request, complaint or noticing, nature of same, and the date and manner of disposition of each case. Such system shall be kept so that it may conveniently be inspected by representatives of CITY upon request.

21.01.2 Response Requirements. For those complaints related to missed Collections that are received by 12:00 noon on a Work Day, CONTRACTOR will return to the Customer address and Collect the missed Carts or Bins before leaving the Service Area for the day. For those complaints related to missed Collections that are received after 12:00 noon on a Work Day, CONTRACTOR shall have until the end of the following Work Day to resolve the complaint. For those complaints or service requests related to Carts or Bins for new Customers, or repair, replacement or exchange of Carts or Bins, the appropriate Articles of this Contract shall apply.

21.01.3 Missed Collections. CONTRACTOR agrees that it is in the best interest of CITY that all Mixed Materials, Recyclable Materials, Organic Materials and Bulky Goods be Collected on the scheduled Collection day. Accordingly, missed Collections will normally be Collected as set forth herein regardless of the reason that the Collection was missed. However, in the event a Service Address reports missed Collection Services more than two (2) times in any consecutive two (2) month period the Contract Manager will work with CONTRACTOR to determine an appropriate resolution to that situation. In the event CONTRACTOR believes any complaint to be without merit, CONTRACTOR shall notify the Contract Manager, by e-mail. The Contract Manager will investigate all disputed complaints and render a decision.

ARTICLE 22. QUALITY OF PERFORMANCE OF CONTRACTOR

22.01 Intent. CONTRACTOR acknowledges and agrees that one of CITY'S primary goals in entering into this Contract is to ensure that the Collection Services are of the highest caliber, that Service Recipient and Customer satisfaction remains at the highest level, that maximum Diversion levels are achieved, and that materials Collected are put to the highest and best use to the extent feasible.

22.02 Contract Compliance Coordinator. CONTRACTOR will provide for a full-time Contract Compliance Coordinator dedicated to CITY. The Contract Compliance Coordinator shall be responsible for monitoring CONTRACTOR'S programs and services and assisting CITY in maintaining full contractual compliance at all times during the term of the Contract. These duties shall include but not be limited to issues related to new and existing Customer needs, public education, routing, and customer service. The Contract compliance Coordinator shall meet monthly with CITY staff to provide updates on all areas of service as needed.

22.03 Services Manager. CONTRACTOR shall designate a manager to be in charge of the Collection Services within the Service Area. The manager shall have the authority and knowledge to direct CONTRACTOR resources as need to resolve matters of concern to CITY.

The Services Manager, or designee shall be available to the Contract Manager through the use of a mobile telephone at all times that CONTRACTOR is providing Collection Services. .

22.04 Liquidated Damages. The parties further acknowledge that consistent and reliable Collection Services are of utmost importance to CITY, and that CITY has considered and relied on CONTRACTOR'S representations as to its quality of service commitment in awarding the Contract. 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 CONTRACTOR fails to achieve the performance standards, or fails to submit required documents in a timely manner, CITY, and CITY'S residents and businesses will suffer damages and that it is and will be impractical and extremely difficult to ascertain and determine the exact amount of damages. Therefore, without prejudice to CITY'S right to treat such non-performance as an event of default under Article 29, the parties agree that the liquidated damages amount defined in this Article represent reasonable estimates of the amount of such damages considering all of the circumstances existing on the effective date of this Contract, including the relationship of the sums to the range of harm to CITY, Customers, Service Recipients, and the community as a whole. which 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 obtain an explanation of the liquidated damage provisions at the time that the Contract was made.

CITY Initial Here _____ CONTRACTOR Initial Here_____

CONTRACTOR agrees to pay (as liquidated damages and not as penalty) the following amounts:

1	Failure to accurately maintain and timely submit to CITY all documents and reports required under the provisions of this Contract (Various Sections).	$100 per incident per day
2	Failure to provide accurate and timely billing services (Article 7).	$100 per incident per day
3	Failure to pay the amount due to the Residential Recycling Contractor within the time period set forth herein after receiving invoice approval from CITY (Section 7.14).	$250 per incident per day
4	Failure to remit the Franchise Fee and other payments to CITY by the 15th of each month (Section 7.20).	$250 per incident per day
5	Failure to maintain the insurance provisions in the manner set out in this Contract (Article 25).	$500 per incident per day
6	Failure to provide timely transition documents or meet transition requirements (Section 6.19).	$300 per item per day
7	Failure to respond to each complaint or service request within the time set forth in this Contract (Section 21.01.2).	$150 per incident per day

8	Failure to notify CITY daily of all situations that prevent or hinder Collection from any CITY Facility, unless otherwise directed by CITY (Section 12.01.4.1).	$100 per day
9	Failure to Collect or otherwise recover a missed Collection or Service Failure by close of the next Work Day upon notice to CONTRACTOR (Articles 9, 10, 11 and 12).	$150 per incident per day
10	Failure to service, repair, maintain, or replace street litter Containers (Section 12.02).	$150 per incident per day
11	Missed or incomplete Collection at the same Service address for: Two consecutive scheduled Collections Three of six scheduled Collections Eight Collections in six months Twelve Collections in twelve months (Articles 9, 10, 11, and 12).	 $250 per incident $250 per incident $500 per incident $1,000 per incident
12	Failure to repair or replace, deliver, remove or exchange damaged, missing or abandoned Carts or Bins within the time required by this Contract (Sections 6.06.4 through 6.06.9.3).	$150 per incident per day
13	Failure to clean up spills, leaks, or litter caused by CONTRACTOR within two (2) hours of notification from CITY (Section 6.15).	$500 per incident
14	Failure to properly return empty Carts or Bins to the point of Collection, upright with lids closed and locks secured, and in a location that avoids pedestrian or vehicular traffic impediments. (Section 6.04).	$150 per incident per day
15	Failure to answer a Customer call within five (5) rings (Section 16.02.2).	$150 per incident
16	Customer on-hold wait time, based on a daily average that is: • Greater than three minutes and up to four minutes • Greater than four minutes and up to five minutes • Over five minutes (Section 16.02.3).	 $150 per day $300 per day $450 per day
17	Failure to return a Customer voice message or respond to a Customer e-mail by the close of the Work Day following the day the voice message or e-mail is received (Section 16.02.6).	$150 per incident per day
18	Failure to make Extra Service Tags available to Customers in the manner set out by this Contract (Section 6.09).	$150 per incident per day

19	Failure to begin Collection Service by the next regularly scheduled Collection day for a new customer account, or receipt of an application for premium backyard Collection, exempt backyard Collection programs or the curbside placement exemption program (Section 9.01.4, 9.01.5, 9.01.6, and 9.01.7).	$150 per incident per day
20	Failure to collect Sharps in the manner set out in this Contract (Sections 9.06 and 10.06).	$150 per incident per day
21	Failure to collect HHW in the manner set out in this Contract (Sections 9.07 and 10.07).	$150 per incident per day
22	Failure to provide delivery of compost within three (3) Work Days upon request by CITY (Section 12.09).	$150 per incident per day
23	Failure to maintain Collection vehicles in a clean and sanitary manner and to display CONTRACTOR'S name and Customer Service phone number (Article 14).	$150 per incident per day
24	Failure to mark and label Carts, Bins and Roll-Off Boxes; to inspect, clean and maintain metal Bins, Compactors or Roll-Off Boxes in a clean and sanitary manner (Section 6.06.1, 6.06.2, 6.06.3, and 14.10).	$150 per incident per day
25	Failure to meet vehicle noise requirements (Section 14.06).	$100 per incident per day
26	Failure to comply with State of California Vehicle Code, including covering loads and adherence to collection vehicle weight restrictions (Section 14.15 and 14.16).	$500 per incident
27	Commingling Mixed Materials, Organic Materials, or Recyclable Materials with other material types, or of CITY materials with materials collected in another city prior to delivery to the designated processing facility (Section 6.14).	$500 per incident
28	Failure to ensure that a vehicle operator is properly licensed (Section 33.01.4).	$500 per incident per day
29	Failure to maintain office and call center hours as required by this Contract (Section 15.01).	$100 per incident per day
30	Failure to maintain Collection hours and days as required by this Contract (Section 6.02).	$250 per incident per day
31	Failure to have CONTRACTOR personnel in proper uniform (Section 31.01.3).	$250 per incident per day
32	Failure to repair damage or compensate CITY for damage to CITY property, including all City structures, public roadways and sidewalks caused by CONTRACTOR or its personnel (Section 26.11).	$500 per incident

33	Changing a residential Customer's Collection day without proper authorization by the Contract Manager (Section 13.02).	$500 per incident per day
34	Failure to provide adequate primary and alternate capacity to accept and process Mixed Materials, Recyclable Materials or Organic Materials (Sections 6.12.3, 6.12.4 and 6.12.5).	$500 per day
35	Failure to provide a transfer station or Processing facility for City Delivered Materials (Section 12.07).	$500 per day
36	Failure to respond timely to CITY requests for services or information (Section 22.02).	$150 per incident
37	Disposal of Recyclable Materials or Organic Materials in the Disposal Facility without first obtaining the required permission of CITY (Sections 6.12.4 and 6.12.5).	$1,000 per load
38	Failure to deliver any Collected materials to CITY approved Disposal Facility, Mixed Materials Processing Facility, Materials Recovery Facility, or Organic Materials Processing Facility, as appropriate, except as otherwise expressly provided in this Contract (Sections 6.12.3, 6.12.4, and 6.12.5).	$5,000 per load
39	Delivery to the Disposal Facility of any Garbage or Mixed Materials Collected outside of CITY boundaries of Oakland commingled with that Collected as part of this Contract, without advance written permission from CITY (Section 6.14.2).	$5,000 each delivery
40	Failure or neglect to complete at least ninety percent (90%) of each route on the regular scheduled Collection day (Sections 9.01.2, 10.01.1, 11.01.2 and 12.01.3).	$5000 for each route not completed
41	Transferring loads on CITY streets except as otherwise expressly provided in this Contract (Section 6.03).	$150 per incident
42	Failure to provide Customers the payment methods for billings in the manner set out in this Contract (Section 7.11).	$150 per incident per day
43	Failure to provide Mayor and City Council Roll-Off Box within 5 calendar days of a request by the Mayor or Council Office (Section 12.03.2).	$150 per incident per day
44	Changing routes without proper notification to CITY or Customers, as appropriate (Section 13.02).	$500 per incident per day
45	Failure to conduct route audits and report results to CITY in a timely manner (Section 13.04).	$150 per audit per day

46	Failure to maintain the capability of responding to telephone calls in English, Chinese (Cantonese), Vietnamese, Spanish, and such other languages as reasonably may be directed by CITY and TDD Services at all times (Section 16.04).	$150.00 per day
47	Failure to comply with the public outreach standards in the manner set out in this Contract (Article 17).	$150.00 per incident per day
48	Failure to cure non-compliance with the provisions of this Contract in the manner and time set forth in the Contract (Various Sections), exclusive of other specific Liquidated Damages listed herein.	$150.00 per incident per day
49	Failure to comply with 50% local hire preference for Oakland residents provision for new employees (Article 55).	$5000 per position annually
50	Failure to maintain number of Oakland residents in workforce as proposed in (Article 55).	$5000 per position annually
51	Failure to comply with commitment to train and hire local disadvantaged workers (Article 55).	$5000 per position annually
52	Failure to maintain Local Business Presence and Participation (Article 54).	$5000 annually
53	Failure to comply with worker retention requirements (Article 52).	$5000 per position

22.05 Procedure for Review of Liquidated Damages. The Contract Manager may assess liquidated damages pursuant to this Article 22 on a monthly basis. At the end of each month during the term of this Contract, the Contract Manager may issue a written notice to CONTRACTOR ("Notice of Assessment") of the liquidated damages assessed and the basis for each assessment.

22.05.1 The assessment shall become final unless, within thirty (30) calendar days of the date of the notice of assessment, CONTRACTOR provides a written request for a meeting with the Contract Manager to present evidence that the assessment should not be made.

22.05.2 The Contract Manager shall schedule a meeting between CONTRACTOR and the CITY Administrator or the CITY Administrator's designee as soon as reasonably possible after timely receipt of CONTRACTOR'S request.

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

22.05.4 In the event CONTRACTOR does not submit a written request for a meeting within thirty (30) calendar days of the date of the Notice of Assessment, the Contract Manager's determination shall be final and CONTRACTOR shall submit payment to CITY no later than fifteen (15) calendar days following final determination. At the sole option of CITY, if

monies are owed to CONTRACTOR, CITY may deduct the liquidated damages from the letter of credit required by Section 22.06 of this Contract.

22.05.5 CITY'S assessment or Collection of liquidated damages shall not prevent CITY from exercising any other right or remedy, including the right to terminate this Contract, for CONTRACTOR'S failure to perform the work and services in the manner set forth in this Contract.

22.06 Security for Liquidated Damages. In order to insure the ability of CITY to collect liquidated damages assessed against CONTRACTOR, and to insure payment of the Residential Recycling Contractor in a timely manner, CONTRACTOR shall deposit with CITY an irrevocable letter of credit in an amount of One Million Five Hundred Thousand Dollars ($1,500,000). The letter of credit must be issued by a FDIC insured banking institution chartered to business in the State of California, (consistent with the Uniform Customs and Practice for Documentary Credits, then current revision or similar uniform convention approved by CITY), in CITY'S name, and be callable at the discretion of CITY. The letter of credit shall be structured so that in the event funds are drawn by CITY the balance of One Million Five Hundred Thousand Dollars ($1,500,000) is restored within two (2) Work Days.

22.07 Lockouts. Because it is the intent of this Contract that CONTRACTOR shall consistently provide the highest level of services to the residents of Oakland, CONTRACTOR shall never institute a lockout of any or all of its employees unless CONTRACTOR has previously provided an alternate plan of continuing the highest level of services during the entire possible period of such a lockout with ample fully trained substitutes for all such locked out employees, and CITY has reviewed such alternate plan in writing prior to such lockout being instituted by CONTRACTOR. In addition, CONTRACTOR shall fully defend, indemnify and hold harmless CITY against anything whatsoever related to any such lockout as provided in Article 26 hereof, including but not limited to any claims, proceedings, or suits against CITY relating to any such lockout. Compliance with this Section 22.07 shall in no way prevent the imposition of liquidated damages pursuant to Article 22 hereof, nor prejudice or limit in any way any of CITY'S rights and remedies under the Contract or at law including, without limitation, CITY'S right to treat non-performance as an event of default, if CONTRACTOR fails to meet the standards or violates any provision as set forth in Section 22.04 hereof.

ARTICLE 23. BILLING AUDIT AND PERFORMANCE REVIEWS

23.01 Billing Audit and Performance Review.

23.01.1 Selection and Cost. CITY may conduct two (2) billing audit and performance reviews ("review") of CONTRACTOR'S performance during the initial term of this Contract. The review will be performed by a qualified firm under contract to CITY. CITY shall have the final responsibility for the selection of the firm but shall seek and accept comments and recommendations from CONTRACTOR. CONTRACTOR shall be responsible for the cost of the reviews up to a maximum of One Hundred Fifty Thousand Dollars ($150,000) per review.

23.01.2 Purpose. The review shall be designed to meet the following objectives.

23.01.2.1 Verify that Customer billing rates have been properly calculated and they correspond to the level of service received by the Customer.

23.01.2.2 Verify that franchise fees, and other charges required under this Contract have been properly calculated and paid to CITY.

23.01.2.3 Verify CONTRACTOR'S compliance with the reporting requirements and performance standards of the Collection Services Contract.

23.01.2.4 Verify the Diversion percentages reported by CONTRACTOR.

23.01.3 CONTRACTOR'S Cooperation. ONTRACTOR shall cooperate fully with the review and provide all requested data, including operational data, financial data and other data requested by CITY within thirty (30) calendar days. Failure of CONTRACTOR to cooperate or provide the requested documents in the required time shall be considered an event of default.

23.02 CITY Requested Program Review. CITY reserves the right to require CONTRACTOR to periodically conduct reviews of the SFD, MFD, Commercial, and CITY Collection Services programs to assess performance indicators, including but not limited to: average volume of Recyclable Materials per setout per Service Address , average volume of Organic Materials per setout per Service Address, Collection Services participation levels, contamination levels, etc. Prior to the program review, CITY and CONTRACTOR shall meet to discuss the purpose of the review and the method, scope, time frame for completion and data to be provided by CONTRACTOR. CONTRACTOR shall then prepare and submit to the Contract Manager a written program review plan for review and approval. The Contract Manager shall review and, to the extent necessary at the sole discretion of CITY, modify the program review plan, and return it to CONTRACTOR for implementation.

23.03 Cooperation with Other Program Reviews. If CITY wants to collect program data, perform field work, conduct route audits to investigate Service Recipient participation levels and setout volumes and/or evaluate and monitor program results related to Mixed Materials, Garbage, Recyclable Materials and Organic Materials Collected in the Service Area by CONTRACTOR, CONTRACTOR shall cooperate with CITY or its agent(s), including StopWaste.Org. CONTRACTOR shall also cooperate with any waste generation studies conducted by CITY or its agent(s).

23.04 Waste Generation and Characterization Studies. CONTRACTOR acknowledges that CITY must perform waste generation and characterization studies periodically to comply with AB 32, AB 341 and AB 939 requirements. CONTRACTOR agrees to participate and cooperate with CITY and its agents, including StopWaste.Org and to perform studies and data Collection exercises, as needed, to determine weights, volumes and composition of materials generated, Disposed, transformed, Diverted or otherwise processed to comply with AB 32, AB 341 and AB 939.

ARTICLE 24. PERFORMANCE SECURITY

24.01 Performance Bond. A performance bond must be furnished by CONTRACTOR within fifteen (15) calendar days of notification to CONTRACTOR that that the Contract has been executed. CONTRACTOR shall furnish to CITY, and keep current, a performance bond in a form and with language that is acceptable to CITY, for the faithful performance of this Contract and all obligations arising hereunder in an amount of Seven Million Dollars ($7,000,000).

24.02 Renewal. Beginning July 1, 2016, and each April 1st thereafter, CONTRACTOR shall have the performance bond renewed annually and executed by a surety company that is acceptable to CITY; an admitted surety company licensed to do business in the State of

California; has an "A:VII" or better rating by A. M. Best or Standard and Poor's; and is included on the list of surety companies approved by the Treasurer of the United States.

24.03 Letter of Credit. As an alternative to the performance bond required by Section 24.01, at CITY'S option, CONTRACTOR may deposit with CITY an irrevocable letter of credit in an amount as set forth in Section 24.01. If allowed, the letter of credit must be issued by an FDIC insured banking institution chartered to do business in the state of California, consistent with the Uniform Customs and Practice for Documentary Credits, then current revision or similar uniform convention approved by CITY in CITY'S name, and be callable at the discretion of CITY. Nothing in this Article shall, in any way, obligate CITY to accept a letter of credit in lieu of the performance bond.

ARTICLE 25. INSURANCE

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

25.02 Minimum Scope of Insurance. Insurance coverage shall be at least this broad:

25.02.1 Commercial General Liability: Insurance Services Office (ISO) Occurrence Form CG 0001 or, if approved by CITY, Claims Made Form No. CG0 0002. Automobile Liability: Insurance Services Office Form No. CA 0001, code 1 "any auto".

25.02.2 Workers' Compensation Insurance as required by the State of California and Employers Liability Insurance.

25.02.3 Hazardous Waste and Environmental Impairment Liability Insurance.

25.02.4 Crime Policy for Employee Theft.

25.03 Minimum Limits of Insurance. CONTRACTOR shall maintain insurance limits no less than:

25.03.1 Commercial General Liability: Twenty Million Dollars ($20,000,000.00) combined single limit per occurrence Twenty Million Dollars ($20,000,000) annual aggregate; including products and completed operations coverage.

25.03.1.1 Coverage afforded on behalf of the CITY, Councilmembers, directors, officers, agents, employees and volunteers shall be primary insurance. Any other insurance available to the City, Councilmembers, directors, officers, agents, employees and volunteers under any other policies shall be excess insurance (over the insurance required by this Contract).

25.03.2 Automobile Liability: Ten Million Dollars ($10,000,000) combined single limit per accident for bodily injury and property damage.

25.03.3 Workers' Compensation and Employers Liability: Workers' Compensation insurance as required by the State of California, with statutory limits, and Employers Liability insurance with limits of Two Million Dollars ($2,000,000) per accident.

25.03.4 Hazardous Waste and Environmental Impairment Liability: Ten Million Dollars ($10,000,000.00) each occurrence/Ten Million Dollars ($10,000,000) policy

aggregate covering liability arising from the release of waste materials and/or irritants, contaminants or pollutants. Hazardous Waste and Environmental Impairment Liability will include coverage for all operations of CONTRACTOR, and include all owned, non-owned landfills or waste disposal sites and transfer stations. If coverage is on a Claims Made basis, the retroactive date must be shown, and must be before the date of the Contract or the beginning of Contract work. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Contract of work. If coverage is cancelled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior the contract effective date, CONTRACTOR must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work. CITY, its Councilmembers, directors, officers, agents, employees and volunteers are to be covered as additional insureds with respect to liability arising from the release of waste materials and/or irritants, contaminants or pollutants. Such coverage shall, if commercially available without involvement of CITY, automatically broaden in its form of coverage to include legislated changes in the definition of waste material and/or irritants, contaminants or pollutants.

25.03.5 Crime Policy for Employee Theft: Five Thousand Dollars ($500,000) per loss.

25.04 Deductibles and Self-Insured Retention. Any deductibles or self-insured retention must be declared to, and approved by, CITY. CITY shall not withhold approval of any Deductible or Self-Insured Retention amounts where CONTRACTOR can demonstrate a successful history of managing such Deductibles or Self-Insured Retention amounts.

25.05 Endorsements. The liability policies are to contain, or be endorsed to contain, the following provisions:

25.05.1 CITY, its Councilmembers, directors, officers, employees, agents and volunteers are to be covered as additional insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of CONTRACTOR; products and completed operations of CONTRACTOR; liability arising out of work or operations performed by or on behalf of CONTRACTOR, including material parts or equipment furnished in connection with such work or operations; and with respect to Hazardous Waste, Pollution and/or Environmental Impairment Liability.

25.05.2 CONTRACTOR'S insurance coverage shall be primary insurance as respects CITY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by CITY, its officers, officials, employees, agents or volunteers shall be excess of CONTRACTOR'S insurance and shall not contribute with it.

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

25.05.4 The limits of insurance are the minimum required limits and if CONTRACTOR maintains higher limits, CITY shall be entitled to coverage for the higher limits maintained by CONTRACTOR.

25.05.5 The Automobile Liability policy shall be endorsed to delete the Pollution and/or the Asbestos exclusion, or documentation that CONTRACTOR carries environmental pollution liability coverage for solid waste transported by CONTRACTOR. The Automobile Liability policy shall also be endorsed to add the Motor Carrier act endorsement (MCS-90) TL 1005, TL 1007 and /or other endorsements required by federal or state authorities.

25.06 Waiver of Subrogation. CONTRACTOR hereby agrees to waive subrogation which any insurer of CONTRACTOR may acquire from CONTRACTOR by virtue of the payment of any loss. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of CITY for all work performed by CONTRACTOR, its employees, agents and subcontractors.

25.07 Cancellation. Each insurance policy required by this clause shall be occurrence-based or an alternate form as approved by CITY and endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or limits except after sixty (60) days' prior written notice by certified mail, return receipt requested, has been given to CITY.

Any failure to comply with reporting provisions of the policies shall not affect CONTRACTOR'S obligations to CITY, its officers, officials, employees, agents or volunteers.

25.08 Claims Made Coverage. If General Liability or Hazardous Waste and Environmental Impairment Liability coverage is written on a claims-made from:

25.08.1 The "Retro Date" must be shown, and must be before the date of the contract or the beginning of contract work.

25.08.2 Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

25.08.3 If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a "Retro Date" prior to the contract effective date, CONTRACTOR must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

25.08.4 A copy of the claims reporting requirements must be submitted to CITY for review.

25.09 Acceptability of Insurers. Insurance is to be placed with insurers admitted to transact business in California with a current A.M. Best's rating of no less than A:VII. If pollution and/or Environmental Impairment and/or errors and omission coverage are not available from an admitted" insurer, the coverage may be written with CITY's permission, by a non-admitted insurance company. A Non-admitted company should have an A.M. Best's rating of A:X or higher.

25.10 Verification of Coverage. CONTRACTOR shall furnish CITY with original certificates and amendatory endorsements effecting coverage required by this clause. All certificates and endorsements are to be received and approved by CITY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive CONTRACTOR'S obligation to provide them. CITY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

25.11 Subcontractors. CONTRACTOR shall include all subcontractors as insureds under its policies or require and verify that all subcontractors maintain insurance meeting all the requirements of this contract.

25.11.1 Proof of insurance shall be mailed to the following address or any subsequent address as may be directed in writing by CITY.

Contract Manager
Environmental Services Division, PWA

250 Frank Ogawa Plaza, Suite 5301
Oakland, CA 94612

25.12 Modification of Insurance Requirements. The insurance requirements provided in this Contract may be modified or waived by CITY, in writing, upon the request of CONTRACTOR if CITY determines such modification or waiver is in the best interest of CITY considering all relevant factors, including exposure to CITY.

ARTICLE 26. INDEMNIFICATION

26.01 Indemnification of CITY. CONTRACTOR shall defend, with counsel acceptable to CITY, indemnify and hold harmless, to the fullest extent allowed by law, CITY, its officers, officials, employees, volunteers agents and assignees (indemnitees)), from and against any and all loss, liability, penalties, forfeitures, claims, demands, actions, proceedings or suits, 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 or in any way connected with: (i) the operation of CONTRACTOR, its agents, employees, contractors, and/or subcontractors, in exercising the privileges granted to it by this Contract; (ii) the failure of CONTRACTOR, its agents, employees, contractors, and/or subcontractors to comply in all respects with the provisions and requirements of this Contract, applicable laws, ordinances and regulations, and/or applicable permits and licenses; and (iii) the acts of CONTRACTOR, its agents, employees, contractors, and/or subcontractors in performing services under this Contract for which strict liability is imposed by law. The foregoing indemnity shall apply regardless of whether such loss, liability, penalty, forfeiture, claim, action, suit injury, death or damage is also caused in part by any of the indemnitees' negligence.

26.02 CONTRACTOR'S Obligation Not Excused. CONTRACTOR'S obligation to defend, hold harmless, and indemnify shall not be excused because of CONTRACTOR'S inability to evaluate liability or because CONTRACTOR evaluates liability and determines that CONTRACTOR is not liable to the claimant. CONTRACTOR must respond within thirty (30) days to the tender of a claim for defense and indemnity by CITY, unless this time has been extended by CITY. If CONTRACTOR fails to accept or reject a tender of defense and indemnity within thirty (30) days, in addition to any other remedy authorized by law, so much of any money due CONTRACTOR by virtue of this Contract as shall reasonably be considered necessary by CITY, may be retained by CITY as an offset against its costs and damages until final disposition has been made or the claim or suit for damages, or until CONTRACTOR accepts or rejects the tender of defense, whichever occurs first.

With respect to third party claims against CONTRACTOR, CONTRACTOR waives any and all rights of any type to express or implied indemnity against the Indemnities.

26.03 Hazardous Substances Indemnification. CONTRACTOR shall indemnify, defend with counsel acceptable to CITY, protect and hold harmless CITY, its officers, officials, employees, agents, assigns and any successor or successors to CITY'S interest from and against all claims, damages (including but not limited to special, consequential, natural resources and punitive damages) injuries, hazardous materials response mediation and removal costs, losses, demands, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties, attorney's fees for the adverse party and expenses (including but not limited to attorney's and expert witness fees and costs incurred in connection with defending against any of the foregoing or enforcing this indemnity) of any kind whatsoever paid, incurred or suffered by, or asserted against CITY or its officers, officials, employees, agents, assigns, or contactors arising from or attributable to acts or omissions of

CONTRACTOR, or its agents, including but not limited to any repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure and post-closure or other plan (regardless of whether undertaken due to governmental action) concerning any hazardous substance or hazardous wastes at any place where CONTRACTOR transports, stores, or Disposes of Mixed Materials pursuant to this Contract. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of CERCLA, 42 U.S.C. Section 9607(c) and California Health and Safety Code Section 25364, to defend insure, protect, hold harmless and indemnify CITY from liability.

26.03.1 This provision is in addition to all other provisions in this Contract and is intended to survive the end of the term of this Contract. CONTRACTOR'S Guaranty shall extend to the indemnification obligation hereunder.

26.04 Maximum Service Rates.

26.04.1 To the greatest extent permissible by Public Resources Code section 40059.2, CONTRACTOR shall defend, hold harmless, and indemnify CITY, its officers, officials, employees, volunteers, agents and assignees from and against any loss, liability, penalties, forfeiture, claims, damages, demands, actions, proceedings or suits, in law or equity, of every kind and description, arising from the CITY'S setting of Maximum Service Rates for Collection Services under this Contract and/or in connection with the application of Article XIIIC and Article XIIID of the California Constitution to the imposition, payment, or collection of Maximum Service Rates and charges for services provided by CONTRACTOR under and/or in connection with this Contract ("Maximum Service Rate Lawsuit"), provided, however, that such obligation to defend, hold harmless and indemnify shall not apply to claims, demands, actions, proceedings, and suits that assert that franchise fees, or any other amounts payable to CITY under this Contract are not imposed in accordance with Article XIIIC or Article XIIID of the California Constitution.

26.04.2 Consistent with the limitations provided by Public Resources Code section 40059.2 and the obligations of CONTRACTOR set forth above, the following provisions are intended to address issues of defense and allocation of risk as between CONTRACTOR and CITY in the event that either or both are named in a Maximum Service Rate Lawsuit brought by a third party. CONTRACTOR and CITY agree to cooperate with each other and provide a joint defense in any such matter to the extent practical, and each shall fully assist the other in separate or a joint defense as may occur. CONTRACTOR shall not assert any legal theories inconsistent with CITY's interest in sustaining Maximum Service Rates, regardless of whether a lawsuit or claim seeks invalidation of the Maximum Service Rates or damages or both. CONTRACTOR and CITY further agree to waive all cross-claims against each other which are inconsistent with the provisions of Section 26.04 or Article 28, whether either or both CONTRACTOR and CITY are named in a suit or action. Potential cross-claims by CITY or CONTRACTOR related to a Maximum Service Rates Lawsuit which are not addressed by the terms of Section 26.04 or Article 28, will be tolled until after the conclusion of the litigation concerning the third party claim, unless CONTRACTOR and CITY mutually agree to the contrary.

26.04.3 To the extent any monetary damages are rewarded in a Maximum Service Rates Lawsuit brought against either or both the CITY and/or CONTRACTOR, CONTRACTOR shall be responsible for that portion of any damages or refunds which are allocable to the portions the Maximum Service Rates charged for CONTRACTOR'S services, including its direct cost, overhead and profit. Likewise, with regard to that portion of any

damages or refunds allocable to the portion of the Maximum Service Rates relating to the franchise fee or other fees and charges remitted to CITY, CITY shall be responsible.

26.04.4 Nothing in this Section is intended to imply that any action of CITY or CONTRACTOR with regard to adoption, imposition or collection of Maximum Service Rates is violative of any laws, regulations or Constitutional provisions. These provisions are merely intended as a statement of an agreed upon process for defense and allocation of risks between CITY and CONTRACTOR in the event of a Maximum Service Rates Lawsuit, regardless of the merit or lack of merit of any of the claims set forth therein.

26.05 Environmental Indemnification. CONTRACTOR shall indemnify, defend with counsel acceptable to CITY, and hold harmless, at CONTRACTOR'S sole cost and expense, CITY, its City Council, officers, officials, employees, volunteers and agents, and the Collection Contractor (collectively, "Indemnitees") from and against any and all claims, damages, injuries, costs (including and without limit any and all response, remediation and removal costs), losses, demands, debts, liens, liabilities, causes of action suits, legal or administrative proceedings, interest, fines, charges, penalties, and expenses (including reasonable attorneys' and expert witness fees, expenditures for investigation and remediation) and costs of any kind whatsoever, paid, imposed upon, incurred, or suffered by or asserted against any of the Indemnitees by any lawsuit brought or threatened, settlement reached, or government hearing, investigation, inquiry, proceeding, or order relating to, or arising from, directly or indirectly, CONTRACTOR'S alleged failure or actual failure to comply with the environmental laws and regulations. This indemnification will not extend to environmental claims to the extent they are caused by the sole or joint or contributory negligence or intentional misconduct or omission of CITY, its officers, employees or agents, or the Collection Contractor(s).

26.05.1 This provision is in addition to all other provisions in this Contract and is intended to survive the end of the term of this Contract. CONTRACTOR'S Guaranty shall extend to the indemnification obligation hereunder.

26.06 Separate Counsel. CITY may elect to have separate legal counsel from CONTRACTOR at any time at its sole discretion, and in such case CONTRACTOR will pay one-half (1/2) of all fees and costs and charges for such separate legal counsel.

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

26.08 Obligation. The execution of this Contract by CONTRACTOR shall obligate CONTRACTOR to comply with the foregoing indemnification provisions; however, the collateral obligation of providing insurance must also be fully complied with as set forth in Article 25 above.

26.09 Subcontractors. CONTRACTOR shall require all subcontractors to enter into an Contract containing the provisions set forth Sections 26.01, 26.02, 26.03, 26.04, 26.05, 26.06, 26.07, and Article 25 in its entirety and in the preceding subsection in which Contract the subcontractor fully indemnifies CITY in accordance with this Contract.

26.10 Exception. Notwithstanding Sections 26.01, 26.02 and 26.03, CONTRACTOR'S obligation to indemnify, hold harmless and defend CITY, its officers and employees shall not extend to any loss, liability, penalty, claim, damage, action or suit arising or resulting solely from acts or omissions constituting willful misconduct or sole negligence on the part of CITY its officers or employees.

26.11 Damage by CONTRACTOR. If CONTRACTOR'S employees or subcontractors cause any injury, damage or loss to CITY property, including but not limited to CITY streets or curbs, CONTRACTOR shall reimburse CITY for CITY'S cost of repairing such injury, damage or loss. Such reimbursement is not in derogation of any right of CITY to be indemnified by CONTRACTOR for any such injury, damage or loss. With the prior written approval of CITY, CONTRACTOR may repair the damage at CONTRACTOR'S sole cost and expense.

ARTICLE 27. DEFENSE OF CONTRACTOR'S RIGHTS

27.01 CITY will make reasonable good faith effort to prevent infringement by third parties of the rights granted to CONTRACTOR under this Contract. When CITY determines in its sole discretion that there are infringements, CITY shall take such actions as it deems reasonable to prevent the infringement, potentially including legal actions. If requested by CITY, CONTRACTOR shall, with counsel reasonably acceptable to CITY, assume the prosecution necessary to enforce such rights, and, shall defend, with counsel approved by CITY, indemnify and hold harmless CITY, its employees and officials, against any and all claims arising out of CITY'S performance under this Article 27. CITY will reasonably cooperate with CONTRACTOR in prosecuting and defending its exclusive Contract rights. CONTRACTOR shall reimburse CITY within thirty (30) days of receipt of an invoice, for all actual, reasonable cost associated with defense of Contract rights (including, but not limited to, CITY staff and CITY Attorney time, including applicable CITY overhead allocations, and outside consultants, including attorney fees and costs). Notwithstanding anything to the contrary contained in this Contract, CONTRACTOR shall defend with counsel approved by CITY, indemnify and hold harmless CITY, its employees and officials, against any and all claims to challenge, annul, void, set–aside or invalidate CITY'S award of this Contract or its performance thereunder.

ARTICLE 28. OBLIGATION TO PROVIDE SERVICE

28.01 CITY and CONTRACTOR agree, as more fully set forth in the Recitals to this Contract, that proper Collection of Mixed Waste and Organic Materials is fundamental to the protection of the public health, safety and the well-being of the residents of CITY. CITY'S responsibility for ensuring the adequacy of these sanitation services in part provides the justification for the granting of an exclusive franchise to CONTRACTOR. This exclusive grant creates an obligation that Collection Services are continued to be provided even under difficult or adverse circumstances, such as but not limited to, natural disaster, labor unrest, and any period where legal actions impact the effectiveness of portions of this Contract.

28.02 Specifically, with reference to any legal action contesting charges for services under this Contract, should a court of competent jurisdiction or other regulatory agency set aside, invalidate or stay all or a portion of the Maximum Service Rates established by CITY, CONTRACTOR agrees to continue to provide Collection Services as otherwise set forth herein. CITY may take such urgency actions as necessary to facilitate CONTRACTOR'S continuation of service, potentially including interim suspension of portions of Contract, such as the Maximum Service Rate limitations. Under such circumstances, CITY and CONTRACTOR agree to cooperate and mutually act in good faith and, if needed, immediately meet and confer to address the impact of these legal actions. Such legal actions shall not be considered a change in law or force majeure event excusing CONTRACTOR'S performance.

28.03 If as a result of a legal action CONTRACTOR is unable to include Franchise Fees or other governmental fees or charges in the rates it charges for Collection Services, then CONTRACTOR agrees, upon direction from CITY, to reduce its charges to Customers in an amount corresponding to the disallowed fee or charge, and shall thereafter not be required to remit the amount of the disallowed fee or charge, provided it is not collected from Customers.

28.04 Neither CONTRACTOR nor CITY shall have the right to obtain payment from the other party for losses either may sustain due to a court of competent jurisdiction or other regulatory agency invalidating, setting aside, or staying the collection of all or a portion of the Maximum Service Rates. CONTRACTOR shall bear the risk of losses associated with the cost of providing continued service as a result of such a legal action or ruling and similarly CITY shall bear the loss of franchise fees or other CITY charges during any period where Maximum Service charges cannot be lawfully collected from Customers by CONTRACTOR.

28.05 Nothing herein is intended to imply that California Constitution Articles XIII(C) or (D) apply to the Maximum Service Rates provided for under this Contract. The foregoing paragraphs are merely intended as a contractual allocation of risks in the event of an unanticipated event affecting the ability to impose or collect Maximum Service Rates. Furthermore, nothing herein is intended to abrogate CONTRACTOR'S rights under Sections 7.12 and 7.13.

ARTICLE 29. DEFAULT OF CONTRACT

29.01 Termination. CITY may cancel this Contract, except as otherwise provided below in this Article, by giving CONTRACTOR thirty (30) calendar days advance written notice, to be served as provided in Article 45, upon the happening of any one of the following events:

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

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

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

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

29.01.4 CONTRACTOR has defaulted by allowing any final judgment for the payment of money to stand against it unsatisfied and said default is not cured within thirty (30) calendar days of receipt of written notice by CITY to do so; or

29.01.5 In the event that the monies due CITY under Section 29.01.3 above or an unsatisfied final judgment under Section 29.01.4 above is the subject of a judicial proceeding, CITY may, at its option call the Performance Bond or Security, or hold CONTRACTOR in default of this Contract. All bonds shall be in the form acceptable to the CITY Attorney; or

29.01.6 In the event that CONTRACTOR substantially fails to implement the Diversion plan in Exhibit 8, CITY may, at its option call the Guaranty or assess liquidated damages for each Work Day that the diversion plan goals are not met, or hold CONTRACTOR in default of this Contract; or

29.01.7 CONTRACTOR has defaulted, by failing or refusing to perform or observe the terms, conditions or covenants in this Contract, including satisfactory conformance with the requirements of Article 23, the service levels prescribed herein, or any of the rules and regulations promulgated by CITY pursuant thereto or has wrongfully failed or refused to comply with the instructions of the Contract Manager relative thereto; provided that said default is not cured within thirty (30) calendar days of receipt of written notice by CITY to do so, or if by reason of the nature of such default, the same cannot be remedied within thirty (30) calendar days following receipt by CONTRACTOR of written demand from CITY to do so, CONTRACTOR fails to commence the remedy of such default within said thirty (30) calendar days following such written notice or having so commenced shall fail thereafter to continue with diligence the curing thereof. In any dispute concerning failure to remedy or diligence in pursuing a cure, CONTRACTOR shall have the burden of proof to demonstrate (a) that the default cannot be cured within thirty (30) calendar days, and (b) that it is proceeding with diligence to cure said default, and such default will be cured within a reasonable period of time. However, notwithstanding anything contained herein to the contrary, for the failure of CONTRACTOR to provide Collection Services for a period of three (3) consecutive Work Days, on the fourth (4th) Work Day CITY may secure CONTRACTOR'S equipment, records and other property used or useful in providing Collection Services under this Contract in order to provide interim Collection Services until such time as the matter is resolved and CONTRACTOR is again able to perform pursuant to this Contract; provided, however, if CONTRACTOR is unable for any reason or cause to resume performance at the end of thirty (30) calendar days all liability of CITY under this Contract to CONTRACTOR shall cease and this Contract may be deemed terminated by CITY, and CITY shall retain equipment, records and other property used in providing Collection Services on an interim basis until CITY has made other suitable arrangements for the provision of Collection Services, which may include award of the Contract to another contractor. Notwithstanding any other provision in this Contract to the contrary, CITY'S right to take interim possession of, or make use of, any of CONTRACTOR'S equipment, including, without limitation, vehicles, Carts, Bins and Containers, shall not allow CITY to assign ownership of such vehicles, Carts, Bins and Containers to another contractor and CITY acknowledges that CONTRACTOR'S lender has a security interest in such equipment; or

29.01.8 CONTRACTOR has defaulted, by failing or refusing to deliver Mixed Materials and/or Residue from Processing Mixed Materials , or an equivalent amount, to CITY'S contracted Disposal Facility without prior written approval by CITY to use an alternative Disposal facility; or

29.01.9 CONTRACTOR has defaulted, by failing or refusing to remit payment to the Recyclable Materials Collection Contractor for billing invoices successively for three (3) months, or longer.

29.01.10 In the event that the Contract is terminated, CONTRACTOR shall furnish CITY with immediate access to all of its business records related to its Customer and billing accounts for Collection Services.

29.02 Violations. Notwithstanding the foregoing and as supplemental and additional means of termination of this Contract under this Article, in the event that CONTRACTOR'S record of performance shows that CONTRACTOR has frequently, regularly or repetitively defaulted in the performance of any of the covenants and conditions required herein to be kept and performed by CONTRACTOR regardless of whether CONTRACTOR has corrected each individual condition of default, CITY in its sole discretion determines that CONTRACTOR shall be deemed a "habitual violator", in which case CONTRACTOR shall be deemed to have waived the right to any further notice or grace period to correct, and all of said defaults shall be considered cumulative and Collectively shall constitute a condition of irredeemable default. CITY shall thereupon issue CONTRACTOR a final warning citing the circumstances therefore, and any single default by CONTRACTOR of whatever nature, subsequent to the occurrence of the last of said cumulative defaults, shall be grounds for immediate termination of the Contract. A history of liquidated damages imposed pursuant to Article 22 may be used as a basis for deeming CONTRACTOR to be a habitual violator; however, any failure to have imposed liquidated damages where applicable shall not prevent use of CONTRACTOR'S underlying failures from consideration for determining a habitual violator. In the event of any such subsequent default, CITY may terminate this Contract upon giving of final written notice to CONTRACTOR, such cancellation to be effective upon the date specified in CITY'S written notice to CONTRACTOR, and all contractual fees due hereunder plus any and all charges and interest shall be payable to said date, and CONTRACTOR shall have no further rights hereunder. Immediately upon the specified date in such final notice CONTRACTOR shall proceed to cease any further performance under this Contract.

29.03 Effective Date. In the event of the aforesaid events specified above, and except as otherwise provided in said subsections, termination shall be effective upon the date specified in CITY'S written notice to CONTRACTOR and upon said date this Contract shall be deemed immediately terminated and upon such termination all liability of CITY under this Contract to CONTRACTOR shall cease, and CITY shall have the right to call the performance bond and shall be free to negotiate with other contractors for the operation of the herein specified services. CONTRACTOR for failure to perform shall reimburse CITY all direct and indirect costs of providing interim Collection Services.

29.04 Immediate Termination. CITY may terminate this Contract immediately upon written notice to CONTRACTOR in the event CONTRACTOR fails to provide and maintain the performance bond as required by this Contract, or if CONTRACTOR fails to obtain or maintain insurance policies endorsements as required by this Contract, or if CONTRACTOR fails to provide the proof of insurance as required by this Contract, or if CONTRACTOR offers or gives any gift prohibited by CITY administrative policy.

29.05 Termination Cumulative. CITY'S right to terminate this Contract is cumulative to any other rights and remedies provided by law or by this Contract.

29.06 Force Majeure. The parties shall be excused from performing their respective obligations hereunder in the event they are prevented from so performing by reason of Force Majeure.

ARTICLE 30. MODIFICATIONS TO THE CONTRACT

30.01 Contract Modifications and Changes in Law. CITY and CONTRACTOR understand and agree that the California Legislature has the authority to make comprehensive changes in Mixed Materials, Garbage, Recyclable Materials, or Organic Materials management legislation and that these and other changes in law in the future that mandate certain actions or programs for counties or municipalities may require changes or modifications in some of the terms, conditions or obligations under this Contract. CONTRACTOR agrees that the terms and provisions of CITY'S Municipal Code, as it now exists or as it may be amended in the future, shall apply to all of the provisions of this Contract and the Customers of CONTRACTOR located within the Service Area, provided, however, that CITY will not amend CITY'S Municipal Code in a way that is inconsistent with the Contract unless compelled to do so by federal or State law. In the event any future Change in Law, modifications to CITY'S Municipal Code, or directed changes by CITY materially alters the obligations of CONTRACTOR, then the affected compensation as established under this Contract shall be adjusted. Nothing contained in this Contract shall require any party to perform any act or function contrary to law. CITY and CONTRACTOR agree to enter into good faith negotiations regarding modifications to this Contract, which may be required in order to implement changes in the interest of the public welfare or due to Change in Law. When such modifications are made to this Contract, CITY and CONTRACTOR shall negotiate in good faith a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of CONTRACTOR due to any modification in the Contract under this Section 30.01. CITY and CONTRACTOR shall not unreasonably withhold agreement to such compensation adjustment.

30.01.1 Compensation Adjustments. In the event of a Change in Law or regulations of any governmental agency that will require additional or different services to be provided by CONTRACTOR which are not otherwise covered by this Contract, CONTRACTOR shall provide CITY with a written rate increase request for additional compensation to CONTRACTOR based on such additional or different services. The rate increase request shall include but not be limited to the information set forth in Sections 30.04.1 through 30.04.9 below. If the proposed rate increase exceeds five (5) percent and CITY does not agree with such rate increase, CITY, in addition to negotiating with CONTRACTOR may submit the matter to non-binding mediation as set forth in Section 30.02.1.

30.02 Dispute Resolution. All disputes relating to service or compensation changes as specified in Section 30.01 of this Contract shall be resolved by the following procedures,

30.02.1 Mediation. The parties shall participate in non-binding mediation of any dispute arising under this Contract (whether contract, tort, or otherwise), as provided hereafter.

30.02.1.1 The party desiring mediation shall give written notice thereof to the other party to this Contract, specifying the dispute to be mediated.

30.02.1.2 The mediation shall be held at Oakland, California, or at such other location as may be mutually agreed among the parties. The mediation shall be conducted

according to and a mediator chosen pursuant to the rules of the American Arbitration Association.

30.02.1.3 At least ten (10) Work Days before the date of the mediation, each side shall provide the mediator with a statement of its position and copies of all supporting documents. Each party shall send to the mediation a person who has authority to bind the party. If a subsequent dispute will involve third parties, such as insurers or subcontractors, they shall also be asked to participate in the mediation.

30.03 Changes In Required Services. CITY may direct changes in the services required under this Contract, including the addition of new services and programs, the deletion of existing services, and the modification of the manner in which existing services are performed. CONTRACTOR shall promptly and cooperatively comply with such directions and the rates shall be adjusted to fairly and fully reflect the additional costs, or cost reduction, associated with the directed change in scope of services but not for the preparation of CONTRACTOR'S proposal to perform such services. CITY'S authority to delete existing services is not in derogation of CONTRACTOR'S exclusive Contract rights, i.e., if a service is within the scope of the Contract is discontinued at CITY'S election under this Section CITY shall not allow a third party to perform it. All sums that appear in this Section 30.03 are expressed in July 2015 dollars and shall be adjusted as set forth below beginning July 1, 2016 and annually thereafter during the term of this Contract.

30.03.1 New Programs. Pilot programs and innovative services which may entail new Collection methods or new requirements for Customers and Service Recipients are included among the kinds of changes CITY may direct. Before directing changes in service that would affect CONTRACTOR'S annual cost by an amount of more than Two Hundred Fifty Thousand Dollars ($250,000) per year, which amount shall be adjusted annually by the same percentage as the percentage used to adjust the Maximum Collection Services Rates for that fiscal year as set forth in Section 7.16, except that in no year shall the adjustment be less than zero (0) percent. CITY will request CONTRACTOR to evaluate and report on changes being considered. Within sixty (60) calendar days of receiving such a request, CONTRACTOR shall provide a service proposal to CITY as set forth in Section 30.04 below.

30.03.2 Implementing Changes in Services. If changes in service will affect CONTRACTOR'S costs by less than Two Hundred Fifty Thousand Dollars ($250,000) per year, CONTRACTOR shall implement the change in accordance with a schedule directed by CITY. If changes in service will affect CONTRACTOR'S costs by the amount set forth in Section 30.03.1or more per year, CITY will consider CONTRACTOR'S service proposal as provided under Section 30.04. If the parties agree on the appropriate amount by which rates should be adjusted, CONTRACTOR shall implement the changes in accordance with the schedule directed by CITY. If the parties have not agreed but the changes will not require CONTRACTOR to make a capital investment of more than Three Million Three Hundred Fifty Thousand Dollars ($3,350,000), CONTRACTOR shall also implement the changes, CITY shall adjust the rates as it believes proper and CONTRACTOR may challenge the adequacy of such rates. If the parties have not agreed, and the changes will require CONTRACTOR to make a capital investment of more than Three Million Three Hundred Fifty Thousand Dollars ($3,350,000), then CONTRACTOR need not implement the change, but in such case CITY may engage another Person to do so and may modify the scope of work under this Contract accordingly. If the scope of work is modified pursuant to this Section 30.03.2, the bonding and insurance requirements set forth in Article 24 and Article 25 shall be reviewed for their sufficiency and purpose.

30.03.3 New Technology. In the event that technological advancements in the Collection, transportation, Processing, handling or Disposal of Mixed Materials, Recyclable Materials, and/or Organic Materials are made, and which if implemented alone or in conjunction with another technology would cumulatively reduce the initial rates established by this Contract by approximately ten (10) percent or more, CONTRACTOR shall so notify CITY, and CITY may require CONTRACTOR to utilize or implement said new technology and new rates shall be mutually agreed upon and established. CONTRACTOR shall retain the ability to propose changes to CITY in its Mixed Materials and Organic Materials Collection Service for the purpose of maximizing efficiency. Said changes will not be implemented without the written approval of CITY.

30.04 Service Proposal. Within sixty (60) calendar days of receipt of a request for a service change from CITY, CONTRACTOR shall submit a proposal to provide such service. At a minimum, the proposal shall contain a complete description of the following:

30.04.1 Collection methodology to be employed (equipment, manpower, etc.);

30.04.2 Equipment to be utilized, including equipment to be purchased (vehicle number, types, capacity, age, etc.);

30.04.3 Labor requirements (number of employees by classification);

30.04.4 Type of Carts or Bins to be utilized;

30.04.5 Provision for program publicity, outreach, and marketing;

30.04.6 Five (5) 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, giving full effect to the savings or costs to existing services;

30.04.7 Advantages and disadvantages of the change;

30.04.8 A recommendation as to whether the change should be implemented; and

30.04.9 An implementation schedule.

30.05 Acknowledgment. CONTRACTOR acknowledges and agrees that CITY may permit other contractors or companies besides CONTRACTOR to provide additional Collection Services and such other services not otherwise contemplated if CONTRACTOR and CITY cannot agree on terms and conditions, including compensation adjustments, of such services in one hundred twenty (120) calendar days from the date when CITY first requests a proposal from CONTRACTOR to perform such services.

30.06 Monitoring and Evaluation. If CITY requests, CONTRACTOR shall meet with CITY to describe the progress of each new program and other service issues. If applicable, CONTRACTOR shall document the results of the new programs on a monthly basis, including at a minimum the tonnage Diverted by material type, the end use or processor of the Diverted materials, the cost per ton for transporting and Processing each type of material, and other such information requested by CONTRACTOR and/or CITY necessary to evaluate the performance of each program.

30.06.1 At each meeting, CITY and CONTRACTOR shall have the opportunity to discuss revisions to the program. CITY shall have the right to terminate a

program if, in CITY'S sole discretion, CONTRACTOR is not cost effectively achieving the program's goals and objectives. Prior to such termination, CITY shall meet and confer with CONTRACTOR for a period of up to ninety (90) calendar days to resolve CITY'S concerns. Thereafter, CITY may utilize a third party to perform these services if CITY reasonably believes the third party can improve on CONTRACTOR'S performance and/or cost. Notwithstanding these changes, CONTRACTOR shall continue the program during the ninety (90) calendar day period and, thereafter, until the third party takes over the program.

ARTICLE 31. LEGAL REPRESENTATION

31.01 Acknowledgement. It is acknowledged that each party was, or had the opportunity to be, represented by counsel in the preparation of and contributed equally to the terms and conditions of this Contract and, accordingly, the rule that a contract or Contract shall be interpreted strictly against the party preparing the same shall not apply herein due to the joint contributions of both parties.

ARTICLE 32. FINANCIAL INTEREST

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

ARTICLE 33. CONTRACTOR'S PERSONNEL

33.01 Personnel Requirements. CONTRACTOR shall employ and assign qualified personnel to perform all services set forth herein. CONTRACTOR shall be responsible for ensuring that its employees comply with all applicable laws and regulations and meet all federal, State and local requirements related to their employment and position.

33.01.1 CITY may request the transfer of any employee of CONTRACTOR who materially violates any provision hereof, or who is wanton, negligent, or discourteous in the performance of his duties.

33.01.2 CONTRACTOR shall not permit its employees to demand or solicit, directly or indirectly, any additional compensation or gratuity from Customers or Service Recipients for the provision of Collection Services under the terms of this Contract.

33.01.3 CONTRACTOR'S field operations personnel shall be required to wear a clean uniform shirt bearing CONTRACTOR'S name. CONTRACTOR'S employees, who normally come into direct contact with the public, including drivers, shall bear some means of individual photographic identification such as a name tag or identification card.

33.01.4 Each driver of a Collection vehicle shall at all times carry a valid California driver's license and all other required licenses for the type of vehicle that is being operated.

33.01.5 Each driver of a Collection vehicle shall at all times comply with all applicable State and federal laws, regulations and requirements.

33.01.6 CONTRACTOR'S employees, officers, and agents shall at no time be allowed to identify themselves or in any way represent themselves as being employees of CITY.

33.01.7 CONTRACTOR'S name and the Customer Service telephone number shall be properly displayed on all Collection vehicles.

ARTICLE 34. UNACCEPTABLE WASTE

34.01 CONTRACTOR shall not be required to Collect, transport or deliver for Disposal, Unacceptable Waste, but may offer such services. All such Collection, transport and delivery for Disposal of Unacceptable Waste is not regulated under this Contract, but if provided by CONTRACTOR shall be in strict compliance with all federal, state and local laws and regulations.

ARTICLE 35. INDEPENDENT CONTRACTOR

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

ARTICLE 36. LAWS TO GOVERN

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

ARTICLE 37. CONSENT TO JURISDICTION

37.01 The parties agree that any litigation between CITY and CONTRACTOR concerning or arising out of this Contract shall be filed and maintained exclusively in the Municipal or Superior Courts of Alameda County, State of California, or in the United States Court for the Northern District of California to the fullest extent permissible by law. Each party consents to service of process in any manner authorized by California law.

ARTICLE 38. ASSIGNMENT

38.01 CITY Right to Terminate in Event of Assignment. CONTRACTOR acknowledges that this Contract involves rendering a vital service to CITY'S residents and businesses, and that CITY has selected CONTRACTOR to perform the services specified herein based on (1) CONTRACTOR'S experience, skill and reputation for conducting its operations in a safe, effective and responsible fashion, at all times in keeping with applicable environmental laws, regulations and best management practices for the provision of Collection Services and (2) CONTRACTOR'S financial resources to maintain the required equipment and to support its indemnity obligations to CITY under this Contract. CITY has relied on each of these factors, among others, in choosing CONTRACTOR to perform the services to be rendered by CONTRACTOR under this Contract. Any assignment by CONTRACTOR, either directly or indirectly, in whole or in part, of its rights or any interest it may have in this Contract including any transfer of its stock or assets to a third party shall give CITY, in its sole discretion, the basis for terminating this Contract in whole or in part upon the giving of a thirty (30) day written notice to CONTRACTOR. In the event such notice of termination is given as authorized by this Article, CONTRACTOR shall continue, for up to six (6) months following notice of termination, to provide any or all of the services it is obligated to perform under this Contract if requested by CITY in writing. CITY'S right to terminate the Contract in whole or in part shall expire unless exercised within sixty (60) days of receiving written notice from CONTRACTOR as provided herein of an assignment by CONTRACTOR. "Assignment" or "Assign" as used in this Contract shall include, but not be limited to, (i) a sale, exchange or other transfer of substantially all of CONTRACTOR'S assets dedicated to any or all of the services to be provided under this Contract to a third party (ii) a sale, exchange or other transfer of outstanding common stock of CONTRACTOR to a third party provided said sale, exchange or transfer results in a change of control of CONTRACTOR or any sale, exchange or transfer of the common stock of CONTRACTOR which results in the effective transfer of control of substantially all of CONTRACTOR'S assets dedicated to any or all of the services to be provided under this Contract to a third party; (iii) any dissolution, reorganization, consolidation, merger, re-capitalization, stock issuance or re-issuance, voting trust, pooling agreement, escrow arrangement, liquidation or other transaction to which results in a change of ownership or control of CONTRACTOR; (iv) any assignment by operation of law, including insolvency or bankruptcy, making assignment for the benefit of creditors, writ of attachment for an execution being levied against this Contract, appointment of a receiver taking possession of CONTRACTOR'S property, or transfer occurring in the event of a probate proceeding; and (v) any combination of the foregoing (whether or not in related or contemporaneous transactions) which has the effect of any such transfer or change of ownership, or change of control of CONTRACTOR, or substantially all of the assets used for providing any of the services under this Contract to a third party.

38.02 Procedure for CITY Evaluation of Proposed Assignment. If CONTRACTOR requests CITY'S consideration of and consent to an assignment, CONTRACTOR shall meet the following preliminary requirements:

38.02.1 CONTRACTOR shall pay CITY its reasonable expenses for attorney's fees, consultant's fees and investigation costs necessary to investigate the suitability of any proposed assignee, and to review and finalize any documentation required as a condition for approving any such assignment;

38.02.2 CONTRACTOR shall furnish CITY with audited financial statements of the proposed assignee's operations for the immediately preceding three (3) operating years; and

38.02.3 CONTRACTOR shall furnish CITY with satisfactory proof that: (1) the proposed assignee has at least ten (10) years of experience providing Collection Services on a scale equal to or exceeding the scale of operations conducted by CONTRACTOR under this Contract; (2) in the last five (5) years, the proposed assignee has not suffered any significant citations or other censure from any federal, State or local agency having jurisdiction over its Collection Services operations due to any significant failure to comply with State, federal or local environmental laws and the assignee has provided CITY with a complete list of such citations and censures; (3) the proposed assignee has at all times conducted its operations in an environmentally safe and conscientious fashion; (4) the proposed assignee conducts its Collection Services operation practices in accordance with sound management practices in full compliance with all federal, State and local laws regulating the provision of Collection Services; and, (5) of any other information required by CITY to ensure the proposed assignee can fulfill the terms of this Contract in a timely, safe and effective manner.

38.03 CONTRACTOR Default. Under no circumstances shall CITY be obliged to consider any proposed assignment if CONTRACTOR is in default at any time during the period of consideration.

38.04 CITY Discretion to Accept or Reject Assignment. CITY, in its sole discretion, may accept, reject or conditionally accept the proposed assignment. If CITY accepts a partial assignment, the corporate guaranty provided in Section 1.49 and Exhibit 18 and the performance security provided in Article 24 shall remain in effect unless CITY in its sole discretion consents to adequate substitutes by the assignee or to a novation, and absent a novation CONTRACTOR shall not be released from liability under this Contract.

38.05 Subcontractor. The use of a subcontractor to perform services under this Contract shall not constitute delegation of CONTRACTOR'S duties provided that CONTRACTOR has received prior written authorization from CITY to subcontract such services and the Contract Manager has approved a subcontractor who will perform such services. CONTRACTOR shall be responsible for directing the work of CONTRACTOR'S subcontractors and any compensation due or payable to CONTRACTOR'S subcontractor shall be the sole responsibility of CONTRACTOR. CITY shall have the right to require the removal of any approved subcontractor for reasonable cause.

ARTICLE 39. COMPLIANCE WITH LAWS

39.01 In the performance of this Contract, CONTRACTOR shall comply with all applicable laws, regulations, ordinances and codes of the federal, state and local governments, including without limitation the Municipal Code of the CITY of Oakland.

39.02 CITY shall provide written notice to CONTRACTOR of any planned amendment of CITY ordinances that would substantially affect the performance of CONTRACTOR'S services pursuant to this Contract. Such notice shall be provided at least thirty (30) calendar days prior to the CITY Council's approval of such an amendment.

ARTICLE 40. PERMITS AND LICENSES

40.01 CONTRACTOR shall obtain, at its own expense, all permits and licenses required by law or ordinance and maintain same in full force and effect throughout the term of this Contract. CONTRACTOR shall provide proof of such permits, licenses or approvals and shall demonstrate compliance with the terms and conditions of such permits, licenses and approvals upon the request of the Contract Manager.

ARTICLE 41. OWNERSHIP OF WRITTEN MATERIALS

41.01 All reports, documents, brochures, public education materials, and other written, printed, electronic or photographic materials developed by CITY or CONTRACTOR in connection with the services to be performed under this Contract, whether developed directly or indirectly by CITY or CONTRACTOR shall be and shall remain the property of CITY without limitation or restrictions on the use of such materials by CITY. CONTRACTOR shall not use such materials in connection with any project not connected with this Contract without the prior written consent of the Contract Manager. This Article 41 does not apply to ideas or concepts described in such materials and does not apply to the format of such materials.

ARTICLE 42. WAIVER

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

ARTICLE 43. POINT OF CONTACT

43.01 The day-to-day dealings between CONTRACTOR and CITY shall be between CONTRACTOR and the Contract Manager.

ARTICLE 44. CONFLICT OF INTEREST

44.01 CONTRACTOR covenants and declares it has no conflicts of interest that would in any manner impair or affect CONTRACTOR'S ability to perform under this Contract.

ARTICLE 45. NOTICES

45.01 Except as provided herein, whenever either party desires to give notice to the other, it must be given by written notice by registered or certified mail, or by other methods designated for next day delivery with proof of receipt, addressed to the party for whom it is intended, at the place last specified and to the place for giving of notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective persons and places for giving of notice:

As to the CITY:

City Administrator

Office of the City Administrator
City of Oakland
1 Frank Ogawa Plaza, 3rd Floor
Oakland, CA 94612
Telephone: 510-238-3301
E-mail: cityadministrator@oaklandnet.com

With copies to:

Director of Public Works
Public Works Agency
City of Oakland
250 Frank Ogawa Plaza, Suite 4314
Oakland, CA 94612
Telephone: 238-4470
E-mail: vtroyan@oaklandnet.com

City Attorney
Office of the City Attorney
City of Oakland
1 Frank Ogawa Plaza, 6th Floor
Oakland, CA 94612
Telephone: (510) 238-3601
E-mail: info@oaklandcityattorney.org

Director of Finance and Management
Finance and Management Agency
City of Oakland
150 Frank Ogawa Plaza, Suite 5215
Oakland, CA 94612
Telephone: (510) 238-2220
E-mail: sjohnson@oaklandnet.com

As to CONTRACTOR:

[Title]
[Company]
[Street Address]
[City, State, Zip]
Telephone: (xxx) xxx-xxxx
E-mail: xxx@xxx.xxx

and

[Title]
[Company]
[Street Address]
[City, State, Zip]
Telephone: (xxx) xxx-xxxx
E-mail: xxx@xxx.xxx

45.02 Notices shall be effective when received at the address as specified above. Changes in the respective address to which such notice is to be directed may be made by written notice with a courtesy copy provided by email. The original of items that are transmitted by email must also be mailed as required herein.

ARTICLE 46. TRANSITION TO NEXT CONTRACTOR

46.01 In the event CONTRACTOR is not awarded a Contract extension to continue to provide Collection Services following the expiration or upon early termination of this Contract, CONTRACTOR shall cooperate fully with CITY and any subsequent contractors to assure a smooth transition of services described in this Contract. Such cooperation shall include but not be limited to transfer of computer data, files and tapes; providing routing information, route maps, vehicle fleet information, and list of Customers; providing a complete inventory of all Carts and Bins; providing adequate labor and equipment to complete performance of all Collection Services required under this Contract; taking all actions necessary to transfer ownership of Carts and Bins, as appropriate, to CITY, including transporting such Containers to a location designated by the Contract Manager; coordinating Collection of materials set out in new Containers if new Containers are provided for a subsequent Contract and providing other reports and data required by this Contract.

ARTICLE 47. CONTRACTOR'S RECORDS

47.01 CONTRACTOR shall maintain any and all letters, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to Customers for a minimum period of five (5) years, or for any longer period required by law, from the date of final payment to CONTRACTOR pursuant to this Contract.

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

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

47.04 Where CITY has reason to believe that such records or documents may be lost or discarded due to the dissolution, disbandment or termination of CONTRACTOR'S business, CITY may, by written request or demand of any of the above named officers, require that custody of the records be given to CITY and that the records and documents be maintained in CITY Hall. Access to such records and documents shall be granted to any party authorized by CONTRACTOR, CONTRACTOR'S representatives, or CONTRACTOR'S successor-in-interest.

ARTICLE 48. ENTIRE CONTRACT

48.01 This Contract and the Exhibits attached hereto constitute the entire Contract and understanding between the parties hereto, and it shall not be considered modified, altered, changed or amended in any respect unless in writing and signed by the parties hereto.

ARTICLE 49. SEVERABILITY

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

ARTICLE 50. RIGHT TO REQUIRE PERFORMANCE

50.01 The failure of CITY at any time to require performance by CONTRACTOR of any provision hereof shall in no way affect the right of CITY thereafter to enforce same. Nor shall waiver by CITY of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

ARTICLE 51. CORPORATE GUARANTY

51.01 In addition to the performance security required in Article 24, CONTRACTOR is required to obtain a Guaranty, and Guarantor has agreed to guarantee CONTRACTOR'S performance of this Contract, including CONTRACTOR'S indemnification obligations hereunder pursuant to a Guaranty in substantially the form attached as Exhibit 18. The Guaranty is being provided concurrently with CONTRACTOR'S execution of this Contract.

ARTICLE 52. EMPLOYEE RETENTION REQUIREMENTS

52.01 CONTRACTOR acknowledges that if and when Collection Services are transferred to CONTRACTOR, as the successful proposer, that workers who perform services for CITY'S current Contractor (if different from CONTRACTOR) may be displaced from their employment. CONTRACTOR represents and warrants that it shall offer employment to all qualified displaced workers who have been employed by the current Contractor for at least one hundred twenty (120) calendar days prior to July 1, 2015 provided that CONTRACTOR shall not be required to create additional positions that CONTRACTOR does not need nor to lay-off or discharge CONTRACTOR'S employees in order to employ qualified displaced workers. A qualified displaced worker includes non-management workers of the current Contractor who have been employed, in a full-time paid status, for at least one hundred twenty (120) calendar days prior to July 1, 2015 and who would otherwise be laid-off. CONTRACTOR is prohibited from discharging any qualified displaced workers for at least ninety (90) calendar days after July 1, 2015 except for cause. After the initial ninety (90) calendar days, the continued employment of qualified displaced workers will be under the terms and conditions established for all of CONTRACTOR'S workers in the particular job classification. CONTRACTOR shall submit

displaced worker hiring status reports to the Contract Manager on the last working day of October 2015 and on the last working day of June 2016.

ARTICLE 53. SUBCONTRACTING

CONTRACTOR shall not engage any subcontractors to perform any of the services required of it under this Contract without the prior written approval of CITY. CONTRACTOR shall notify CITY no later than ninety (90) days prior to the date on which it proposes to enter into a subcontract, providing CITY with all information it requests with respect to the proposed subcontractor. CITY may approve or reject any proposed subcontract and/or subcontractor in its sole discretion if the proposed subcontract replaces essential services to be performed by CONTRACTOR pursuant to Article 9, Article 10, Article 11, and Article 12 of this Contract. CITY'S consent to a subcontract and/or subcontractor shall not be unreasonably withheld as to other aspects of this Contract that are not deemed to involve essential services to CITY.

ARTICLE 54. LOCAL BUSINESS PRESENCE AND PARTICIPATION

54.01 CONTRACTOR represents and warrants that during the term and course of its contract with the CITY, it will abide by commitments it made to local business presence and participation in its proposal to earn preference points as reported in Exhibit 16. CONTRACTOR shall report annually using form provided by CITY on current local business presence and participation. Failure to abide by commitments shown Exhibit 16 may result in liquidated damages per Article 22. In year seven (7) of this Contract, CITY will assess local business presence and participation and if substantially different from Exhibit 16, then CITY may choose to not extend Contract per Article 3.

ARTICLE 55. LOCAL HIRE COMPLIANCE

55.01 CONTRACTOR represents and warrants that at least fifty (50) percent of all new hires in their workforce will be Oakland residents (i.e., for every two (2) new hires, one (1) will be a resident of Oakland). A compliance baseline will be determined on October 1, 2015. The baseline calculation will be total number of full-time equivalent employees with a verified Oakland address assigned to this Contract divided by the total number of full-time equivalent employees assigned to this Contract. CONTRACTOR shall provide documentation for the number of employees used in the baseline and employees that are used in the calculation as Oakland residents.

55.02 Beginning November 2015, CONTRACTOR will provide a monthly report in accordance with Section 19.02.1.7 showing the total number of employees hired in the previous month and of those employees hired, the city of residence of those new employees. CITY will calculate annually the percent of new hires that are Oakland residents. Failure to maintain new hires at fifty (50) percent Oakland residents annually may result in liquidated damages per Article 22. CITY may put CONTRACTOR on a corrective action plan to achieve compliance with Section 55.01. Failure to meet the corrective action plan may result in CITY not extending Contract per Article 3.

55.03 CONTRACTOR may provide documentation of employees that are Oakland residents that do not work on this Contract for the CITY's consideration. CITY, at its sole discretion, may choose to use the number of Oakland residents that are employees of

CONTRACTOR that do not work on this Contract in the annual calculation for compliance with this Article.

55.04 CONTRACTOR represents and warrants that during the term and course of its contract with CITY, that it will maintain (to be completed) number of Oakland Residents in its work force as committed to in its proposal for award of preference points. A compliance baseline will be determined on October 1, 2015. The baseline calculation will be total number of full-time equivalent employees with a verified Oakland address assigned to this Contract divided by total number of full-time equivalent employees assigned to this Contract. CONTRACTOR shall provide documentation for the number of employees used in the baseline and number of employees that are used in the calculation as Oakland residents. Beginning November 2015, CONTRACTOR will provide a monthly report in accordance with Section 19.02.1.7 showing the total number of employees and the city of residence of employees. CITY will calculate annually the number of employees that are Oakland residents. Failure to maintain the number of Oakland residents committed to in its proposal for award of preference points may result in liquidated damages per Article 22. [Section 55.04 will be removed if no preference points are awarded.]

55.05 CONTRACTOR will train and hire the number of local disadvantaged workers as committed to in its proposal for award of preference points. Beginning November 2015, CONTRACTOR will provide a monthly report in accordance with Section 19.02.1.7 that shows the total number of disadvantaged local workers being trained and the total number hired for the previous month. Failure to maintain the number of disadvantaged local workers as committed to in this Section may result in the assessment of liquidated damages per Article 22. [Section 55.05 will be removed if no preference points are awarded.]

ARTICLE 56. RELIGIOUS PROHIBITION

56.01 There shall be no religious worship, instruction, or proselytization as part of, or in connection with, the performance of this Contract.

ARTICLE 57. POLITICAL PROHIBITION AND CAMPAIGN CONTRIBUTIONS

This Contract is subject to the City of Oakland Campaign Reform Act of Chapter 3.12 of the Oakland Municipal Code and its implementing regulations. The Campaign Reform Act prohibits contractors that are doing business or seeking to do business with CITY from making campaign contributions to Oakland candidates between commencement of negotiations and either one hundred eighty (180) days after completion of, or termination of, Contract negotiations. CONTRACTOR has signed and dated an Acknowledgment of Campaign Contribution Limits Schedule O attached hereto and incorporated herein as Attachment 3.

ARTICLE 58. BUSINESS TAX CERTIFICATE

58.01 CONTRACTOR shall obtain and provide proof of a valid CITY business tax certificate. Said business tax certificate will be valid prior to and to the conclusion of this Contract. A copy of the business tax certificate for 2015 is attached hereto and incorporated herein as Exhibit 19. A copy of subsequent business tax certificates shall be sequentially numbered and attached hereto.

ARTICLE 59. ATTORNEYS FEES

59.01 In any dispute between the parties, whether or not resulting in litigation or any appeal therefrom, the prevailing party shall be entitled to recover from the other party all reasonable costs, including, without limitation, reasonable attorneys' fees. "Prevailing parties" shall include without limitation (i) a party who dismisses an action in exchange for sums allegedly due such party; (ii) the party which received performance from the other party of an alleged breach of a covenant or a desired remedy where such performance is substantially equal to the relief sought in an action; or (iii) the party determined to be the prevailing party by a court of law.

ARTICLE 60. LIMITATION OF FELONY DISCLOSURE ON JOB APPLICATION

60.01 CONTRACTOR is required to exclude from the initial job application, any requirement of the applicant to disclose felony history as long as it complies with governing laws.

ARTICLE 61. COMPETITIVE WAGES AND BENEFITS

61.01 Living Wage Requirements. ONTRACTOR shall comply with CITY Living Wage Ordinance Chapter 2.28 of the Oakland Municipal Code and its implementing regulations. The Ordinance requires among other things, submission of the Declaration of Compliance attached and incorporated herein as Attachment 3. All of the provisions of Section 61.01, or any part hereof, may be waived in a bona fide collective bargaining agreement, but only if the waiver is explicitly set forth in such agreement in clear and unambiguous terms.

61.02 Competitive Wages and Benefits. CONTRACTOR shall pay Competitive Wages and Benefits defined as wages and benefits equivalent to or better than collectively bargained contracts in use in Alameda, Contra Costa, San Francisco, Santa Clara, and San Mateo Counties. CONTRACTOR shall provide CITY evidence of compliance with this provision at CITY'S request.

61.02.1 CONTRACTOR shall provide CITY ninety (90) day notice for expiration any of CONTRACTOR'S collectively bargained contracts. CONTRACTOR shall timely notice CITY should other issues arise with CONTRACTOR'S collectively bargained contracts.

ARTICLE 62. VALIDITY OF CONTRACTS

62.01 This Contract shall not be binding or of any force or effect until signed by the City Administrator or his or her designee and approved as to form and legality by the City Attorney or his or her designee.

ARTICLE 63. EQUAL BENEFITS ORDINANCE

63.01 This Contract is subject to the Equal Benefits Ordinance of Chapter 2.232.010 of the Oakland Municipal Code and its implementing regulations. Entities which enter into a

"contract" with the City for an amount of Twenty-Five Thousand Dollars ($25,000.00) or more for public works or improvements to be performed, or for goods or services to be purchased or grants to be provided at the expense of the City or to be paid out of moneys deposited in the treasury or out of trust moneys under the control of or collected by the City; and Entities which enter into a "property contract" pursuant to Section 2.23.020(D) with the City in an amount of Twenty-Five Thousand Dollars ($25,000.00) or more for the exclusive use or occupancy (1) of real property owned or controlled by the City or (2) of real property owned by others for the City's use or occupancy, for a term exceeding twenty-nine (29) days in any calendar year.

63.02 The Ordinance shall only apply to those portions of CONTRACTOR'S operations that occur (1) within the CITY; (2) on real property outside Oakland if the property is owned by CITY or if CITY has a right to occupy the property, and if CONTRACTOR'S presence at that location is connected to a contract with CITY; and (3) elsewhere in the United States where work related to a City contract is being performed. The requirements of this Section shall not apply to subcontracts or subcontractors of any contract or contractor. The Equal Benefits Ordinance requires among other things, submission of Schedule N-1, the Equal Benefits-Declaration of Nondiscrimination, incorporated herein.

ARTICLE 64. LABOR PEACE

64.01 General. CITY has determined that the level of vulnerability of the proposed Contract to labor disputes is sufficient to warrant that labor peace is essential to the property interests of CITY. Therefore, CONTRACTOR shall at all times comply with the provisions of CONTRACTOR'S Employee and Labor Relations Plan set forth in Exhibit 17 to this Contract.

ARTICLE 65. AMENDMENT

65.01 No modification, amendment, or supplement to this Contract will be binding on the parties unless it is made in writing, duly authorized by CONTRACTOR and CITY, and signed by both parties.

ARTICLE 66. ALL PRIOR CONTRACTS SUPERSEDED

66.01 This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained in this Contract and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Contract that are not contained in this document or in the Disposal Services Contract or the Residential Recycling Services Contract which are being executed simultaneously with this document. Accordingly, it is agreed that no deviation from the terms of this Contract shall be predicated upon any prior representations or agreements, whether oral or written.

ARTICLE 67. HEADINGS

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

ARTICLE 68. LEGAL REPRESENTATION

68.01 Each of the parties has received the advice of legal counsel prior to signing this Contract. The parties agree no provision or provisions may be subject to any rule of construction based upon any party being considered the party "drafting" this Contract.

ARTICLE 69. EXHIBITS

69.01 Each Exhibit referred to in this Contract forms an essential part of this Contract. Each such Exhibit is a part of this Contract and each is incorporated by this reference.

ARTICLE 70. EFFECTIVE DATE

70.01 This Contract shall become effective at such time as it is properly executed by CITY and CONTRACTOR and CONTRACTOR shall begin Collection Services, as covered herein, as of July 1, 2015.

IN WITNESS WHEREOF, CITY and CONTRACTOR have executed this Contract on the day and year first written above.

CITY OF OAKLAND	[Contractor Company Name]
By:_____	By:_____
[Name, Title]	[Name, Title]
_____	_____
Date	Date
	_____
	CITY of Oakland Business License Number

The foregoing Contract has been reviewed and approval is recommended:

Resolution No._____ C.M.S.

Approved by CITY Council

APPROVED AS TO FORM:

_____

[Name, Title]

CITY Attorney

Attest:

By: _____	_____
[Name, Title]	Date

CITY Clerk

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EXHIBIT 1
MAXIMUM SERVICE RATES

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EXHIBIT 1A
MAXIMUM COLLECTION SERVICE RATES – SFD SERVICES

EXHIBIT 1B
MAXIMUM COLLECTION SERVICE RATES – MFD SERVICES

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EXHIBIT 1C
MAXIMUM COLLECTION SERVICE RATES – COMMERCIAL SERVICES

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EXHIBIT 1D
MAXIMUM COLLECTION SERVICE RATES – SFD, MFD AND COMMERCIAL ROLL-OFF BOX SERVICES

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EXHIBIT 1E
MAXIMUM COLLECTION SERVICE RATES – EMERGENCY SERVICE RATES - EMPLOYEES

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EXHIBIT 1F
MAXIMUM COLLECTION SERVICE RATES -- EMERGENCY SERVICE RATES - EQUIPMENT

EXHIBIT 1G MAXIMUM COLLECTION SERVICE RATES – SPECIAL EVENTS SERVICES
EXHIBIT 1H MAXIMUM RECYCLING SERVICE RATES

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EXHIBIT 2
REFUSE RATE INDEX

The "Refuse Rate Index" adjustment for the Mixed Material and Organics Collection Contract shall be calculated in the following manner:

1. The expenses of the Collection and Processing services for the designated fiscal period shall be prepared in the format set forth in the Operating Cost Statement - Description on the following page.
2. The expenses of the disposal services shall be broken down into the following eight (8) cost categories: Labor, Diesel Fuel, CNG Fuel, Vehicle Replacement, Vehicle Maintenance, Mixed Waste Processing, Disposal and All Other. Each cost category is assigned a weighted percentage factor on that cost category's proportionate share of the total of the costs shown for all cost categories.
3. The following indices published by the United States Department of Labor, Bureau of Labor Statistics (BLS), are used to calculate the adjustment for each cost category except, CNG Fuel, Mixed Waste Processing and Disposal. The change in each index is calculated in accordance with the terms of the Contract. In the event any index is discontinued, a successor index shall be selected by mutual agreement of the parties. Successor indices shall be those indices that are most closely equivalent to the discontinued indices as recommended by the BLS.

Cost Category	**Index**
Labor	Series ID: ceu6056210008 Service Producing Industries
Diesel Fuel	Series ID: wpu057303 #2 Diesel Fuel
CNG Fuel	Schedule G-NGV-1, compiled and published by the Pacific Gas and Electric Co. Analysis and Rate Department and reported monthly in the "Gas Rate Finder" publication (http://www.pge.com/tariffs) reflecting the sum of the Customer, procurement, transportation and public purpose program charges.
Vehicle Replacement	Series ID: pcu336211336211 Truck, bus, car, and other vehicle bodies, for sale separately
Vehicle Maintenance	Series ID: pcu3339243339243 Parts and attachments for industrial work trucks
Mixed Waste Processing	Actual tip fee change at the mixed waste processing facility
Disposal	Actual tip fee change at the landfill per the Disposal Contract
All Other	Series ID: cuura422sa0 Consumer Price Index, All Urban Consumers, All Items – Bay Area

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

Operating Cost Statement-Description

EXHIBIT 2
REFUSE RATE INDEX

Labor: List all salary accounts.

List payroll tax accounts, health and welfare, payroll insurance and pension accounts directly related to the above salary accounts.

Diesel Fuel: List all diesel fuel accounts.

CNG Fuel: List all CNG fuel accounts.

Vehicle Replacement:

List all collection and collection related vehicle depreciation accounts.

List all vehicle lease or rental accounts related to collection or collection related vehicles.

Vehicle Maintenance:

List all collection or collection related vehicle parts accounts.

Mixed Waste Processing:

List all mixed waste processing costs.

Disposal: List disposal costs.

All Other: List all other expense accounts related to the services provided under this Contract. This category includes, insurance including general liability, fire, truck damage, and extended coverage; rent on property, truck licenses and permits; real and personal property taxes; telephone and other utilities; employee uniforms; safety equipment; general yard repairs and maintenance; non-diesel or non-CNG fuel; office supplies; postage; trade association dues and subscription; advertising; and miscellaneous other expenses.

RRI Example

Item #	Category	Data Source	Percentage Change	Item Weight	Weighted Percentage Change

EXHIBIT 2
REFUSE RATE INDEX

1	Labor (Other)	Series ID: ceu6056210008 Service Producing Industries	4.19%	25.00%	1.05%
2	Diesel Fuel	Series ID: wpu057303 #2 Diesel Fuel	8.09%	1.15%	0.09%
3	CNG Fuel	PG & E Schedule G-NGV-1,	4.28%	18.00%	0.77%
4	Vehicle Replacement	Series ID: pcu336211336211 Truck, bus, car, and other vehicle bodies, for sale separately	6.79%	8.46%	0.57%
5	Vehicle Maintenance	Series ID: pcu3339243339243 Parts and attachments for industrial work trucks	1.20%	4.20%	0.05%
6	Mixed Processing	Change from Mixed Processing Facility	1.70%	17.77%	0.30%
7	Disposal	Tip Fee change from Disposal Contract	1.25%	10.00%	0.13%
8	All Other	Series ID: cuura422sa0 Consumer Price Index, All Urban Consumers, All Items Bay Area	2.70%	15.42%	0.42%
Total				100.00 %	**3.38%**

In this example, the Refuse Rate Index is 3.38%.

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EXHIBIT 3 APPROVED FACILITIES
1.

EXHIBIT 4 CITY FACILITIES	
Building / Facility	**Estimated Service Level**
All CITY Building and Facilities	
CITY Public Containers	
CITY Directed Code Enforcement	
Abandoned Waste	

EXHIBIT 5 CITY-SPONSORED EVENTS	
CONTRACTOR will work with event organizers to promote Zero Waste events. **The following are CITY Sponsored Community Events.**	
Event/Activity	**Estimated Service Level**

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EXHIBIT 6
TRANSITION PLAN

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EXHIBIT 7
COMMUNITY OUTREACH STRATEGY

EXHIBIT 8
DIVERSION PLAN

Table A
Annual Minimum Required Diversion Rates

Part 1

Calendar Year	Minimum Diversion Rate
2016	(XX%)
2017	
2018	
2019	
2020	
2021	
2022	
2023	
2024	
2025	

Part 2

Calendar Year	Minimum Diversion Rate
2026	To Be Completed in 2023
2027	
2028	
2029	
2030	
2031	
2032	
2033	
2034	
2035	

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Table B

Calculation of Annual Diversion Rate

	Diversion Tons (Net of Residue) divided by
	Total Collected Tons (all tons Collected under this Contract) equals
	Annual Diversion as follows:

	Diversion Tons (Net of Residue)	**Tons**
1	SFD - Collected Organics Tons	
2	SFD - Material Diverted via Mixed Material Processing	
3	MFD - Collected Organic Tons	
4	MFD - Material Diverted via Mixed Material Processing	
5	BULKY - Collected Source Separated Bulky Goods	
6	BULKY - Material Diverted via Mixed Material Processing	
7	COMMERCIAL - Collected Organics Tons	
8	COMMERCIAL - Material Diverted via Mixed Material Processing	
9	COMMERCIAL - Collected Non-Exclusive Recyclable Material	
10	**Total Diversion Tons (Net of Residue)**	(Sum of lines 1-9)
12	**Diversion Tons (Net of Residue)**	(Line 10 carried over)
13	**Total Collected Tons (All Tons Collected under this Contract)**	
14	**Annual Diversion**	(Line 12 divided by line 13)

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EXHIBIT 9
CUSTOMER SERVICE PLAN

EXHIBIT 10
COLLECTION SERVICES OPERATIONS PLAN

EXHIBIT 11
HHW COLLECTION PLAN

EXHIBIT 12 VEHICLE SPECIFICATIONS

EXHIBIT 13
CONTAINER SPECIFICATIONS

EXHIBIT 14
BULKY GOODS COLLECTION SERVICE AGREEMENT

This Exhibit governs Bulky Goods Collection Service (Bulky Service) for eligible SFD and MFD Service Addresses, and Service Recipients.

A. OVERVIEW

1. Per Sections 9.05 and 10.05 of the Contract, and subject to the limitations of Section B of this Exhibit, CONTRACTOR shall provide Bulky Goods Collection Service to SFD and MFD Service Addresses, and to Service Recipients in individual Dwelling Units. This service shall target bulky Recyclable and non-recyclable items that are not typically Collected as part of Mixed Material and Organics Collection Services or Residential Recycling Collection Services. The goals of Bulky Goods Collection Service are:
    a. Convenient and safe collection and processing of household items that cannot be Collected in the weekly Material and Organics Collection Services or Residential Recycling Collection Services;
    b. High waste diversion through Recycling; and
    c. Minimization of illegal disposal/dumping.
2. CONTRACTOR shall provide Bulky Goods Collection Service appointments on Work Days during residential Collection hours per Contract Section 6.02.1, with the exceptions that CONTRACTOR shall recover Friday missed Collections on Saturday, and CONTRACTOR may, at its discretion, schedule Bulky Goods Collection Service appointments on Saturdays.
3. CONTRACTOR shall ensure adequate customer service and operational capacity to provide service upon demand for all eligible households, per the criteria in Section C.2.
4. CONTRACTOR shall leave a Non-Collection Notice for unacceptable items (described in Section E.1.) that it left uncollected.
5. CONTRACTOR shall notify CITY of all non-collected items per Attachment A of this Exhibit.
6. Beginning July 1, 2016, CITY and CONTRACTOR agree to meet and confer annually to evaluate the effectiveness of the Bulky Goods Collection Service program, and consider adjustments to the service.

B. ELIGIBILITY

All SFD and MFD Service Addresses shall be eligible for Bulky Goods Collection Services as described in this Exhibit. Additionally, all Service Recipients in SFD and MFD Dwelling Units shall be eligible for certain Bulky Goods Collection Services as described in this Exhibit.

1. Each SFD Dwelling Unit shall be eligible for an Annual Pickup consisting of one (1) Full Service Collection Event, as defined in Section D of this Exhibit, per Contract Year, at no additional charge to the Service Recipient, Customer or CITY. In addition to the Annual Pickup, each SFD Service Address shall be eligible for additional Full Service Collection Events (Pay-As-You-Go Pickups) at the Bulky Goods Pay-As-You-Go Pickup Maximum Services Rates as set forth in Exhibit 1 to the Contract.
2. Each MFD Dwelling Unit shall be eligible for an Annual Pickup consisting of one half of one (1/2) Full Service Collection Event per Contract Year as described in Section D of this Exhibit at no additional charge to Service Recipient, Customer or CITY. In addition to the Annual

EXHIBIT 14
BULKY GOODS COLLECTION SERVICE AGREEMENT

Pickup, each MFD Dwelling Unit shall be eligible for additional Full Service Collection Events (Pay-As-You-Go Pickups) at the Bulky Goods Pay-As-You-Go Pickup Maximum Services Rates as set forth in Exhibit 1 to the Contract.

3. CONTRACTOR shall only be required to accept appointments for Annual Pickups from SFD and MFD Customers, and Service Recipients in 1-unit SFD buildings.
4. CONTRACTOR shall only be required to accept appointments for Pay-As-You-Go Pickups that are billed to the account associated with the Service Address from SFD and MFD Customers.
5. CONTRACTOR shall be required to accept appointments for Pay-As-You-Go Pickups from Service Recipients in any SFD or MFD Dwelling Unit when such services are billed to the personal credit card of the SFD or MFD Service Recipient requesting the service.

C. CUSTOMER SERVICE

1. CONTRACTOR's customer service representatives (CSR) shall review the following points with the Customer or Service Recipient when scheduling a Bulky Goods Collection Service appointment:
    a. Confirmation of whether the appointment is for an Annual Pickup or Pay-As-You-Go Pickup;
    b. Items the Customer or Service Recipient intends to set out;
    c. List of acceptable/unacceptable items setout standards per Sections D and E of this Exhibit;
    d. Confirmation of Customer or Service Recipient's current telephone number; and
    e. Explicit information regarding the caller's financial liability for overage charges and CITY fines.
2. Collection shall be scheduled for and provided on a date within two (2) weeks of the appointment call, unless the caller requests a later date. CONTRACTOR shall notify CITY if CONTRACTOR cannot schedule appointments within two (2) weeks for any reason.
3. CONTRACTOR shall send an Appointment Confirmation Notice accompanied by (or included within) a Bulky Goods Collection Service brochure no later than the next Work Day after the appointment is scheduled.
4. CONTRACTOR shall Collect on the scheduled appointment day all improperly prepared but otherwise acceptable Recyclable items, and may charge for Overage for such items per Section F.
5. CONTRACTOR shall propose measures to ensure that large Bulky Goods Collection Service Collection events shall be managed to ensure Customer satisfaction and to minimize blight. Examples of such measures include but are not limited to: on-site meetings with Customers; site visits to determine setout location and assess potential access issues; and allocating appropriate resources to ensure complete and on-time Collection.

D. ACCEPTED ITEMS

EXHIBIT 14
BULKY GOODS COLLECTION SERVICE AGREEMENT

1. One (1) "Full Service Collection Event" shall include Collection of:
    a. Up to three (3) cubic yards (equal to approximately twenty [20] 32-gallon bags) of non-recyclable Bulky Goods, which include but are not limited to furniture, home remodeling debris (subject to Section E.) and other household items;
    b. Two (2) large appliances;
    c. Four(4) electronic devices as described in the California Code of Regulations Title 22, §66260.201 that require handling as "Covered electronic devices" (CED) (video display devices including but not limited to televisions and computer monitors);
    d. Four (4) tires, including tires on rims;
    e. Four(4) mattresses or box springs;
    f. Four (4) carpets;
    g. Computers;
    h. Consumer electronic products;
    i. Scrap metal;
    j. Corrugated cardboard;
    k. Unpainted/untreated wood; and
    l. Plant Debris.

2. One half (1/2) of a "Full Service Collection Event" shall include collection of:
    a. Up to one-and-a-half (1.5) cubic yards of non-recyclable bulky items, which include but are not limited to furniture, home remodeling debris (subject to Section E.) and other household items;
    b. One (1) large appliance;
    c. Two (2) electronic devices as described in the California Code of Regulations Title 22, §66260.201 that require handling as "Covered electronic devices" (CED) (video display devices including but not limited to televisions and computer monitors);
    d. Two (2) tires including tires on rims;
    e. Two (2) mattresses or box springs;
    f. Two (2) carpets:
    g. Computers;
    h. Consumer electronic products;
    i. Scrap metal;
    j. Corrugated cardboard;
    k. Unpainted wood; and
    l. Plant Debris.
3. Recyclable items shall be prepared as described in Attachment B to this Exhibit.
4. Setouts shall be placed within three (3) feet of the curb or paved surface of the public roadway, closest accessible roadway, or other such location agreed to by CONTRACTOR and Customer or Service Recipient that provides safe and efficient accessibility to CONTRACTOR'S Collection crew and vehicle.

EXHIBIT 14
BULKY GOODS COLLECTION SERVICE AGREEMENT

E. NON-ACCEPTED ITEMS

1. The following items set out for Collection shall not be Collected by CONTRACTOR:
    a. Rocks, dirt, and concrete.
    b. Household Hazardous Waste.
    c. Any single item (excluding appliances and furniture) that weighs more than seventy five (75) pounds.
    d. Items that might otherwise be acceptable, but due to the condition of the items or the manner in which they have been positioned for Collection, these items pose a risk to the safety of CONTRACTOR'S staff, or a risk of property damage, and CONTRACTOR'S staff is unable to mitigate these risks by using alternative Collection methods or safe handling procedures.
2. CONTRACTOR shall:
    a. Leave a Non-Collection Notice for all non-collected items, advising the Customer or Service Recipient of the reason item(s) were not Collected, and listing the contact information for the Alameda County Household Hazardous Waste Facility.
    b. Make digital photographs of the uncollected setout available to CITY that clearly identifies the Service Address.
    c. Notify CITY and Customer or Service recipient per Section J.
    d. Follow up with Customers or Service Recipients whose setouts or partial setouts are not collected per E.1.d.:
        i. Contact the Customer or Service Recipient on the appointment day and explain the specific conditions, as determined by CONTRACTOR field staff who assessed the safety risk, that need to be corrected in order to make the items acceptable (examples: "nails on wood must be flattened", or, "items in unstable stack must be placed on the ground", etc.)
        ii. Schedule one (1) final recovery pick up of item(s) with Customer or Service Recipient if they agree to correct the unsafe conditions.
        iii. If Customer or Service Recipient does not agree to correct the unsafe conditions, inform them that CONTRACTOR will notify CITY, and that they may be subject to CITY fines if they fail to either bring the items back onto their property or dispose of them in a legal manner.
        iv. Update the daily notification to CITY to indicate the disposition of the item(s).

F. OVERAGE FEES

1. CONTRACTOR may charge Overage fees, per cubic yard of material, for non-Recyclable items and/or improperly prepared Recyclable items, set out in excess of three (3) cubic yards, per the Exhibits 1A and 1B (Maximum Service Rates for SFD and MFD Services). Such

EXHIBIT 14
BULKY GOODS COLLECTION SERVICE AGREEMENT

Overage fees may be charged only when CONTRACTOR completes Collection of the set-out on the scheduled appointment date. In the case of street closure caused by construction, police activity, or other similar conditions on the scheduled appointment date, when CONTRACTOR completes Collection on the first Work Day following the street closure.

2. For 2-4 unit SFD buildings and all MFD buildings, material set out in excess of the amount scheduled for the appointment (e.g., 2 units of a 4-unit SFD are scheduled [eligible for 6 cubic yards], and 8 cubic yards are set out; or 5 units of a 10-unit MFD are scheduled [eligible for 7.5 cubic yards] and 10 cubic yards are set out), CONTRACTOR shall Collect all items set out. The Overage shall be deducted from the account's remaining balance of Annual Pickup(s) for that Contract Year. CONTRACTOR may charge Overage fees if the account does not have a sufficient balance of Annual Pickups to cover the Overage, for that portion of the Overage that is not covered by the remaining balance. CONTRACTOR shall notify Customer in writing of the deduction and/or Overage charge per this Section.

3. For all Overage charges billed, or assessed per Section F.2, CONTRACTOR shall promptly provide to the Customer or Service Recipient, and make available to CITY, the following documentation:

    a. Digital photographs of the set out at the time of Collection, which clearly identify the Service Address.

    b. Citation of:

        i. Number of total cubic yards set out.
        ii. Number of Overage cubic yards.
        iii. Number of residential units attributed to the set-out.
        iv. Date of scheduled appointment and date of Collection.

4. All Overage charges shall appear on Customers' regular Collection Service bill as a discreet line item identified as "Bulky Goods Collection Service Overage" or similar language, and cite the date that the Bulky Goods Collection Service was provided. For Service Recipients who ordered Pay-As-You-Go service, Overage charges shall be billed as a separate transaction on the Service Recipient's credit card.

G. PUBLIC EDUCATION AND COMMUNITY OUTREACH

1. The following outreach materials shall be developed by CONTRACTOR in conjunction with CITY and used to notify eligible Customers and Service Recipients:

    a. Bulky Goods Collection Service promotional literature to be send via pre-sorted First Class mail to Customers and Service Recipients, not less than two (2) times per year;

    b. Appointment Confirmation Notice (described in Section C.3); and

    c. Non-Collection Notice(s) for items that were not collected due to:

        i. Unacceptable items set out; or
        ii. Improperly set out Recyclable items that were Collected but could not be recycled, such as Plant Debris contained in plastic bags, and may be subject to Overage charge.

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BULKY GOODS COLLECTION SERVICE AGREEMENT

2. All Bulky Goods Collection Service public education materials shall be provided in English with phone numbers for Spanish, Vietnamese, and Chinese language translation services. CITY may change the languages listed herein to comply with CITY's Equal Access Bulky Service requirements.

H. REPORTING

1. CONTRACTOR shall include Bulky Goods Collection Service data in its monthly report in a format acceptable to CITY including:
    a. Number of eligible residential Dwelling Units
    b. Number of appointments, in aggregate, and broken out by:
        i. SFD Annual Pickups (per month and year-to-date)
        ii. SFD Pay-As-You-Go Pickups (per month and year-to-date)
        iii. MFD Annual Pickups (per month and year-to-date)
        iv. MFD Pay-As-You-Go Pickups (per month and year-to-date)
        v. Service Recipient Pay-As-You-Go Pickups (per month and year-to-date)
    c. Number of setouts Collected (per month and year-to-date)
    d. Number of appointments for which there were no setouts (per month and year-to-date)
    e. Number of setouts greater than three (3) cubic yards (per month and year-to-date)
    f. Number of setouts at which items were left uncollected (per month and year-to-date)
    g. Quantity in Tons of Bulky Goods Collection Service material Landfilled (per month and year-to-date)
    h. Quantity in Tons of Bulky Goods Collection Service material Diverted from Landfill for Recycling (per month and year-to-date)
    i. Item counts for large appliances, CED (including but not limited to televisions and computer monitors), tires, mattresses and carpets (per month and year-to-date).
2. CONTRACTOR shall biannually apply a statistical significance method to quantify in Tons recovered from Mixed Material processing (if Mixed Material Processing is employed). The methodology shall be approved by CITY.

I. NON COMPLIANT SETOUTS

1. CONTRACTOR shall work closely with CITY staff to ensure that all non-compliant setouts are promptly identified and proper notification is promptly made. It is the intention of this Exhibit that CONTRACTOR operations personnel in the field who observe non-compliant setouts and potential illegal dump sites shall immediately report these to the appropriate contacts at CONTRACTOR and at CITY, so that disposition of the setout can be determined and appropriate action can be taken without delay. Non-compliant setouts include, but are not limited to:
    a. Setouts that were placed at the curb earlier than one (1) day before scheduled service

EXHIBIT 14
BULKY GOODS COLLECTION SERVICE AGREEMENT

date.

b. Setouts partially picked up by CONTRACTOR with non-acceptable items left at curb.

c. Any set-out that CONTRACTOR'S staff observe that might be illegal dumping.

J. NOTIFICATION TO CITY OF OAKLAND AND TO CUSTOMER OR SERVICE RECIPIENT

1. CONTRACTOR shall send a list of each week's scheduled Bulky Goods Collection Service appointments no later than 2 PM on the Friday prior to the Collection week to designated CITY contacts per Attachment A of this Exhibit.
2. CONTRACTOR shall have an internal system to confirm whether or not every scheduled setout is actually Collected on its scheduled Collection day. In the event of a missed or incomplete pick up CONTRACTOR shall do the following:
    a. Notify CITY via email no later than 8:00 AM on the day following the scheduled appointment unless the appointment is scheduled for a Saturday, in which case the following Work Day;
    b. Notify the Customer or Service Recipient no later than 9:00 AM on the day following the scheduled appointment and confirm that recovery will be made on the day following the scheduled appointment unless the appointment is scheduled for a Saturday, in which case the following Work Day;
    c. Recover set-out on the day following the scheduled appointment, including recovery of Friday setouts on Saturday, but the following Work Day if the appointment is scheduled for a Saturday.

K. COLLECTION AND PROCESSING

In order to help meet CITY's waste diversion goals, CONTRACTOR shall deliver all loads to a MRF for recycling:

1. Mixed Material loads (if any) containing both recyclable and non-recyclable items shall be delivered to a MRF for processing. A statistically significant method to quantify recovery from Mixed Material loads delivered to and processed at the MRF shall be employed at a minimum twice per year (per Section H.2.c.). No loads shall be directly delivered to a Landfill or for transfer to Landfill without being processed for recovery at a MRF.
2. Large appliances, electronic devices, tires including tires on rims, mattresses, box springs, computers, consumer electronic products, scrap metal, corrugated cardboard, unpainted wood, carpets and Plant Debris shall be recycled.
3. CITY reserves the right to direct CONTRACTOR to take Bulky Goods Collected pursuant to this Exhibit to a designated site or sites for the purpose of permitting persons who will reuse or recycle such Bulky Goods to obtain the Bulky Goods at no cost. CONTRACTOR shall have no obligation to Dispose of the Bulky Goods or Bulky Good Residue remaining at the directed site or sites after reusers and recyclers have removed reusable or recyclable Bulky Goods. CONTRACTOR shall be entitled to an adjustment to the service rates to reflect any increased costs arising from CITY's direction.

EXHIBIT 14
BULKY GOODS COLLECTION SERVICE AGREEMENT

4. All Diversion from Bulky Goods Collection Service shall be credited to CITY.

Attachment A

Notification to CITY and Customer of Non-Collection

Contact information in this attachment subject to change. CONTRACTOR shall use updated contact information as provided by CITY.

Item#	Deliverable	Section	Notification Deadline	Contact
1	List of addresses by day of each week's scheduled bulky pick up appointments.	J.1.	2 PM on the Friday prior to the collection week	(Distribution list TBD)
2	List of addresses where scheduled setouts, or portions of setouts, were not picked-up on the scheduled date.	J.2.	8:00 AM on the day following the scheduled appointment	
3	Notify and update CITY of status of declined pickup of safety risk items	E.2.		
4	List of addresses where scheduled setout was not collected in its entirety due to non-collection of ***hazardous***, non-acceptable items.	E.1.b..		**Office of Emergency Services:** **Call 510-238-3938** lgriffin@oaklandnet.com
5	a) Notify Customer or Service Recipient of missed pickup of any acceptable items b) Confirm recovery on day following scheduled appointment	E.2.a. J.2.b.	a) Day of appointment b) 9 AM on day following appointment	a) Leave Non-collecti b) Phone Customer o Recipient at phone C.1.f.

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BULKY GOODS COLLECTION SERVICE AGREEMENT

6	a) Notify Customer or Service Recipient of declined pickup of non-accepted or improperly set out items	E.2.a	a) Day of appointment	a) Leave Non-collection Notice
	b) Communicate specific corrective steps to have improperly set out items recovered.	E.2.d.	b) Day of appointment	b) Phone Customer or Service Recipient at phone number pe C.1.f.

Attachment B
Preparation of Acceptable Recyclable Items

CONTRACTOR'S Bulky Goods outreach shall instruct Customers to prepare setouts according to the following.

1. Items may be set out no earlier than one (1) day prior to scheduled appointment and no later than 6 a.m. of the scheduled pickup day.
2. Items must be grouped by material:
    a. Separate bulky items
    b. Place large metal appliances, tires including tires on rims, mattresses, and electronic items in distinct groups for efficient collection and recycling
    c. All metal and or plastic containers in which materials are set out shall be emptied and returned to the curb by CONTRACTOR unless Customer communicates otherwise.
    d. Citations may be issued and fees assessed to property owner if Bulky Service rules are not followed.
    e. Items may not be stacked in an unsafe/unstable manner whereby removing an item would cause items to fall against person and/or property.
3. Lumber, carpet and similar items must be securely tied in bundles which may not exceed four (4) feet long or seventy-five (75) pounds.
4. Large metal appliances:
    a. Remove doors from refrigerators for safety
    b. Tape shut doors and drawers of stoves, dishwashers, etc.
5. Scrap metal:
    a. Place small items in boxes
    b. Tie larger items in bundles no more than 4 feet long
6. Plant Debris:

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BULKY GOODS COLLECTION SERVICE AGREEMENT

a. Place loose Plant Debris in paper bags, typically available at local hardware stores
b. Place in own container – up to 32-gallon
c. Unpainted/untreated wood can be recycled with Plant Debris
d. Securely tie bundles of branches and unpainted/untreated wood. Bundles may not exceed four (4) feet long or seventy five (75) pounds. Individual pieces may not exceed six (6) inches in diameter
e. Plant Debris set out in plastic bags cannot be recycled, and shall be counted toward:
    i. The 3 cubic yards of disposal, or
    ii. Overage charges if applicable

7. Electronic items:

Consumer electronic products, including Universal Waste Electronic Devices (UWED) and Covered Electronic Devices (CED) as described in the California Code of Regulations Title 22.

4099
4100

EXHIBIT 15
MEMORANDUM OF UNDERSTANDING

EXHIBIT 16
LOCAL BUSINESS PRESENCE AND PARTICIPATION REPORTING FORM

Item #	Category	Data Source	Total $	% of $	Total LBPP	% of Total LBPP
1	Labor (Other)	Series ID: ceu6056210008 Service Producing Industries				
2	Diesel Fuel	Series ID: wpu057303 #2 Diesel Fuel				
3	CNG Fuel	PG & E Schedule G-NGV-1,				
4	Vehicle Replacement	Series ID: pcu336211336211 Truck, bus, car, and other vehicle bodies, for sale separately				
5	Vehicle Maintenance	Series ID: pcu3339243339243 Parts and attachments for industrial work trucks				
6	Mixed Processing	Change from Mixed Processing Facility				
7	Disposal	Tip Fee change from Disposal Contract				
8	All Other	Series ID: cuura422sa0 Consumer Price Index, All Urban Consumers, All Items Bay Area				
Total						

4104

EXHIBIT 16 A
LOCAL BUSINESS PRESENCE AND PARTICIPATION REQUIREMENTS

4105

4106

EXHIBIT 17
EMPLOYEE AND LABOR RELATIONS PLAN

EXHIBIT 18
GUARANTY AGREEMENT

City of Oakland

This Guaranty, made as of the date written below by CONTRACTOR, to and for the benefit of the City of Oakland (CITY)

WHEREAS, CONTRACTOR, and the CITY, entered into a CONTRACT BETWEEN THE CITY AND CONTRACTOR FOR provision of Collection Services, dated as of insert date, (the **"Contract"**), which Contract is incorporated in this Guaranty by reference and by this Guaranty made part of this Agreement; and

WHEREAS, the CITY is willing to enter into the Contract only upon the condition that Guarantor execute this Guaranty; and

WHEREAS, in the event the CONTRACTOR fails to timely and fully perform its obligations, including the payment of moneys, pursuant to the Contract and as it may hereafter be amended or modified by CONTRACTOR and the CITY, the Guarantor is willing to guaranty CONTRACTOR'S timely and full performance thereof.

NOW, THEREFORE, as an inducement to the CITY to enter into the Contract as described above, the Guarantor agrees as follows:

Capitalized terms used in the Contract and not otherwise defined in this Agreement, will have the meaning assigned to them in the Contract.

1. **Guaranty of CONTRACTOR'S Performance Under Contract.** Guarantor by this Guaranty directly, unconditionally, irrevocably, and absolutely guaranties the timely and full performance of CONTRACTOR'S obligations under the Contract in accordance with the terms and conditions contained therein or to cause the timely and full performance. Within thirty (30) days' written request therefore by the CITY, Guarantor will honor the Guaranty. Notwithstanding the unconditional nature of the Guarantor's payment obligations set forth in this Agreement, the Guarantor may assert the defenses provided in the paragraph entitled Defenses under Section 8 of this Guaranty, against claims made under this Guaranty.

2. **Governing law; consent to jurisdiction; service of process.** This Guaranty is governed by the laws of the State of California. The Guarantor by this Guaranty agrees to the service of process in the State for any claim or controversy arising out of the Guaranty or relating to any breach. The Guarantor by this Guaranty agrees that the courts of the State and to the extent permitted by law, the United States District Court for the Northern District of California, will have the exclusive jurisdiction of all suits, actions, and other proceedings involving itself and to which the CITY may be party for the adjudication of any claim or controversy arising out of this Guaranty or relating to any breach of this Guaranty, waives any objections that it might otherwise have to the venue of any Court for the trail of any suit, action, or proceeding, any consents to the service of process in any suit, action, or proceeding by prepaid registered mail return receipt required.

3. **Enforceability; no assignment.** This Guaranty is binding upon and enforceable against Guarantor, its successors, assigns, and lawful representatives. It is for the benefit of the CITY, its successors and assigns. The Guarantor may not assign or delegate the performance of the Guaranty without the prior written consent of the CITY in its sole discretion. Any assignment made without the prior written consent of the CITY is

voidable by the CITY in its sole discretion. Together with its request for CITY consent, Guarantor will pay CITY $10,000 for its reasonable expenses for private attorney's fees and investigation costs ("assignment expenses") necessary to investigate the suitability of any proposed assignee, and to review and finalize any documentation required as a condition for approving any assignment. CITY will reimburse Guarantor the excess, if any, over those assignment expenses it incurs. Contrariwise, Guarantor will pay CITY the excess assignment expenses, if any, over $10,000 CITY incurs within thirty (30) days' of CITY'S request therefore. Guarantor will further pay the CITY the CITY'S reimbursement costs for fees of attorneys who are not CITY employees and investigation costs necessary to enjoin the assignment or to otherwise enforce this provision within thirty (30) days of the CITY'S request therefore ("injunction costs"). Guarantor's obligation to pay CITY assignment expenses and injunction costs will not exceed $35,000 in the aggregate, excluding any costs that the CITY may recover under applicable law, including court costs paid to a prevailing party.

For purposes of the Guaranty "assign" and "assignment" means:

a) selling, exchanging or otherwise transferring effective control of management of the Guarantor (through sale, exchange or other transfer of outstanding stock or otherwise);

b) issuing new stock or selling, exchanging or otherwise transferring 20% or more of the then outstanding common stock of the Guarantor;

c) any dissolution, reorganization, consolidation, merger, re-capitalization, stock issuance or re-issuance, voting trust, pooling agreement, escrow arrangement, liquidation or other transaction which results in a change of ownership or control of Guarantor;

d) any assignment by operation of law, including insolvency or bankruptcy, making assignment for the benefit of creditors, writ of attachment of an execution, being levied against Guarantor, appointment of a receiver taking possession of any of Guarantor's tangible or intangible property; and,

e) any combination of the foregoing (whether or not in related or contemporaneous transactions) which has the effect of any transfer or change of Ownership or control of Guarantor.

For purposes of determining "Ownership", the constructive ownership provisions of Section 318(a) of the Internal Revenue Code of 1986, as in effect on the date here, will apply, provided that (1) 10 percent is substituted for 50 percent in Section 318(a)(2)(C) and in section 218(a)(3)(C) thereof; and (2) Section 218(a)(5)(C) is disregarded. For proposes of determining ownership under this paragraph and constructive or indirect ownership under Section 318(a), ownership interest of less than 20 percent is disregarded and percentage interests is determined on the basis of the percentage of voting interest or value which the ownership interest represents, whichever is greater.

4. **Guarantor absolute and unconditional.** The undertakings of Guarantor set forth in this Guaranty are absolute and unconditional, and the CITY is entitled to enforce any or all of those undertakings against Guarantor without being first required to enforce any remedies or to seek to compel the CONTRACTOR to perform its obligations under the Contract or to seek, or obtain recourse against any other party or parties, including but not limited to the CONTRACTOR or any assignee of the CONTRACTOR, who are, or

may be, liable therefore in whole or in part, irrespective of any cause or state of facts whatever. Without limiting the generality of the foregoing, the Guarantor expressly agrees that its state of facts or the happening from time to time of an event, other than the payment of the terms of the Contract, including, without limitation, any of the following, each of which is by this Guaranty expressly waived as a defense to its liability under this Guaranty, except to the extent those defenses would be available to the CONTRACTOR and release, discharge or otherwise offset CONTRACTOR'S obligations under the Agreement:

a) the invalidity, irregularity, illegality or unenforceability, of or any defect in or objections to the Contract;

b) any modification or amendment or compromise of or waiver of compliance with or consent to variation from any of the provisions of the Contract by the CONTRACTOR;

c) any release of any collateral or lien thereof, including, without limitation, any performance bond, or performance security;

d) any defense based upon the election of any remedies against the Guarantor of the CONTRACTOR, or both, including without limitation, any consequential loss by the Guarantor of its right to recover any deficiency, by the way of subrogation or otherwise, from the CONTRACTOR or any other Person or entity;

e) the recovery of any judgment against the CONTRACTOR to enforce any of that collateral, performance bond or performance security;

f) the CITY or its assigns taking or omitting to take any of the actions which it or any of that assign is required to take under the Contract; any failure, omission or delay on the part of the CITY or its assignees to enforce, assert or exercise any right, power or remedy conferred on it or its assigns by the Contract, except to the extent that failure, omission or delay gives rise to an applicable statute of limitations defense by the CONTRACTOR with respect to a specific obligation;

g) the default or failure of the Guarantor to fully perform any of its obligations set forth in the Guaranty;

h) the bankruptcy, insolvency, or similar proceeding involving or pertaining to the CONTRACTOR or the CITY, or any order or decree of a court, trustee or receiver in any proceeding;

i) in addition to those circumstances described in item (h), any other circumstance which might otherwise constitute a legal or equitable discharge of a guarantor or limit the recourse of the CITY to the Guarantor;

j) the existence or absence of any action to enforce the Contract;

k) subject to the provisions of the Contract relating to uncontrollable circumstances, any present or future law or order of any government or any agency thereof, purporting to reduce, amend or otherwise affect the Contract or to vary any terms of payment or performance under the Contract;

Providing that, notwithstanding the forgoing, Guarantor will not be required to pay any monetary obligation of CONTRACTOR to CITY from which CONTRACTOR would be discharged, released or otherwise excused under the provisions of the Contract.

5. **Waivers.** Guarantor by the Guaranty waives:

a) notice of acceptance of the Guaranty and of the creation, renewal, extension and accrual of the limited financial obligations Guarantied under this Guaranty;

b) notice that any Person has relied on this Guaranty;

c) diligence, demand of payment and notice of default or nonpayment under this Guaranty or the Contract, and any and all other notices required under the Contract;

d) filing of claims with a court in the event of reorganization, insolvency, or bankruptcy of the CONTRACTOR;

e) any right to require a proceeding first against the CONTRACTOR or with respect to any collateral or lien, including, without limitation, any performance bond, or any other requirement that the CITY exercise any remedy or take any other action against the CONTRACTOR or any other Person, or in respect of any collateral or lien, before proceeding under this Guaranty;

f) (i) any demand for performance or observance of, or (ii) any enforcement of any provision of, or (iii) any pursuit or exhaustion of remedies with respect to, any security (including, with limitation, any performance bond) for the obligations of the CONTRACTOR under the Contract; any pursuit of exhaustion of remedies against the CONTRACTOR or any other obligor or guarantor of the obligations; and any requirement of promptness or diligence on the part of any Person in connection therewith;

g) to the extent that it lawfully may do so, any and all demands or notices of every kind and description with respect to the foregoing or which may be required to be given by any statute or rule of law, and any defense of any kind which it may now or hereafter have with respect to this Guaranty or the obligations of the CONTRACTOR under the Contract, *except* any Notice to the CONTRACTOR required pursuant to the Contract or applicable law which Notice preconditions the CONTRACTOR'S obligation or the defenses listed in Section 8 below.

To the extent that it may lawfully do so, the Guarantor by this Guaranty further agrees to waive, and does by this Guaranty absolutely and irrevocably waive and relinquish, the benefit and advantage of, and does by this Guaranty covenant not to assert, any appraisement, valuation, stay extension, redemption or similar laws, now or any time hereafter in force, which might delay, prevent or otherwise impede the due performance or proper enforcement of the Guaranty, the Contract, or the obligations of the CONTRACTOR under the Contract and by this Guaranty expressly agrees that the right of the CITY under this Guaranty may be enforced notwithstanding any partial performance by the CONTRACTOR or the Guarantor, or the foreclosure upon any security (including, with limitation, any performance bond, or performance security) given by the CONTRACTOR for its performance of any of its obligations under the Contract.

6. **Agreements between CITY and CONTRACTOR; Waivers by CITY.** The Guarantor agrees that, without the necessity for any additional endorsement or Guaranty by or any reservation of rights against Guarantor and without any further assent by Guarantor, by mutual agreement between the CITY and CONTRACTOR, the CITY and CONTRACTOR may, from time to time:

a) renew, modify or compromise the liability of the CONTRACTOR for or upon any of the obligations by the Guaranty Guarantied; or

b) consent to any amendment or change of an terms of the Contract; or

c) accept, release, or surrender any security (including, without limitation, any performance bond), or

d) grant any extensions or renewals of the obligations of the CONTRACTOR under the Contract, and any other indulgence with respect thereto, and to affect any release, compromise or settlement with respect thereto, all without releasing or discharging the liability of Guarantor under this Guaranty.

The Guarantor further agrees that the CITY or any of its assigns will have and may exercise full power in its uncontrolled discretion, without in any way affecting the liability of the Guarantor under this Guaranty, to waive compliance with and any default of the CONTRACTOR under, the Contract.

7. **Continuing Guaranty.** This Guaranty is a continuing Guaranty and will continue to be effective or be reinstated, as applicable, if at any time any payment of any of the obligations under this Guaranty is rescinded or is otherwise required to be returned upon reorganization, insolvency or bankruptcy of the CONTRACTOR or Guarantor or otherwise, all as though payment had not been made.

8. **Defenses.** Notwithstanding any provision in the Guaranty to the contrary, the Guarantor may exercise or assert any and all legal or equitable rights, defenses, counter claims or affirmative defenses under the Contract or applicable law which the CONTRACTOR could assert against any party seeking to enforce the Contract against the CONTRACTOR, and nothing in the Guaranty will constitute a waiver thereof by the Guarantor.

9. **Payment of costs of enforcing Guaranty.** Guarantor agrees to pay all costs, expenses and fees, including all reasonable attorney's fees, which may be incurred by the CITY in enforcing the Guaranty following the default on the part of the Guarantor under this Guaranty whether the same is enforced by suit or otherwise.

10. **Enforcement.** The terms of this Guaranty may be enforced as to any one or more breaches either separately or cumulatively.

11. **Remedies cumulative.** No remedy in this Guaranty conferred upon or reserved to the CITY under this Guaranty is intended to be exclusive or any other available remedy or remedies, but each and every remedy is cumulative and is in addition to every other remedy given under the Guaranty and the Contract or in this Guaranty after existing at law or in equity or by statute.

12. **Severability.** The invalidity or unenforceability of any one or more phrases, sentences or clauses in the Guaranty contained will not affect the validity or enforceability of the remaining portions of this Guaranty, or any part thereof.

13. **Amendments.** No amendment, change, modification or termination of this Guaranty is made except upon the written consent of Guarantor and the CITY.

14. **Term.** The obligations of the Guarantor under this Guaranty will remain in full force and effect until (i) all monetary obligations of the CONTRACTOR under the Contract will have been fully performed or provided for in accordance with the Contract, or (ii) the

discharge, release or other excuse of those obligations in accordance with the terms of the Contract.

15. **No set-off, etc.**

By Guarantor. The obligation of Guarantor under this Guaranty will not be affected by any set-off, counterclaim, recoupment, defense or other right that Guarantor may have against the CITY on account of any claim of the Guarantor against the CITY; *provided* that Guarantor reserves the right to bring independent claims not arising from the Contract again the CITY so long as any claim will not be used to set-off or deduct from any claims which the CITY may have against the Guarantor arising from this Guaranty.

By CONTRACTOR. The obligation of Guarantor under this Guaranty is subject to any set-off, counterclaim, recoupment, defense or other right that the CONTRACTOR may assert pursuant to the Contract, if any, but the obligation of Guarantor under this Guaranty will not be subject to any set-off counterclaim, recoupment, defense or other right that the CONTRACTOR may assert independently of and outside the Contract.

16. **Warranties and representations.** The Guarantor warrants and represents that as of date of execution of this Guaranty:

a) The Guarantor has the power, authority and legal right to enter into this Guaranty and to perform its obligations and undertakings under this Guaranty, and the execution, delivery and performance of this Guaranty by the Guarantor (i) have been duly authorized by all necessary corporate and shareholder action on the part of the Guarantor, (ii) have the requisite approval of all federal, State and local governing bodies having jurisdiction or authority with respect thereto, (iii) do not violate any judgment, order, law or regulation applicable to the Guarantor, (iv) do not conflict with or constitute a default under any agreement or instrument to which the Guarantor is a party or by which the Guarantor or its assets may be bound or affected; and (v) do not violate any provision of the Guarantor's articles or certificate of incorporation or by-laws.

b) This Guaranty has been duly executed and delivered by the Guarantor and constitutes the legal, valid and binding obligation of the Guarantor, enforceable against the Guarantor in accordance with its terms; and

c) There are no pending or, to the knowledge of the Guarantor, threatened actions or proceedings before any court administrative agency which would have a material adverse effect on financial condition of the Guarantor, or the ability of the Guarantor to perform its obligations or undertakings under this Guaranty.

17. **No merger; no conveyance of assets.** Guarantor agrees that during the term of this Guaranty in accordance with Section 14 Guarantor will not consolidate with or merge into any other corporation where the shareholders of the Guarantor yield control of the Guarantor, or a majority interest in the Guarantor, to the newly formed corporation, or convey, transfer or lease all or substantially all of its properties and assets to any person, firm, joint venture, corporation, and other entity, unless the CITY consents thereto in accordance with Section 3 above.

18. **Counterparts.** This Guaranty may be executed in any number of counterparts, some of which may not bear the signatures of all parties to the Guaranty. Each counterpart, when so executed and delivered, is deemed to be an original and all counterparts, taken together, will constitute one and the same instrument; *provided, however,* that in

pleading or proving this Guaranty, it will not be necessary to produce more than one coy (or sets of copies) bearing the signature of the Guarantor.

19. **Notices.** All notices, instructions and other communications required or permitted to be given to or made upon any party to this Guaranty shall be given in writing, deposited in the U.S. mail, registered or certified, first class postage prepaid, addressed as follows:

City Administrator
Office of the City Administrator
City of Oakland
1 Frank Ogawa Plaza, 3rd Floor
Oakland, CA 94612
Telephone: (510) 238-3301
E-mail: cityadministrator@oaklandnet.com

With copies to:

Director of Public Works
Public Works Agency
City of Oakland
250 Frank Ogawa Plaza, Suite 4314
Oakland, CA 94612
Telephone(510) 238-4470
E-mail: vtroyan@oaklandnet.com

City Attorney
Office of the City Attorney
City of Oakland
1 Frank Ogawa Plaza, 6th Floor
Oakland, CA 94612
Telephone: (510) 238-3601
E-mail: info@oaklandcityattorney.org

Director of Finance and Management
Finance and Management Agency
City of Oakland
150 Frank Ogawa Plaza, Suite 5215
Oakland, CA 94612
Telephone: (510) 238-2220
E-mail: sjohnson@oaklandnet.com

As to the GUARANTOR:

[Title]
[Company]
[Street Address]
[City, State, Zip]
Telephone: xxx-xxx-xxx
E-mail: xxx@xxx.xxx

With a copy to:

[Title]
[Company]
[Street Address]
[City, State, Zip]
Telephone: xxx-xxx-xxx
E-mail: xxx@xxx.xxx

20. **Separate Suits.** Each and every payment default by CONTRACTOR under the Contract will give rise to a separate cause of action under this Guaranty, and separate suits may be brought under this Guaranty by the CITY or its assigns as each cause of action arises.

21. **Headings.** The Section headings appearing in this Guaranty are for convenience only and will not govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of this Guaranty.

22. **Entire Agreement.** This Guaranty constitutes the entire Guaranty between the parties to this Guaranty with respect to the transactions contemplated by this Guaranty. Nothing in this Guaranty is intended to confer on any Person other than the Guarantor, the CITY and their permitted successors and assigns under this Guaranty any rights or remedies under or by reason of this Guaranty.

23. **Personal Liability.** It is understood and agreed to by the CITY that nothing contained in the Guaranty will create any obligation or right to look to any director, officer, employee or stockholder of the Guarantor (or any affiliate thereof) for the satisfaction of any obligations under this Guaranty, and no judgment, order or execution with respect to or in connection with this Guaranty is taken against any director, officer, employee or stockholder.

24. **Events of Default.** Each of the following will constitute an event of default under this Guaranty:

    a) **Failure to fulfill payment of guaranty.** Guarantor fails to fulfill full and timely payment of any guaranty under this Guaranty, including Section 1, and the failure continues for five (5) days after Notice (which is deemed given upon receipt of registered or certified mailing by U.S. Postal Service or of invoiced commercial service) (hereinafter defined as "**Notice**") has been given to the Guarantor by the CITY, fails to perform any of its obligations under this Guaranty or engages in any acts prohibited under this Guaranty other than failures itemized below, and fails to cure that failure or conduct within thirty (30) days;

    b) **Breach of Guaranty.** The Guarantor fails to observe and perform any covenant, condition or agreement of this Guaranty, other than any failures listed explicitly in this section, and that failure continues for more than thirty (30) days after Notice has been given the Guarantor by the CITY;

    c) **Failure to give Notice of proposed assignment, etc.** The Guarantor fails to give CITY Notice in accordance with Section 19 within ten (10) days of the first to occur of

        (i) CONTRACTOR or any Affiliate issuing a press release as to any proposed assignment, (within the meaning of Section 3), or consolidation, merger,

conveyance, transfer or lease described in paragraph (e) of this Section (24) or

(ii) The filing with the Securities and Exchange Commission of a Form 8-K or other filing with respect to a memorandum of intent or an agreement and plan therefore

(paragraph (i) and (ii) together defined as, "**Change Notice**");

d) **Consolidation, merger; conveyance of assets.** The Guarantor consolidates, merges or conveys, transfers or leases assets in violation of Section 17 despite CITY Council action following Change Notice in preceding paragraph c) withholding or denying CITY consent, and on or before 15 days thereafter does not provide CITY with a substitute Guarantor satisfaction to CITY in CITY'S sole discretion;

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

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

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

Upon any Event of Default the CITY may to proceed first and directly against the Guarantor under Guaranty without proceeding against or exhausting any other remedies, which it may have. The Guarantor acknowledges that any CONTRACTOR default comprises a default under the Agreement.

IN WITNESS WHEREOF Guarantor has executed this instrument the day and year first above written.

By: _____ Date: _____

Attest: _____ Date: _____

Proper notarial acknowledgement of execution by Guarantor must be attached.

(1) Chairman, president or vice-president, and (2) secretary, assistant secretary, CFO or assistant treasurer, must sign for corporations. Otherwise, the corporation

must attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

IN WITNESS WHEREOF, the CITY and Guarantor have executed this Guaranty as of the day and year first written above.

CITY OF OAKLAND	[Contractor Company]
By:_____.	By:_____.
[Name, Title]	[Name, Title]

Approved as to Form:

_____

[Name, Title]

EXHIBIT 19
BUSINESS TAX CERTIFICATE

4518

ATTACHEMENT 3
CITY FORMS

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2. Schedule N1 – Equal Benefits – Declaration of Nondiscrimination/ Equal Access

iii. Schedule C-1 - Compliance With The Americans With Disabilities Act
iv. Schedule P - Nuclear Weapons Proliferation Ordinance
v. Schedule V - Affidavit Of Non-Disciplinary Or Investigatory Action

Section 6 RR COLLECTION SERVICES CONTRACT

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RESIDENTIAL RECYCLING COLLECTION SERVICE CONTRACT

Executed Between

CITY of Oakland

and

[Insert CONTRACTOR Name]

July 1, 2015

CITY OF OAKLAND

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ATTACHMENT 1 Contract between the CITY of Oakland and Disposal Contractor (To be included after award)

ATTACHMENT 2 Contract between the CITY of Oakland and Mixed Material & Organics Contractor (To be included after award)

ATTACHMENT 3 City of Oakland Required Forms (To be included after award)

CITY OF OAKLAND

This Contract made and entered into [Insert Date] (the Effective Date),, by and between the CITY of Oakland, State of California, hereinafter referred to as "CITY" and [Insert Contractor Name], a California corporation, hereinafter referred to as "CONTRACTOR".

RECITALS

(Note Recitals will be amended if Non Exclusive Commercial Recycling Services are awarded.)

WHEREAS; the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (“Act”) and subsequent additions and amendments (codified at California Public Resources Code Section 40000 et seq.), has declared that it is in the public interest to authorize and require local agencies to make adequate provisions for Solid Waste Collection within their jurisdiction; and,

WHEREAS; the State of California, through enactment of the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, et. seq.) also recognizes the important health and safety consideration to long-term planning for local government's adequate Disposal needs. The California Integrated Waste Management Act of 1989 declares that the responsibility for management of Solid Waste is a shared responsibility between the State and local governments. The State requires local governments to make adequate provision for at least fifteen (15) years of Garbage Disposal capacity to preserve the health, safety and well-being of the public. The California Integrated Waste Management Act of 1989 and Oakland City Charter Article X and Oakland Municipal Code Chapter 8.28 also authorize local governments to enter into exclusive franchise contracts to provide Garbage handling services for the health, safety and wellbeing of its citizens (California Public Resources Code Section 40059); and,

WHEREAS; pursuant to California Public Resources Code Section 40059(a) as may be amended from time to time, as well as Oakland City Charter Article X and Oakland Municipal Code Chapter 8.28, CITY has determined that the public health, safety, and well-being require that an exclusive right be awarded to a qualified CONTRACTOR to provide for the Collection of Residential Recyclable Materials, except for Collection of materials excluded by CITY’S Municipal Code and this Contract, and other services related to meeting the Act’s fifty (50) percent Diversion goal and other requirements of the Act; and,

WHEREAS; in 1990 the Alameda County Waste Reduction and Recycling Initiative Charter Amendment established a county-wide solid waste diversion rate goal of seventy five (75) percent by 2010; and,

WHEREAS, in 2002 the City Council of the City of Oakland passed Resolution No. 77500 C.M.S., to adopt a goal of 75% reduction of waste going to landfills by 2010 in support of the Measure D goal, and the implementation date established by the Alameda County Source Reduction and Recycling Board; and,

WHEREAS, in 2006 the City Council of the City of Oakland approved Resolution No.79774 C.M.S. which adopted a Zero Waste Goal by 2020**;** and

WHEREAS, in 2006 the City Council of the City of Oakland passed Resolution No. 80286 C.M.S., adopting a Zero Waste Strategic Plan; and,

WHEREAS; it is the intent of the CITY to provide for the Collection and Processing of Recyclable Materials as defined in Article 1 of this Contract; and,

WHEREAS, CITY has entered into Contracts to provide: i) Mixed Materials and Organics Collection Services and ii) Disposal Services within the CITY; and,

WHEREAS; CITY further declares its intent to regulate and establish the maximum rates CONTRACTOR will charge Customers for the Collection, transportation, and Processing of Recyclable Materials; and

WHEREAS; the CITY Council has determined through a competitive procurement process for Residential Recycling Collection Services that CONTRACTOR, by demonstrated experience, reputation and capacity, is qualified to provide for the Collection of Residential Recyclable Materials within the corporate limits of CITY, the transportation of such material to appropriate places for Processing, and Recycling and the CITY Council desires that CONTRACTOR be engaged to perform such services on the basis set forth in this Contract; and

WHEREAS; CONTRACTOR, through its proposal to CITY, has proposed and represented that it has the ability and capacity to provide for the Collection of Recyclable Materials within the corporate limits of the CITY; the transportation of such material to appropriate places for Processing, and Recycling; and

WHEREAS, CITY wishes to engage CONTRACTOR to provide the services specified within this Contract, in accordance with the terms and conditions of this Contract; and

WHEREAS, this Contract has been developed by and is satisfactory to CITY and CONTRACTOR.

Now, therefore, in consideration of the mutual covenants, conditions and consideration contained herein, CITY and CONTRACTOR hereby agree as hereinafter set forth:

Article 1. DEFINITIONS

For the purpose of this Residential Recycling Collection Service Contract ("Contract"), the definitions contained in this Article shall apply unless otherwise specifically stated. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Use of the masculine gender shall include the feminine gender. (Note: References to Collection of Recyclable Materials and Commercial recycling services will be amended if Commercial Non-Exclusive Recycling Services are not awarded.)

1.01 AB 32. The Global Warming Solutions Act, (California Public Safety Code 38500 et seq.) as amended, including rules and regulations promulgated thereunder as amended, which among other things, sets a greenhouse gas reduction goal by 2020.

1.02 AB 341. The California legislation (Stats. 2006, Ch. 476), as it may be amended from time to time, that, among other things, added Chapter 12.8 of Part 3 of Division 30 of the Public Resources Code (commencing with section 42649) imposing mandatory commercial recycling requirements and requirements that each jurisdiction implement an outreach and education program and monitor compliance with the Mandatory Commercial Recycling requirements.

1.03 AB 939. The California Integrated Waste Management Act (Public Resources Code 40000 et seq.), as amended from time to time.

1.04 Bin. A watertight metal or plastic Container with a hinged plastic lid and a capacity of between one (1) and seven (7) cubic yards designed or intended to be mechanically dumped into a loader packer type truck, that are approved by CITY and labeled as specified by CITY.

1.05 Bulky Goods. Materials such as, but not limited to, stoves, refrigerators, water heaters, washing machines, clothes dryers, small air conditioning units, other large and small household appliances, including appliances containing Freon, furniture, carpets, tires, wood, household items, tires with or without rims, mattresses, clothing, Large Plant Debris, corrugated cardboard, materials generated from minor home repairs or remodeling and other similar materials which can be handled by two (2) people. Bulky Goods do not include items herein defined as Unacceptable Waste or Construction and Demolition Debris.

1.06 Cart. A watertight heavy plastic receptacle with a rated capacity of approximately twenty (20), thirty two (32), sixty four (64) or ninety-six (96) gallons, having a hinged tight-fitting lid, and two (2) wheels, that is approved by CITY and is labeled as specified by CITY.

1.07 Change in Law. The adoption, promulgation, or modification of any enforceable federal, state or local rule, law, regulation, ordinance, permit or administrative agency guidelines duly adopted and promulgated officially in writing for uniform application occurring after the effective date of this Contract. Change in Law does not include changes initiated by CONTRACTOR. Change in Law shall not include such changes enacted or adopted prior to the effective date of this Contract but which do not take effect until after the date of this Contract.

1.08 CITY. The CITY of Oakland California, a municipal corporation.

1.09 CITY Administrator. The CITY official who is responsible for the day-to-day operations of CITY agencies and departments or his/her designee.

1.10 CITY Recycling Collection Service. The Collection of Recyclable Materials from CITY Facilities in the Service Area, the delivery of the Recyclable Materials to a Material Recovery Facility, and the Processing and marketing of the Recyclable Materials.

1.11 Collect/Collection. To pick up, transport, and remove Recyclable Materials.

1.12 Commercial. A business establishment and/or industrial facility including, but not limited to, governmental, religious, and educational facilities.

1.13 Commercial Non-Exclusive Recyclable Materials Collection Service. The Collection of Recyclable Materials from Commercial Service Addresses subscribing to such service in the Service Area, the delivery of the Recyclable Materials to a Material Recovery Facility, and the Processing and marketing of the Recyclable Materials.

1.14 Compactor. Any Roll-Off Box or Bin that has a compaction mechanism, whether stationary or mobile.

1.15 Competitive Wages and Benefits. Wages and benefits equivalent to or better than collectively bargained contracts in use in Alameda, Contra Costa, San Francisco, Santa Clara, and San Mateo Counties.

1.16 Construction and Demolition Debris. Materials resulting from construction, remodeling, repair or demolition operations on any house, or residential property, commercial building, pavement, or other structure. Construction and Demolition Debris includes but is not limited to rocks, soils, tree remains and other Plant Debris which results from land clearing or land development operations in preparation for construction.

1.17 Container. A Bin, Cart, Roll-Off Box, Compactor, or other item approved by CITY for use in containing Recyclable Materials set out for Collection under the terms of this Contract.

1.18 Contract or Franchise Contract. This franchise document and all amendments thereto, between CITY and CONTRACTOR, governing the provision of Residential Recycling Collection Services as provided herein, including all exhibits hereto, as it may be amended from time to time.

1.19 Contract Manager. The CITY employee(s) designated by the CITY Administrator to act as his/her designee regarding the day to day management of this Contract.

1.20 Contract Year. Each twelve (12) month period from July 1st to June 30th beginning July 1, 2015.

1.21 CONTRACTOR. [Insert CONTRACTOR Name]

1.22 Covered Electronic Device or CED. Discarded electronic devices that the California Department of Toxic Substances Control (DTSC) has determined to be a covered electronic device (California Public Resources Code Section 42463). CEDs include cathode ray tube (CRT) devices (including televisions and computer monitors); LCD desktop monitors; laptop computers with LCD displays; LCD televisions; plasma televisions; portable DVD players with LCD screens; and other electronic devices as may be added by the DTSC from time to time.

1.23 Customer. The Person or Persons who have the legal right to initiate, cancel or make changes to Residential Recycling Collection Services.

1.24 Difficult to Serve. A set-out site for Containers which has any of the following features:

1.24.1 A grade greater than fifteen (15) percent;

1.24.2 An obstructed vertical clearance of less than fifteen (15) feet;

1.24.3 A paved, concrete or similar surface over which Containers must be rolled that contains large deep grooves;

1.24.4 An unpaved surface over which Containers must be rolled;

1.24.5 A turn radius of less than fifty (50) feet; or

1.24.6 Is more than one hundred (100) feet from the public road.

1.25 Disposal (Dispose). The disposition of Mixed Materials, Garbage and Residue received from CONTRACTOR and CITY at the Disposal Facility under the terms of this Contract, or a) the placement of any materials Collected pursuant to this Contract in landfills, including as “beneficial reuse” as defined by California Code of Regulations Title 27, Chapter 3, Article 1, Section 20686; or (b) disposition to “incinerators” as defined by Alameda County Waste Reduction and Recycling Initiative Charter Amendment (Measure D) SUBSECTION 64.150 T.

1.26 Disposal Contractor. (Insert Name).

1.27 Disposal Facility or Landfill. [Insert Disposal Facility Name] that is owned and operated by the Disposal Contractor or such other facility that is selected by CONTRACTOR and approved by CITY for the Disposal of Recycling Residue that is designed, operated, and legally permitted for the purpose of receiving and Disposing of Recycling Residue.

1.28 Divert/Diversion. The avoidance of Disposal at the Disposal Facility or other landfill, or through "transformation" as defined by Public Resources Code Section 40201, of any materials Collected pursuant to this Contract, through Processing.

1.29 Dwelling Unit. Any individual living unit that includes a kitchen, and a room or suite of rooms, and is designed or occupied as separate living quarters for an individual or group of individuals. Dwelling Units include live/work units, as defined by Oakland Planning Code Section 17.65.160. Dwelling Units do not include work/live units, as defined by Oakland Planning Code Section 17.65.150.

1.30 E-Waste. Waste that is powered by batteries or electricity, such as computers, telephones, answering machines, radios, stereo equipment, tape players/recorders, phonographs, videocassette players/recorders, compact disc players/recorders, calculators and other items also defined as CED'S.

1.31 Fixed Body Vehicle. Any wheeled vehicle that does not rely on a Roll-Off Box or other detachable container to Collect, contain and transport material.

1.32 Food Scraps. Raw or cooked vegetable, fruit, grain, fish, and other items, including meat, bones, dairy products, cooking fats, oil or kitchen grease; paper, cardboard, and other compostable items that have been contaminated with food, cooking fats, oil or kitchen grease; compostable paper or plastics associated with food preparation or consumption such as paper towels, paper plates, paper cups, tissue, waxed paper and waxed cardboard; and other materials designated by CITY that are capable of being composted and that are set out separate from Mixed Materials for Collection as Organic Materials.

1.33 Force Majeure. Any acts of God, such as landslides, lightning, fires, storms, floods, pestilence, freezing, and earthquakes; explosions, sabotage, civil disturbances, acts of a public enemy, wars, terrorism, blockades, riots, or other industrial disturbances, eminent domain, condemnation or other taking, or other events of a similar nature, not caused or maintained by CITY or CONTRACTOR, which event is not reasonably within the control of the party claiming the excuse from its obligations due to such event, to the extent such event has a significant and material adverse effect on the ability of a party to perform its obligations thereunder. Force Majeure shall not include power outages, fuel shortages, strikes, work stoppage or slowdown, sickout, lockout, picketing or other concerted job action conducted by CONTRACTOR, CONTRACTOR'S employees or subcontractors, or directed at CONTRACTOR or subcontractor. Force Majeure shall include a Change in Law if such Change in Law prohibits a party's performance hereunder. Notwithstanding the foregoing, (i) no event relating to a Material Recovery Facility, other than a Materials Recovery Facility operated by CONTRACTOR or a related party of CONTRACTOR, or the delivery of Recyclable Materials to that facility shall constitute a Force Majeure under this Contract unless (and then only to the extent) that such event prevents the delivery of or acceptance of Recyclable Materials to or by that facility; (ii) no failure of performance by any subcontractor of CONTRACTOR shall be a Force Majeure unless such failure was itself caused by a Force Majeure; (iii) except as provided herein, no event which merely increases CONTRACTOR'S cost of performance shall be a Force Majeure; and (iv) no event, the effects of which could have been prevented by reasonable precautions, including compliance with agreements and applicable laws, shall be a Force Majeure.

1.34 Garbage. All, putrescible and non-putrescible waste, non-recyclable packaging and rubbish attributed to normal activities of a Service Address wherein the Garbage is generated and Collected which is set out for Collection by the Service Recipient. Garbage does not include abandoned automobiles or those items defined herein as Unacceptable Waste.

1.35 Guarantor. [Insert Name].

1.36 Guaranty. The document contained in Exhibit 15, which is attached to and included in this Contract that is executed by the Guarantor guaranteeing the timely and full performance of CONTRACTOR'S obligations.

1.37 Generator. A Single Family Dwelling or Multi-Family Dwelling that produces Recyclable Materials.

1.38 Hazardous Waste. For purposes of this Contract, Hazardous Waste shall include those wastes defined as Hazardous Waste in Oakland Municipal Code Section 8.28.010 or as subsequently amended. Section 8.28.010 currently defines Hazardous Waste as any hazardous waste, material, substance or combination of materials which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or may pose a substantial present or potential risk to human health or the environment when improperly treated, stored, transported, Disposed or otherwise managed; and which requires special handling under any present or future federal, state or local law, excluding de minimis quantities of waste of a type and amount normally found in residential Garbage after implementation of programs for the safe Collection, recycling, treatment and Disposal of Household Hazardous Waste in compliance with Sections 41500 and 41802 of the California Public Resources Code. "Hazardous Waste" shall include, but not be limited to: (a) substances that are toxic, corrosive, inflammable or ignitable; (b) petroleum products, crude oil (or any fraction thereof) and their derivatives; (c) explosives, asbestos, radioactive materials, toxic substances or related hazardous materials; and (d) substances defined, regulated or listed (directly or by reference) by applicable local, State or federal law as "hazardous substances," "hazardous materials," "hazardous wastes," "pollutant," "reproductive toxins," "toxic waste," or "toxic substances," or similarly identified as hazardous to human health or the environment, including those so defined in or pursuant to any of the following statutes: (i) the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, 42 USC Section 9601 et seq. (CERCLA); (ii) the Hazardous Materials Transportation Act, 49 USC Section 1802, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC Section 6901 et seq.; (iv) the Clean Water Act, 33 USC Section 1251 et seq.; (v) California Health and Safety Code Section 25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USC Section 7901 et seq.; and (vii) California Water Code Section 13050; all rules and regulations adopted and promulgated pursuant to such statutes, and future amendments to or recodifications of such statutes, and any regulations adopted pursuant to these statutes after the date of this Contract, as well as any subsequently enacted federal or California statute relating to the use, release or disposal of toxic or hazardous substances, or to the remediation of air, surface waters, groundwater, soil or other media contaminated with such substances; any other hazardous or toxic 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 hereinafter enacted, including, without limitation, friable asbestos, polychlorinated biphenyl's ("PCBs"), petroleum, natural gas and synthetic fuel products, and by-products. The parties intend that this definition not be limited to any particular statutory or regulatory regime and that it be construed as broadly as possible so that CONTRACTOR bears the responsibility for exercising due diligence as provided in this Contract in the investigation, monitoring, control, decontamination, removal, transportation, remediation, and/or safe disposal of Hazardous Waste as appropriate and as required in order to protect against actual or potential risk to public health and safety or the environment.

1.39 Household Hazardous Waste (HHW). Any Hazardous Waste generated at a SFD or MFD Service Address within the Service Area, including, but not limited to, cleaning products, automotive products, fuel, lubricants, E-Wastes, paints, painting supplies, fluorescent lamps, compact fluorescent lamps, varnishes, solvents, herbicides, pesticides, fertilizers, automobile batteries, household batteries, adhesives, and Universal Waste. Household Hazardous Waste does not include Used Oil or Used Oil Filters, and dry cell household batteries when placed for Collection as set forth in this Contract or as directed by CITY.

1.40 Large Plant Debris. Oversized Plant Debris such as tree trunks, branches or untreated and unpainted wood with a diameter of more than six (6) inches and not more than two (2) feet, or a length of more than four (4) feet and no more than six (6) feet, or weighing not more than seventy-five (75) pounds.

1.41 Material Recovery Facility (or MRF). Any facility selected by CONTRACTOR and approved or specifically designated by CITY, designed, operated, and legally permitted for the purpose of receiving and Processing Recyclable Materials, Organic Materials or Mixed Materials.

1.42 Maximum Recycling Service Rates. Those rates and ancillary charges that were approved by CITY and are contained in Exhibit 1 which is attached to and included in this Contract.

1.43 MFD or Multi-family Dwelling. Any residence with five (5) or more Dwelling Units, including any flat, apartment, condominium, town home, service–enriched housing or other residence, and other Dwelling Units in detached buildings on a single parcel, and excluding a hotel, motel, dormitory, sheltered nursing facility, rooming house, or other such similar facility as determined by CITY.

1.44 MFD Recycling Services. MFD Recycling Collection Service and Used Oil Collection Service.

1.45 MFD Recycling Collection Service. The Collection of Recyclable Materials from MFD Service Addresses in the Service Area, the delivery of the Recyclable Materials to the MRF and the Processing and marketing of the Recyclable Materials.

1.46 Mixed Materials. All Garbage, Recyclable Materials, Organic Materials, and Bulky Goods, excluding items that are Source Separated from Garbage or Collected for Recycling or Composting, Processing and marketing, that are set out by the Service Recipient for Collection by the MM&O Collection Contractor.

1.47 Mixed Materials and Organics (MM&O) Collection Contractor. (Insert Name).

1.48 Non-Collection Notice. A form developed and used by CONTRACTOR, as approved by CITY, to notify Service Recipients of the reason for non-collection of materials set out by the Service Recipient for Collection by CONTRACTOR pursuant to this Contract.

1.49 Organic Materials (“Organics”). Plant Debris, Food Scraps, compostable food ware, compostable food containers, compostable paper, horse stable matter, etc. that are separated for Collection by the MM&O Collection Contractor.

1.50 Overage. An amount of material in excess of the capacity of the Container utilized at the Service Address for the set out of such material.

1.51 Person. An individual, association, partnership, corporation, joint venture, school, the United States, the State of California, any municipality or other political subdivision thereof, or any other entity whatsoever.

1.52 Plant Debris. Any vegetative matter resulting from normal yard and landscaping maintenance or unpainted and untreated wood that is not more than four (4) feet in its longest dimension or more than six (6) inches in diameter or weighs less than seventy five (75) pounds per individual piece and can be handled by two (2) persons. Plant Debris includes palm, yucca and cactus; grass clippings, leaves, pruning, weeds, branches, brush, holiday trees, and other forms of horticultural waste. Plant Debris does not include items defined herein as Unacceptable Waste.

1.53 Processing. An operation or series of operations, whether involving equipment, manual labor, or mechanical or biological processes, that sorts, enhances, upgrades, concentrates, decontaminates, packages or otherwise prepares Recyclable Materials, and returns them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace. Processing begins at the time the Recyclable Materials, are delivered to the Processing facility and ends when the Processed materials are sold or reused, and the Recycling Residue is properly Disposed.

1.54 Recycle or Recycled. To Process and market Recyclable Materials in a manner that meets the requirements of the California Integrated Waste Management Act, Public Resources Code Section 40000 *et seq.*, for inclusion of the materials in the calculation of Diversion from landfill Disposal for the purposes of the solid waste diversion requirements of the Act. Recycle does not include transformation as described in Public Resources Code Section 41201, and does not include stockpiling or storage by CONTRACTOR or any other Person.

1.55 Recyclable Materials. Those materials designated in this Contract or by CITY for Collection and Recycling under this Contract, which are segregated from Mixed Materials by CITY or residential Service Recipient at the source of Generation. Recyclable Materials include newspaper, mixed paper (including, but not limited to, white and colored paper, magazines, telephone books, chipboard, junk mail, and high grade paper) glass bottles and jars, metal cans (ferrous, non-ferrous, and bi-metal containers, including empty aerosol containers), aluminum foil and trays, milk and juice cartons, soup and juice boxes, all narrow neck rigid plastic containers, non-bottle rigid plastics, corrugated cardboard, and dry cell household batteries when placed in a clear heavy-duty sealed bag and set out for Collection in the manner prescribed herein. CITY and CONTRACTOR may mutually agree to include additional materials or remove materials from this list of Recyclable Materials.

1.56 Recycling Residue. Materials remaining after the Processing of Recyclable Materials that are not Diverted.

1.57 Recycling Services. Residential Recycling Collection Services, CITY Recycling Collection Service, and Commercial Non-Exclusive Recycling Collection Service.

1.58 Residential Recycling Collection Services. SFD Recycling Services, and MFD Recycling Services.

1.59 Roll-Off Box. A metal Container of between six (6) and fifty (50) cubic yards that is normally loaded onto a motor vehicle and transported to an appropriate facility. A Roll-Off Box may be open topped or covered, at the discretion of CITY, with or without a compaction unit.

1.60 Service Address. The physical location of the property receiving Recycling Collection Services.

1.61 Service Area. That area within the corporate limits of the CITY of Oakland.

1.62 Service Recipient. A Person receiving Recycling Collection Services under the terms of this Contract.

1.63 SFD Recycling Services. SFD Recycling Collection Service and Used Oil Collection Service.

1.64 SFD Recycling Collection Service. The Collection of Recyclable Materials from SFD Service Addresses in the Service Area, the delivery of the Recyclable Materials to the MRF and the Processing and marketing of the Recyclable Materials.

1.65 Single Family Dwelling or SFD. A detached or attached residence containing four (4) or fewer Dwelling Units when each Dwelling Unit is designed or used for occupancy by one (1) or more individuals.

1.66 Solid Waste. All putrescible and non-putrescible solid, semisolid, and liquid wastes, including Garbage, trash, refuse, paper, Rubbish, ashes, industrial wastes, Construction and Demolition wastes, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not Hazardous Waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semi-solid wastes as defined in California Public Resources Code Section 40191, as that section may be amended from time to time, but does not include Source Separated Recyclable Materials abandoned vehicles and parts thereof, Hazardous Waste or low-level radioactive waste, medical waste, Unacceptable Waste or Plant Debris. Solid Waste may include Recyclable Materials, Compostable Materials, and Construction and Demolition Debris if such materials are not Source Separated from Solid Waste at the site of generation or Collected for Recycling, composting, Processing and marketing.

1.67 Source Separation. The segregation of Recyclable Materials from Garbage by or for the Generator at the Service Address at which the materials were generated for handling in a manner different from that of Garbage.

1.68 Ton (or Tonnage). A unit of measure for weight equivalent to two thousand (2,000) standard pounds where each pound contains sixteen (16) ounces.

1.69 Tonnage Cap. The maximum Tons of materials, Collected from SFD and MFD Service Addresses under the terms of this Contract, for which CONTRACTOR may invoice the MM&O Contractor during the period July 1, 2015 through December 31, 2015 and any subsequent calendar year during the term of this Contract.

1.70 Universal Waste ("U-Waste"). Materials that the California Department of Toxic Substances Control considers Universal Waste (California Code of Regulations Title 22, Div 4.5, Ch 23), including materials such as batteries, thermostats, lamps, cathode ray tubes, computers, telephones, answering machines, radios, stereo equipment, tape players/recorders, phonographs, video cassette players/recorders, compact disc players/recorders, calculators, some appliances, aerosol cans, fluorescent lamps, and certain mercury-containing devices.

1.71 Unacceptable Waste. Any and all waste, including but not limited to, Hazardous Waste, and Household Hazardous Waste, the acceptance or handling of which would cause a violation of any permit condition or legal or regulatory requirement, damage or threatened damage to CONTRACTOR'S equipment or facilities, or present a substantial endangerment to the health or safety of the public or CONTRACTOR'S employees; provided, that de minimis quantities or waste of a type and amount normally found in Garbage or Mixed Materials after implementation of programs for the safe Collection, Processing, treatment, and Disposal of Household Hazardous Waste in compliance with Sections 41500 and 41802 of the California

Public Resources Code shall not constitute Unacceptable Waste. Unacceptable Waste does not include Used Oil, Used Oil Filters, or dry cell household batteries when placed for Collection as set forth in this Contract or as otherwise directed by CITY.

1.72 Used Oil. Any oil that has been refined from crude oil or has been synthetically produced, and is no longer useful to the Service Recipient because of extended storage, spillage or contamination with non-hazardous impurities such as dirt or water; or has been used and as a result of such use has been contaminated with non-hazardous physical or chemical impurities. Used Oil must be generated at the Service Address from which the Used Oil is Collected. Used Oil does not include other automotive fluids.

1.73 Used Oil Collection Service. The Collection of Used Oil in Used Oil Containers and Used Oil Filters in Used Oil Filter Containers from SFD and MFD Service Addresses in the Service Area and the appropriate disposition of the Used Oil and Used Oil Filters in accordance with the requirements of this Contract.

1.74 Used Oil Container. A plain plastic container that is at least four (4) quarts in capacity and leak-proof, has a screw-on lid and a label designating it for use as a Used Oil Container, is approved by CITY, and is provided by CONTRACTOR for the accumulation of Used Oil.

1.75 Used Oil Filter. Any oil filter that is no longer useful to the Service Recipient because of extended storage or contamination with non-hazardous impurities such as dirt or water; or has been used and as a result of such use has been contaminated with non-hazardous physical or chemical impurities. Used Oil Filters must be generated at the Service Address from which the Used Oil Filter is Collected.

1.76 Used Oil Filter Container. A sealable container that has a label designating it for use as a Used Oil Filter Container, is approved by CITY, and is provided by CONTRACTOR for the accumulation of Used Oil Filters.

1.77 Work Day. Any day, Monday through Friday that is not a holiday as set forth in Section 6.10 of this Contract.

Article 2. REPRESENTATIONS AND WARRANTIES OF CONTRACTOR

CONTRACTOR hereby makes the following representations and warranties for the benefit of CITY as of the date of this Contract.

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

2.02 Corporate Authorization. CONTRACTOR has full legal right, power, and authority to execute, deliver, and perform its obligations under this Contract. The Board of Directors of CONTRACTOR (or the shareholders if necessary) has taken all actions required by law, its articles of incorporation, its bylaws or otherwise to authorize the execution and delivery of this Contract. The persons signing this Contract on behalf of CONTRACTOR have authority to do so.

2.03 Contract Duly Executed. The Persons signing this Contract on behalf of CONTRACTOR have been authorized by CONTRACTOR to do so, and this Contract has been duly executed and delivered by CONTRACTOR in accordance with the authorization of its

Board of Directors or shareholders, if necessary, and constitutes a legal, valid, and binding obligation of CONTRACTOR enforceable against CONTRACTOR in accordance with its terms.

2.04 No Conflict With Applicable Law or Other Documents. Neither the execution and delivery by CONTRACTOR of this Contract nor the performance by CONTRACTOR of its obligations hereunder:

2.04.1 Conflicts with, violates or will result in a violation of any existing applicable law; or

2.04.2 Conflicts with, violates or will result in a breach or default under any term or condition of any existing judgment, order or decree of any court, administrative agency or other governmental authority, or of any existing contract, agreement or instrument to which CONTRACTOR is a party, or by which CONTRACTOR or any of CONTRACTOR'S properties or assets is bound; or

2.04.3 Will result in the creation or imposition of any lien, charge, or encumbrance of any nature whatsoever upon any of the properties or assets of CONTRACTOR which will interfere materially with CONTRACTOR'S performance hereunder.

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

2.06 Financial Ability, Disclosures, No Material Change. CONTRACTOR has sufficient financial resources to perform all aspects of its obligations hereunder. CONTRACTOR has provided CITY with audited financial statements which present fairly, in accordance with generally accepted accounting principles, the financial resources of CONTRACTOR. There has been no material adverse change in CONTRACTOR'S or CONTRACTOR'S parent company's financial circumstances since the date of the most recent financial statements.

2.07 Expertise. CONTRACTOR has the expert, professional, and technical capability to perform all of its obligations under this Contract.

2.08 CONTRACTOR’S Statements. CONTRACTOR’S proposal and any other supplementary information submitted to CITY that CITY has relied on in negotiations and entering into this Contract, do not: (i) contain any untrue statement of a material fact, or (ii) omit to state a material fact that is necessary in order to make the statements made, in light of the circumstances in which they were made, not misleading.

2.09 CONTRACTOR'S Investigation. CONTRACTOR has made an independent investigation (satisfactory to it) of the conditions and circumstances surrounding this Contract and the work to be performed by CONTRACTOR under the Contract, and enters into this Contract on the basis of that independent investigation.

Article 3. TERM OF CONTRACT

3.01 Term. The term of this Contract shall be for a ten (10) year period beginning July 1, 2015 and terminating on June 30, 2025. CITY, in its sole discretion, shall have an option to extend the Contract for up to two (2) additional five (5) year periods.

3.01.1 First Extension. On or about May 1, 2023, CITY, in its sole discretion may extend this Contract by five (5) years by notifying CONTRACTOR of its intention to do so in writing.

3.01.2 Second Extension. On or about May 1, 2028, CITY, in its sole discretion may extend this Contract by five (5) years by notifying CONTRACTOR of its intention to do so in writing.

3.01.3 No Right to Extension. Nothing in the foregoing paragraphs or otherwise set forth in this Contract is intended to create a right in favor of CONTRACTOR to obtain either the first or second extension.

Article 4. CONTRACTOR'S COVENANTS; CITY OPTION TO TERMINATE

4.01 General. CONTRACTOR covenants that it shall obtain and deliver to CITY the document set forth in Section 4.02 below and use its best efforts to deliver it on or before June 1, 2015. If such document is not delivered to CITY in satisfactory form by June 15, 2015, CITY may terminate this Contract with absolutely no continuing financial obligations to CONTRACTOR and may resort to the rights and remedies provided for in Article 26 hereof.

4.02 Receipt of Performance Security. CONTRACTOR shall provide CITY with, and CITY shall accept if it complies with Article 24, the performance security described in Article 24 of this Contract.

4.03 Termination. This Contract may be terminated prior to the expiration of its initial term and any extension as may be provided only in accordance with the provisions of this Contract. At the expiration of the term provided for hereunder, or in the event of a termination as allowed under this Contract, CONTRACTOR, at its own expense for a period of up to six (6) months, shall cooperate fully with CITY, as reasonably necessary, to ensure an orderly transition to any and all new service providers, and CITY shall have no continuing obligations to CONTRACTOR other than those expressly provided for under this Contract. CONTRACTOR shall transfer, Process or Dispose of all materials that have been Collected or are in Process under this Contract as of the date of expiration or termination.

Article 5. SERVICES PROVIDED BY CONTRACTOR

(Note: this Article may be amended depending on the award of Non-Exclusive Commercial Recycling Collection Services)

5.01 Grant of Exclusive Contract. Except as otherwise provided in this Contract, CONTRACTOR is herein granted an exclusive Contract to provide Recycling Collection Services within the Service Area. No other services shall be exclusive to CONTRACTOR.

5.02 Limitations to Scope of Exclusive Contract. Nothing in this Contract shall limit the right of any Person to donate or sell his or her Recyclable Materials. Persons other than CONTRACTOR may pay to collect or collect at no charge such Recyclable Materials. Similarly,

nothing in this Contract shall limit the right of any Person to haul the Recyclable Materials he or she Generates to a facility that holds all applicable permits;

5.03 Notwithstanding CONTRACTOR'S rights under this Contract as described above, and in Section 6.16.1, the following materials may be Collected by Persons other than CONTRACTOR:

5.03.1 Recyclable Materials that are removed from Commercial establishments;

5.03.2 Construction and Demolition Debris removed from a site that requires a building or demolition permit;

5.03.3 Recyclable Materials that are removed from any SFD Service Address or MFD Service Address and transported to a transfer station, Recycling center, or Materials Recovery Facility by the occupant;

5.03.4 Recyclable Materials that are Collected and transported by CITY crews to a transfer facility, a Materials Recovery Facility, or such other appropriate processing facility;

5.03.5 Recyclable Materials that are Source Separated at any Service Address and donated to a Person or sold;

5.03.6 Beverage containers, other than those set out for Collection by Contractor, that are delivered for Recyclable Materials under the California Beverage Container Recyclable Materials Litter Reduction Act, Section 14500, et seq.;

5.03.7 Recyclable Materials that are removed from a Service Address in a Fixed Body Vehicle by a property management, maintenance or cleanup service company as an incidental part of the total on-property cleanup or maintenance service offered by the company rather than as a hauling service;

5.03.8 Recyclable Materials that are removed from a Service Address by the MM&O Contractor as part of the provision of Bulky Goods Collection Service;

5.03.9 Recyclable Materials that are removed from a Service Address by a company through the performance of a service that CONTRACTOR has elected not to provide;

5.03.10 Materials that CONTRACTOR is not required to Collect and Process under this Contract, as of the effective date of this Contract, which subsequently, in CITY'S reasonable judgment, become economically feasible to Recycle. In such event, CONTRACTOR shall have the exclusive right to Collect and process such new Recyclable Materials if CONTRACTOR agrees to do so without any change in Maximum Recycling Service Rates. If CONTRACTOR is unwilling to Collect such new Recyclable Materials at existing Maximum Recycling Service Rates, CITY may provide for Collection and processing of such new Recyclable Materials in any manner it deems appropriate;

5.03.11 Recyclable Materials removed from a Service Address for a nominal charge by a retailer as an incidental part of a sale of merchandise; and

5.03.12 Recyclable Materials removed from a Service Address for a nominal charge by a reuse facility or reuse business.

5.04 Nothing in Section 5.03 shall allow the Collection, through the use of a Roll-Off Box, of SFD, or MFD Recyclable Materials for a fee by a company whose primary service is hauling.

5.05 Use of Other Persons. CONTRACTOR acknowledges and agrees that CITY may permit other Persons besides CONTRACTOR to Collect any and all types of materials excluded from the scope of this Contract, as set forth above, without seeking or obtaining approval of CONTRACTOR.

5.06 Applicable Law. The scope of this Contract shall be interpreted to be consistent with applicable law, now and during the term of the Contract. If future judicial interpretations of current law or new laws, regulations, or judicial interpretations limit the ability of CITY to lawfully provide for the scope of services as specifically set forth herein, CONTRACTOR agrees that the scope of the Contract will be limited to those services and materials which may be lawfully provided and that CITY shall not be responsible for any lost profits or losses claimed by CONTRACTOR to arise out of limitations of the scope of the Contract set forth herein. In such an event, it shall be the responsibility of CONTRACTOR to minimize the financial impact of such future judicial interpretations or new laws.

Article 6. SERVICE STANDARDS

(Note: this Article may be amended depending on the award of Non-Exclusive Commercial Recycling Collection Services)

6.01 Service Standards. CONTRACTOR shall perform all Recycling Collection Services under this Contract in a thorough and professional manner. Collection Recycling Services described in this Contract shall be performed regardless of weather conditions or difficulty of Collection.

6.02 Hours and Days of Collection. SFD and MFD Recycling Services shall be provided, commencing no earlier than 6:00 a.m. and terminating no later than 6:00 p.m., in accordance with the CITY Municipal Code, Monday through Friday with no service on Saturday (except for holiday service as set forth in Section 6.10 of this Contract in which case normal Collection hours may be utilized) or Sunday. The hours, days, or both of Collection may be extended due to extraordinary circumstances or conditions with the prior written consent of the Contract Manager.

6.02.1 Commercial Recycling Collection Services and CITY Recycling Collection Services shall be provided Monday through Friday with limited City and Commercial Recycling Collection Services on Saturday. CONTRACTOR shall endeavor to route collection vehicles in a manner that minimizes noise and traffic impacts during critical periods of the day, including: near residential properties from 6 pm to 6 am, near schools during pick-up and drop-off hours, in merchant districts during normal business hours, and in high traffic areas during peak commute hours. CONTRACTOR shall resolve complaints of noise and traffic impacts caused by CONTRACTOR'S activities to the satisfaction of CITY.

6.03 Transfer of Loads on Public Streets and Roads. CONTRACTOR is prohibited from transferring loads from one vehicle to another on any public right–of-way unless there is a necessity to do so because of the mechanical failure, truck fire or accidental damage to a vehicle without written permission from the Contract Manager.

6.04 Manner of Collection. CONTRACTOR shall provide Recycling Collection Services with as little disturbance as possible and shall leave any Cart or Bin in an upright position, with the lid closed, at the same point it was Collected without obstructing alleys, roadways, driveways, sidewalks or mail boxes. CONTRACTOR shall also lock any Bin and close or lock as appropriate any Container enclosure that it opened or unlocked as part of Recycling Collection Services.

6.05 Record of Non-Collection. When any Recyclable Material that is set out for regular or special Collection is not Collected by CONTRACTOR for sufficient reason, CONTRACTOR shall leave a Non-Collection Notice. A copy of any Non-Collection Notice, along with the name and address of the party noticed, shall be delivered to the Contract Manager within twenty-four (24) hours of CITY'S request.

6.06 Containers.

6.06.1 Carts. Carts are to be hot-stamped, embossed, or laminated, with a unique identification number and the words "City of Oakland", and in-molded with the type of materials to be Collected (i.e., Recyclable Materials) name and phone number of CONTRACTOR, and instructions for proper usage. In-molding on the Carts shall be on the lids. CONTRACTOR'S name shall not be included on the body of Carts. Labeling and graphics of the Carts shall be approved by CITY. Carts shall not contain any type of advertising without the written approval of the Contract Manager.

6.06.2 Bins. Bins, including those defined herein as Compactors, are to be marked with a unique identification number, labeled with the type of materials to be Collected (i.e., Recyclable Materials), the size in cubic yards, CONTRACTOR'S name and phone number and instructions for proper usage, and be in good working order. Labeling and graphics of the Bins shall be approved by CITY. Used Bins may be utilized providing they are newly painted, properly marked, in good working order and free of rust and holes. CITY retains the right to inspect any such used Bins and direct CONTRACTOR to replace such used Bin if it is deemed to be not acceptable. Bins shall not contain any type of advertising without the written permission and approval of the Contract Manager.

6.06.3 Roll-Off Boxes. Roll-Off Boxes, including those defined herein as Compactors, are to be marked with a unique identification number, labeled with the size in cubic yards, CONTRACTOR'S name and phone number and instructions for proper usage, be in good working order and at the discretion of CITY have lids. Labeling and graphics of the Roll-Off Boxes shall be approved by CITY. Used Roll-Off Boxes may be utilized, provided they are newly painted, properly marked, in good working order and free of rust and holes. CITY retains the right to inspect any such used Roll-Off Boxes and direct CONTRACTOR to replace such used Roll-Off Box if it is deemed to be not acceptable.

6.06.4 Purchase, Distribution, and Collection of Carts and Bins. CONTRACTOR shall be responsible for the purchase and distribution of fully assembled and functional Carts and Bins to Service Addresses in the Service Area based on the type and level of service received by each Service Addresses. CONTRACTOR shall also distribute Carts and Bins, as needed, to new Service Addresses during the term of this Contract. The distribution shall be completed no later than the next regularly scheduled Collection day after receipt of notification CITY, the Customer, or the Service Recipient.

6.06.4.1 CONTRACTOR shall be responsible for the collection of abandoned, used, discarded, or unwanted Recycling Containers in the Service Area within three (3) Work Days of notification by CITY, a Service Recipient, or a Customer. Recycling Containers shall be repaired or, if repair is not practical, Recycled. This service shall be provided at no additional cost to CITY, Customer or Service Recipient.

6.06.5 Repair or Replacement of Carts and Bins. CONTRACTOR shall be responsible for repair or replacement of Carts and their component parts, but not limited to, hinged lids, wheels, axles and labels, at no cost to Customer. CONTRACTOR shall be responsible for securing replacement of all items covered by manufacturer warranty.

6.06.6 Replacement of Carts and Bins Provided by Previous CONTRACTOR. CONTRACTOR shall replace all Carts and Bins provided by the previous Contractor in accordance with the Transition Plan set forth in Exhibit 5 to this Contract at no cost or inconvenience to the Service Recipient or Customer. Carts and Bins replaced under the requirements of this Section shall not subject to the replacement limitations set forth below.

6.06.7 Replacement of Carts and Bins Damaged by CONTRACTOR. CONTRACTOR'S employees shall take care to prevent damage to Carts or Bins by unnecessary rough treatment. However, any Cart or Bin damaged by CONTRACTOR shall be replaced or repaired by CONTRACTOR, at CONTRACTOR'S expense, no later than the next regularly scheduled Collection day, at no cost or inconvenience to the Service Recipient or Customer. Carts and Bins replaced under the requirements of this Section shall not subject to the replacement limitations set forth below.

6.06.8 Replacement of Carts and Bins Due to Normal Wear and Tear. Upon notification to CONTRACTOR by a Service Recipient or Customer of the need for replacement or repair to a Cart(s) or Bin(s) due to normal wear and tear, CONTRACTOR shall replace or repair such Cart(s) or Bin(s) at CONTRACTOR'S expense, no later than the next regularly scheduled Collection day, at no cost or inconvenience to the Service Recipient or Customer. Carts and Bins replaced under the requirements of this Section shall not subject to the replacement limitations set forth below.

6.06.9 Replacement of Carts and Bins Required Through No Fault of CONTRACTOR. Upon notification to CONTRACTOR by CITY or a Service Recipient that the Service Recipient's Recyclable Materials Cart(s), or Bin(s) have been stolen or damaged beyond repair through no fault of CONTRACTOR, CONTRACTOR shall deliver a replacement Cart(s), or Bin(s) to the Service Address no later than the next regularly scheduled Collection day, at no cost, subject to the limitations set forth below, or inconvenience to the Service Recipient or Customer. CONTRACTOR understands and agrees that the limitations set forth below in Section 6.06.9.1 do not apply to Cart or Bin replacements required under any other Sections of this Contract. CONTRACTOR shall maintain records documenting all Cart and Bin replacements occurring on a monthly basis.

6.06.9.1 Each Contract Year CONTRACTOR shall be required to provide SFD and MFD Service Addresses with a base number of Cart replacements under the provisions of Section 6.06.9 at no cost to the Customer, Service Recipient or CITY. In the initial Contract Year beginning July 1, 2015, the base number shall be four thousand five hundred (4,500) Carts. In the Contract Year beginning July 1, 2016, the base number shall be four thousand five hundred (4,500) plus the result of subtracting the number of Carts replaced at no cost under the requirements of Section 6.06.9 in the prior Contract Year from the base number from the prior Contract Year. In each subsequent Contract Year the base number shall be the base number from the prior Contract Year plus the result of subtracting the number of Carts replaced at no cost under the requirements of Section 6.06.9 in the prior Contract Year from the base number from the prior Contract Year.

6.06.9.2 In any Contract Year that CONTRACTOR provides Cart Replacements required under Section 6.06.9 in excess of the base number for that Contract Year, CONTRACTOR may invoice the Customer or Service Recipient requesting such replacement in accordance with the "Cart Replacement" Maximum Recycling Service Rate set forth in Exhibit 1 to this Contract or as may be adjusted under the terms of this Contract from time to time.

6.06.9.3 CONTRACTOR shall provide Bin replacements under the provisions of Section 6.06.9 at no cost to the Customer, Service Recipient or CITY.

6.06.10 Reporting Requirements. No later than July 15, 2016 and annually thereafter during the term of this Contract, CONTRACTOR shall provide CITY with an electronic report of Cart and Bin Replacements provided during the preceding Contract Year in a form and format approved by CITY and using software approved by CITY. At a minimum the report shall include the following information:

6.06.10.1 Number of Carts replaced under the requirements of Section 6.06.6;

6.06.10.2 Number of Bins replaced under the requirements of Section 6.06.6;

6.06.10.3 Number of Carts replaced under the requirements of Section 6.06.7;

6.06.10.4 Number of Bins replaced under the requirements of Section 6.06.7;

6.06.10.5 Number of Carts replaced under the requirements of Section 6.06.8;

6.06.10.6 Number of Bins replaced under the requirements of Section 6.06.8;

6.06.10.7 Number of Carts replaced at no cost under the requirements of Section 6.06.9;

6.06.10.8 Number of Carts replaced in excess of the base number under the requirements of Section 6.06.9;

6.06.10.9 Number of Bins replaced under the requirements of Section 6.06.9; and

6.06.10.10 A calculation of the base number for Cart replacements under Section 6.06.9 for the prior Contract Year and the current Contract Year.

6.06.11 Cart or Bin Change. Upon notification to CONTRACTOR by CITY or a Customer that a change in the size or number of Carts or Bins is required, including a change to provide additional Recyclable Materials capacity CONTRACTOR shall deliver such Carts or Bins to the Service Address no later than the next regularly scheduled Collection day.

6.06.11.1 Each SFD Service Address shall be entitled to receive one (1) free Recyclable Materials Cart exchange, per Contract Year during the term of this Contract.

6.06.11.2 Each MFD Address shall be entitled to receive two (2) free service exchanges, per Contract Year during the term of this Contract. For the purposes of this Section, a service exchange represents the exchange of as few as one (1) and as many as the total number of Carts and Bins provided by CONTRACTOR to the Service Address.

6.06.11.3 CONTRACTOR shall be compensated for the cost of those exchanges in excess of the limitations set forth herein per Contract Year, in accordance with the "Cart or Bin Exchange" Maximum Recycling Service Rate as set forth in Exhibit 1 of this Contract.

6.06.12 Ownership of Carts. Except as set forth below, ownership of Carts shall rest with CONTRACTOR and upon termination of this Contract CONTRACTOR shall be responsible for removing all Carts in service from the Service Area and reusing or Recycling such Carts. At its sole discretion, CITY may elect to exercise its rights to take ownership of Carts in the possession of a Service Recipient at the end of this Contract. In addition, in the case of the termination of this Contract prior to the expiration of the initial term or optional extension term due to the default of CONTRACTOR as set forth in Article 29 of this Contract CITY shall have the right to take possession of the Carts and shall retain such possession until satisfactory arrangements can be made to provide Recycling Collection Services using other equipment. Such time of possession shall not be limited and regardless of the time of possession there shall be no monies owing to CONTRACTOR from CITY for the use of the equipment. Upon the receipt of written notice from CITY, CONTRACTOR shall submit to the Contract Manager an inventory of Carts, including their locations.

6.06.13 Ownership of Bins. Ownership of Bins distributed by CONTRACTOR shall rest with CONTRACTOR except in the case of the termination of the Contract prior to the expiration of the initial term or optional extension term due to the default of CONTRACTOR as set forth in Article 29 of this Contract. Under such circumstances, CITY shall have the right to take possession of the Bins and shall retain such possession until satisfactory arrangements can be made to provide Recycling Collection Services using other equipment. Such time of possession shall not be limited and regardless of the time of possession there shall be no monies owing to CONTRACTOR from CITY for the use of the equipment. Upon the receipt of written notice from CITY, CONTRACTOR shall submit to the Contract Manager an inventory of Bins, including their locations.

6.06.14 Ownership of Roll-Off Boxes. Ownership of Roll-Off Boxes distributed by CONTRACTOR shall rest with CONTRACTOR except in the case of the termination of the Contract prior to the expiration of the initial term or optional extension terms due to the default of CONTRACTOR as set forth in Article 29 of this Contract. Under such circumstances, CITY shall have the right to take possession of the Containers and shall retain such possession until satisfactory arrangements can be made to provide Recycling Collection Services using other equipment. Such time of possession shall not be limited and regardless of the time of possession there shall be no monies owing to CONTRACTOR from CITY for the use of the equipment. Upon the receipt of written notice from CITY, CONTRACTOR shall submit to the Contract Manager an inventory of Containers, including their locations.

6.07 Compactors. Compactor equipment may be owned by the Customer or leased from CONTRACTOR or any other source provided the Compactor Container is compatible with CONTRACTOR'S Collection vehicles.

6.08 Annual Inspection and Cleaning of Bins and Roll-Off Boxes. At least once each Contract Year, at no charge to CITY or the Customer, CONTRACTOR shall inspect all CONTRACTOR provided Bins and Roll-Off Boxes at the Service Address and shall replace those Bins or Roll-Off Boxes needing cleaning or repair with clean, undamaged Bins or Roll-Off Boxes, and remove the dirty or damaged Bins or Roll-Off Boxes for cleaning or repair.

6.09 Labor and Equipment. CONTRACTOR shall provide and maintain all labor, equipment, tools, facilities, and personnel supervision required for the performance of CONTRACTOR'S obligations under this Contract. CONTRACTOR shall at all times have sufficient backup equipment and labor to fulfill CONTRACTOR'S obligations under this Contract. No compensation for CONTRACTOR'S services or for CONTRACTOR'S supply of labor,

equipment, tools, facilities or supervision shall be provided or paid to CONTRACTOR by CITY or by any Customer except as expressly provided by this Contract.

6.10 Holiday Service. January 1st, Thanksgiving Day, and December 25th shall be legal holidays. CONTRACTOR shall not be required to provide Recycling Collection Services on the designated holidays. In any week in which one of these holidays falls on a Work Day, and CONTRACTOR elects to not provide Recycling Collection Services, SFD Recycling Services for the holiday and each Work Day thereafter may be delayed one (1) Work Day for the remainder of the week with normally scheduled Friday SFD Recycling Services being performed on Saturday. MFD Recycling Services shall be adjusted as agreed between CONTRACTOR and the Customer but must meet the minimum Collection frequency requirement of one (1) time per week. CONTRACTOR shall notify Service Addresses and CITY at least thirty (30) days in advance of changes to the Collection day because of a holiday schedule.

6.11 Processing and Disposal.

6.11.1 Permits, Approvals and Compliance with Regulations. CONTRACTOR must assure that all facilities selected by CONTRACTOR shall possess all necessary permits and approvals by local enforcement agencies to be in full compliance with all regulatory agencies to conduct all operations at the approved location. CONTRACTOR shall, upon written request from CITY, arrange for the facilities selected by CONTRACTOR to provide copies of facility permits, notices of violations, inspection areas or concerns, or administrative action to correct deficiencies related to the operation. Failure to provide facility information shall result in the levy of liquidated damages as specified in Article 22 of this Contract and may result in CONTRACTOR being in default under this Contract.

6.11.1.1 Regulatory Inquiry. In those instances where CONTRACTOR is required by any law or regulation to submit written or electronic materials related to the provision of Recycling Collection Services under the terms of this Contract to any regulatory agency, CONTRACTOR shall submit copies of such written or electronic materials to CITY simultaneously with CONTRACTOR'S submittal to such regulatory agency.

6.11.2 Material Recovery Facility. All Recyclable Materials Collected as a result of performing Recycling Collection Services shall be delivered to the Material Recovery Facility (MRF). In the event the MRF is closed on a Work Day, CONTRACTOR shall transport and deliver the Recyclable Materials to such other legally permitted MRF as is approved by CITY. Failure to comply with this provision shall result in the levy of liquidated damages as specified in Article 22 of this Contract and may result in CONTRACTOR being in default under this Contract.

6.11.3 Used Oil Processing. CONTRACTOR shall Recycle all Used Oil Collected and Used Oil Filters pursuant to this Contract to the extent feasible and shall properly Dispose of all Used Oil and Used Oil Filters that are contaminated or otherwise cannot be Recycled.

6.11.3.1 CONTRACTOR shall Recycle the Used Oil and Used Oil Filters only with persons who are authorized by the State of California to Recycle these materials. In the event the Used Oil or Used Oil Filters Collected pursuant to this Contract is contaminated to the extent that the Used Oil or Used Oil Filters require Disposal as a Hazardous Waste, CONTRACTOR shall Dispose of such Used Oil or Used Oil Filters, at CONTRACTOR'S own cost and expense in accordance with applicable State and federal law.

6.11.3.2 CONTRACTOR shall notify the Contract Manager, by e-mail, of any contamination which renders the Used Oil unacceptable for Recycling or which requires Disposal of the Used Oil or Used Oil Filters as a Hazardous Waste.

6.11.4 Segregation of Used Oil. CONTRACTOR shall keep all Used Oil and Used Oil Filters Collected pursuant to this Contract segregated from other materials.

6.12 Recycling - Improper Procedure. Except as set forth below, CONTRACTOR shall not be required to Collect Recyclable Materials if the Recyclable Materials are not Source Separated. If Recyclable Materials are contaminated through commingling with Mixed Materials or Organics CONTRACTOR shall, if practical, separate the Mixed Materials or Organics from the Recyclable Materials. The Recyclable Materials shall then be Collected and the Mixed Materials and Organics shall be left in the Mixed Materials Cart or Bin along with a Non-Collection Notice explaining why the Mixed Materials and Organics are not considered Recyclable Materials. However, in the event the Recyclable Materials and Mixed Materials or Organics are commingled to the extent that they cannot easily be separated by CONTRACTOR, or the nature of the Mixed Materials renders the entire Recycling Cart or Bin contaminated, CONTRACTOR will leave the Recycling Cart or Bin un-emptied along with a Non-Collection Notice that contains instructions on the proper procedures for setting out Recyclable Materials.

6.13 Inspections. CITY shall have the right to inspect CONTRACTOR'S facilities or Collection vehicles and their contents at any time while operating inside or outside CITY.

6.14 Commingling of Materials.

6.14.1 Other Materials. CONTRACTOR shall not at any time commingle Recyclable Materials Collected pursuant to this Contract, with any other material Collected by CONTRACTOR inside or outside CITY prior to delivery to the MRF without the express prior written authorization of the Contract Manager.

6.14.2 Recyclable Materials. CONTRACTOR shall not at any time commingle Recyclable Materials Collected pursuant to this Contract, with other recyclable material Collected by CONTRACTOR outside CITY prior to delivery to the MRF without the express prior written authorization of the Contract Manager.

6.15 Spillage and Litter. CONTRACTOR shall not litter premises in the process of providing Recycling Collection Services or while its vehicles are on the road. CONTRACTOR shall transport all materials Collected under the terms of this Contract in such a manner as to prevent the spilling or blowing of such materials from CONTRACTOR'S vehicle. CONTRACTOR shall exercise all reasonable care and diligence in providing Recycling Collection Services so as to prevent spilling or dropping of Recycling Materials and shall immediately, at the time of occurrence, clean up such spilled or dropped materials in accordance with the "Spill Response Plan" approved by CITY in Exhibit 9 which is attached to and included in this Contract. CONTRACTOR shall also clean up any spillage or litter within two (2) hours upon notice from the Contract Manager.

6.15.1 Litter Cleanup. CONTRACTOR is required to clean up litter around the area of the Recycling Container, whether or not CONTRACTOR has caused the litter. In the event of more than four (4) recurring instances in any six (6) month period, not caused by CONTRACTOR, requiring CONTRACTOR to clean up litter around the Recycling Container(s) of a specific Service Address, CONTRACTOR shall discuss the litter directly with the Service Recipient and work with the Service Recipient and Customer, if they are not the same, to resolve the litter problem. In the event the litter problem cannot be resolved CONTRACTOR

may notify the Contract Manager and request permission to bill such Customer a litter cleanup surcharge as set forth in Exhibit 1.

6.15.2 Damage to Public Streets. In the event where damage to public streets within CITY is caused by a hydraulic oil spill from CONTRACTOR'S vehicle, or a vehicle load fire that is dumped onto the street for containment purposes, CONTRACTOR shall be responsible for all repairs to return the street to the same condition it was in prior to the spill or fire. CONTRACTOR shall also be responsible for all clean-up activities related to the spill or fire. Repairs and clean-up shall be performed in a manner satisfactory to the Contract Manager and at no cost to CITY.

6.15.3 Oil, Other Vehicle Fluid Spills or Vehicle Load Fires. In the event of a vehicle fluid spill from CONTRACTOR'S vehicle or vehicle load fire CONTRACTOR shall immediately respond in the manner as set forth in the "Spill Response Plan" approved by CITY in Exhibit 9 of this Contract.

6.16 Ownership of Materials.

6.16.1 Title to Recyclable Materials Collected under the terms of this Contract shall pass to CONTRACTOR at such time as said materials are placed in a Container and set out for Collection, or for those materials that are not required to be Containerized, at the time the materials are set out for Collection.

6.16.2 Title to Used Oil and Used Oil Filters Collected under the terms of this Contract shall pass to CONTRACTOR at such time as said materials are placed in a Used Oil or Used Oil Filter Container, as appropriate and set out for Collection.

6.17 Hazardous Waste. Under no circumstances shall CONTRACTOR'S employees knowingly Collect Hazardous Waste, or remove unsafe or poorly containerized Hazardous Waste, from a Recycling Container. If CONTRACTOR determines that material placed in any Container for Collection is Hazardous Waste, or other material that may not legally be accepted at the MRF, or presents a hazard to CONTRACTOR'S employees, CONTRACTOR shall have the right to refuse to accept such material. The Generator shall be contacted by CONTRACTOR and requested to arrange for proper Disposal. If the Generator cannot be reached immediately, CONTRACTOR shall, before leaving the premises, leave a Non-Collection Notice that indicates the reason for refusing to Collect the material and submit an incident report to Contract Manager.

6.17.1 If Hazardous Waste is found in a Recycling Container that poses an imminent danger to people, property, or environment, CONTRACTOR shall immediately call 911 to notify the CITY of Oakland Fire Department. CONTRACTOR shall immediately notify CITY of any Hazardous Waste that has been identified and submit an incident report to Contract Manager.

6.17.2 If Hazardous Waste is identified at the time of delivery to the MRF and the Generator cannot be identified, CONTRACTOR shall be solely responsible for handling and arranging transport and disposition of the Hazardous Waste.

6.18 Regulations and Record Keeping. CONTRACTOR shall comply with emergency notification procedures required by applicable laws and regulatory requirements. All records required by regulations shall be maintained at CONTRACTOR'S facility. These records shall include waste manifests, waste inventories, waste characterization records, inspection records, incident reports, and training records.

6.19 Transition. CONTRACTOR understands and agrees that the time between the formal Contract signing and July 1, 2015 is intended to provide CONTRACTOR with ample and sufficient time to, among other things, order equipment, prepare necessary routing schedules and route maps, obtain any permits and licenses, establish/build facilities, and begin the public awareness campaign as part of CONTRACTOR'S transition program as specified in Exhibit 5 which is attached to and included in this Contract. CONTRACTOR shall be responsible for the provision of all Recycling Collection Services beginning July 1, 2015.

6.20 Property Damage. CONTRACTOR shall be responsible for the repair or replacement, if repair is not adequate, of any damages to public or private property caused by CONTRACTOR during the provision of Recycling Collection Services.

Article 7. CHARGES AND RATES

(Note: this Article may be amended to provide for CONTRACTOR billing of Commercial Recycling Customers depending on the award of Non-Exclusive Commercial Recycling Collection Services

7.01 General. CONTRACTOR shall perform all services required by this Contract in consideration of the right to bill and collect, from CITY'S MM&O Contractor, the Maximum Recycling Service Rates as set forth in Exhibit 1, and as may be adjusted under the terms of this Contract. CITY does not guarantee collection of such Maximum Recycling Service Rates. Except as set forth in Sections 7.03.3 and 7.03.4 below, CONTRACTOR shall not look to CITY for payment of any sums under this Contract. CITY has no obligation to pay CONTRACTOR any public funds under this Contract, except as set forth in Articles 7 and 18.

7.01.1 Rates are Comprehensive Compensation. The Maximum Recycling Service Rates, as set forth in Exhibit 1 and as may be adjusted under the terms of this Contract, shall be the full, entire and complete compensation due to CONTRACTOR for furnishing all labor, materials, equipment, supplies and other things necessary to perform all the services required by this Contract in the manner and at the times prescribed. The Maximum Recycling Service Rates include, without limitation, all costs for the items mentioned in the preceding sentence and also for all taxes, franchise fees, insurance, bonds, overhead, profit, and all other costs necessary to perform all the services required by this Contract in the manner and at the times prescribed. The Maximum Recycling Service Rates include all costs associated with complying with all federal and State statutes, and CITY and County ordinances concerning public health, safety and environmental issues and all laws, regulations, rules, orders, judgments, degrees, permits, approvals, or other requirement of any governmental agency having jurisdiction over the services provided by CONTRACTOR under the terms of this Contract, including any current provisions that become effective on or which require compliance by a date after the effective date of this Contract.

7.01.1.1 Payment of Governmental Fees. CONTRACTOR shall pay, when and as due, any and all governmental fees to the appropriate federal, State, regional, or local governmental entities that levied the fees, and shall provide CITY with proof of such payments promptly upon request.

7.02 CONTRACTOR Invoices. CONTRACTOR shall be responsible for the preparation and submittal of monthly invoices to the MM&O Contractor for all Residential Recycling Collection Services in accordance with the terms and conditions of the Memorandum of Understanding between CONTRACTOR, CITY and the MM&O Contractor as set forth in Exhibit 12, which is attached to and included in this Contract.

7.02.1 Recycling Tonnage Invoice. CONTRACTOR shall prepare a monthly Recycling Tonnage invoice, in the form and format set forth in Exhibit 12, for submittal to the MM&O Contractor and CITY no later than five (5) calendar days after the end of each monthly billing cycle, beginning with the monthly billing cycle ending July 31, 2015. The invoice shall be based on the Maximum Recycling Service Rates for "Recyclable Materials Collected per Ton" as set forth in Exhibit 1 and the Tons of Recyclable Materials Collected in the preceding monthly period, subject to the Tonnage Cap limitations set forth in Section 7.02.1.1. Accordingly, CONTRACTOR shall not submit Recycling Tonnage invoices to the MM&O Contractor in any full or partial calendar year for payment of Tons of Recyclable Materials Collected in excess of the Tonnage Cap for that calendar year. In any full or partial calendar year that CONTRACTOR Collects Tons of Recyclable Materials in excess of the Tonnage Cap for that calendar year, the excess Tonnage shall not be invoiced in any future calendar year and shall only be used to adjust the Tonnage Cap for the next calendar year as set forth below.

7.02.1.1 The Tonnage Cap for the period July 1, 2015 through December 31, 2015 and for calendar year 2016 shall be as set forth in Exhibit 7 to this Contract. Beginning with calendar year 2017, the Tonnage Cap shall be the greater of the prior calendar year Tonnage Cap or the total tons of material Collected under the terms of this Contract for that prior calendar year.

7.02.2 SFD Ancillary Services Invoice. CONTRACTOR shall prepare a bi-monthly ancillary services invoice, in the form and format set forth in Exhibit 12, for submittal to the MM&O Contractor and CITY no later than fifteen (15) calendar days before the first day of each bi-monthly cycle beginning with the bi-monthly billing cycle that starts on September 1, 2015. The invoice shall be based on ancillary services provided in the preceding bi-monthly billing cycle and the Maximum Recycling Service Rates for ancillary services as set forth in Exhibit 1. The SFD ancillary service invoice is to be produced in the form and format approved by CITY and include, at a minimum, the Customer name, Service Address and billing address, if different, along with a specific description of each ancillary service provided and the associated charge.

7.02.3 MFD Ancillary Services Invoice. CONTRACTOR shall prepare a monthly MFD ancillary services invoice, in the form and format set forth in Exhibit 12, for submittal to the MM&O Contractor and CITY no later than fifteen (15) calendar days before the first day of each monthly period cycle beginning with the monthly billing cycle that starts on August 1, 2015. The invoice shall be based on ancillary services provided in the preceding monthly billing cycle and the Maximum Recycling Service Rates for ancillary services as set forth in Exhibit 1. The MFD ancillary service invoice is to be produced in the form and format approved by CITY and include, at a minimum, the Customer name, Service Address and billing address, if different, along with a specific description of each ancillary service provided and the associated charge.

7.03 Authorization of Payment by CITY. In accordance with the terms and conditions of the Memorandum of Understanding between CONTRACTOR, CITY and the MM&O Contractor as set forth in Exhibit 12 to this Contract, CITY shall provide payment authorization to the MM&O Contractor prior to the payment of each monthly Recycling Tonnage invoice to CONTRACTOR.

7.03.1 Timing of Monthly Recycling Tonnage Invoice Payment. In the event CITY provides the MM&O Contractor with payment authorization as set forth in Section 7.03, no later than twenty (20) calendar days from the date the monthly Recycling Tonnage invoice was submitted to MM&O Contractor, CONTRACTOR shall be entitled to payment of its monthly

Recycling Tonnage invoice no later than thirty (30) calendar days from the date the monthly Recycling Tonnage invoice was submitted to MM&O Contractor. In the event CITY does not provide the MM&O Contractor with payment authorization as set forth in Section 7.03, within twenty (20) calendar days from the date the monthly Recycling Tonnage invoice was submitted to MM&O Contractor, CONTRACTOR shall be entitled to payment of its monthly Recycling Tonnage invoice within ten (10) calendar days of receipt by the MM&O Contractor of such payment authorization from CITY.

7.03.2 Timing of Payment of Ancillary Service Charges. CONTRACTOR shall be entitled to payment from the MM&O Contractor of those ancillary service charges included in the SFD and MFD ancillary services invoices provided for in Sections 7.02.2 and 7.02.3 only to the extent such ancillary service charges are collected by the MM&O Contractor. CONTRACTOR shall be entitled to such payment no later than ten (10) calendar days following the month in which the ancillary service charges were collected and such payment shall be accompanied by a remittance form in the format approved by CITY and include at a minimum the Customer name and billing address along with a specific description of each ancillary service charge and the date invoiced.

7.03.3 Non-Payment of Monthly Recycling Tonnage Invoice. In the event CONTRACTOR does not receive payment from the MM&O Contractor of monthly Recycling Tonnage invoices that have been approved by CITY in the time and manner set forth in Section 7.03.1, CONTRACTOR shall notify CITY in writing of such lack of payment. Within five (5) Work Days of receiving such written notification from CONTRACTOR, CITY shall draw such funds as are necessary from MM&O Contractor letter of credit to pay CONTRACTOR. Payment made under the terms of this Section 7.03.3 shall be made by CITY to CONTRACTOR within ten (10) calendar days of receipt of the funds from the letter of credit by CITY.

7.03.4 Non-Payment of Ancillary Service Charges. In the event CONTRACTOR does not receive payment from the MM&O Contractor of ancillary service charges that have been collected by the MM&O Contractor in the time and manner set forth in Section 7.03.2, CONTRACTOR shall notify CITY in writing of such lack of payment. Within ten (10) Work Days of receiving written notification of such non-payment from CONTRACTOR, CITY shall meet with the MM&O Contractor to attempt resolve the issues. At CITY'S sole discretion, CITY may draw such funds as are necessary from MM&O Contractor letter of credit to pay ONTRACTOR. Payment made under the terms of this Section 7.03.4 shall be made by CITY to CONTRACTOR within ten (10) days of receipt of the funds from the letter of credit by CITY.

7.04 Production of Commercial Customer Invoices. CONTRACTOR shall invoice Commercial Customers for Non-Excusive Commercial Recycling Services, in arrears but no less than twelve (12) times per year. Invoices shall be remitted no earlier than the first day of the month following the month for which the service is being billed. The invoice shall be produced in a form and format that is approved by CITY. The Commercial Recycling invoice shall include at a minimum, a Collection rate which shall be based on Container size and frequency of Collection and include all costs of providing Non-Exclusive Recycling Services.

7.05 CONTRACTOR'S Maximum Recycling Service Rates. Maximum Recycling Service Rates shall consist of a Recyclable Materials Collected per Ton rate, and ancillary service rates, which include all costs of providing Residential Recycling Collection Services including but not limited to Collection, Processing, Disposal, and franchise fee costs, and such other charges as may be added by CITY during the term of this Contract. CONTRACTOR shall not be entitled to any compensation that is not listed in Exhibit 1. On or

after July 1, 2015, and each subsequent July 1st, CONTRACTOR'S Maximum Recycling Service Rates shall be adjusted as follows:

7.06 Adjustments to Maximum Recycling Service Rates.

7.06.1 Annual Adjustment to Maximum Recycling Service Rates Prior to Start of Residential Recycling Collection Services. In order to provide some mitigation for changes in inflation between the time that the Maximum Recycling Service Rates were proposed and the time when Residential Recycling Collection Services will commence, the Maximum Recycling Service Rates as set forth in Exhibit 1 to this Contract shall be adjusted on July 1, 2015 by the annual change in the Consumer Price Index – All Urban Consumers, Series ID cuura422sa0, Not Seasonally adjusted, San Francisco-Oakland-San Jose, CA between the prior calendar year, 2014 and the previous prior calendar year, 2013.

7.06.2 Annual Adjustment to Maximum Recycling Service Rates After Start of Residential Recycling Collection Services. Beginning on July 1, 2016, and annually thereafter during the term of this Contract, and subject to compliance with all provisions of this Article, CONTRACTOR shall receive an annual adjustment to the Maximum Recycling Service Rates as set forth in Exhibit 1 to this Contract, in accordance with the provisions of Section 7.06.3.

7.06.3 Refuse Rate Index (RRI). Beginning on July 1, 2016, and annually thereafter during the term of this Contract, the Maximum Recycling Service Rates set forth in Exhibit 1 shall be adjusted by the RRI as set forth below, except that the adjustment shall never be more than five (5) percent up or down in any year regardless of the calculated adjustment, exclusive of any changes in governmental or regulatory fees or assessments which shall be a pass-through. If the five (5) percent ceiling or floor is applied to limit increases or decreases in the RRI in any year, the difference between five (5) percent and the percentage by which the Maximum Service Rates would have been increased or decreased in the absence of the ceiling or floor will not be considered in any future year.

7.06.3.1 The RRI shall be the sum of the weighted percentage change in the annual average of each RRI component index number between the base year, which shall be the prior preceding calendar year ending December 31st and the preceding calendar year ending December 31st as contained in the most recent release of the source documents listed in Exhibit 2, which is attached to and included in this Contract. Therefore, the first Maximum Recycling Service Rate adjustment using the RRI will be based on the percentage changes between the annual average of the RRI component indices for the calendar year ended December 31, 2014 and the annual average of the RRI component indices for the calendar year ended December 31, 2015. The Maximum Recycling Service Rate adjustment shall be calculated using the RRI methodology included in Exhibit 2.

7.06.3.2 In any year that the Maximum Recycling Service Rate adjustment is a negative number, CITY may, at its sole discretion, chose to postpone the implementation of the adjustment for one (1) year. In that event the current year rate would remain the same and the subsequent year rate would be calculated by first, applying the negative Maximum Recycling Service Rate adjustment to the current rate and then applying the subsequent years Maximum Recycling Service Rate adjustment to that rate. For example if the Year X rate was $100.00 and the Year X+1 Maximum Recycling Service Rate adjustment was -2.2% and the Year X+2 Maximum Recycling Service Rate adjustment was +2.2% and CITY chose to not apply the negative Maximum Recycling Service Rate adjustment in Year X+1 then the rate in Year X+1 would be $100.00 and the rate in Year X+2 would be $99.95 ($100.00 x -2.2% = $97.80 x 2.2% = $99.95).

7.07 Financial Information. On or before February 1, 2016, and annually thereafter during the term of this Contract, CONTRACTOR shall deliver to CITY financial information for the specific services performed under this Contract for the preceding calendar year. Such financial information shall be in the format as set forth in Exhibit 2, or as may be further revised by CITY from time to time. If CONTRACTOR fails to submit the financial information in the required format by February 1st, it is agreed that CONTRACTOR shall be deemed to have waived the entire annual RRI adjustment to the Maximum Recycling Service Rates for that year. CONTRACTOR'S failure to provide the financial information shall not preclude CITY from applying the RRI using the prior year's financial data, or pro forma data if no prior year financial data is available, if that application would result in a negative RRI.

7.08 Recyclable Materials Collected Data. On or before March 1, 2017, and annually thereafter during the term of this Contract, CONTRACTOR shall deliver to CITY data for Tons of Recyclable Materials Collected during the preceding calendar year from SFD and MFD Service Addresses under the terms of this Contract in the format specified by CITY. If CONTRACTOR fails to submit the Recyclable Materials Tonnage data in the required format by March 1st, it is agreed that CONTRACTOR shall be deemed to have waived the entire annual RRI adjustment to the Maximum Recycling Service Rates for that year.

7.09 . Rate Adjustments. Annual Maximum Recycling Service Rate adjustments shall be made only in units of one cent ($0.01). Fractions of less than one cent ($0.01) shall not be considered in making adjustments. The indices used in calculating the RRI shall be rounded at four (4) decimal places for the adjustment calculations.

7.10 Notification. As of May 15, 2016, and annually thereafter during the term of this Contract, the Contract Manager shall notify CONTRACTOR of the Maximum Recycling Service rate adjustments to take place on July 1st of that same calendar year.

7.11 Adjustments Due to Changes In Law. CONTRACTOR agrees that no extraordinary adjustment shall occur or rate adjustment be provided except as set forth in Article 30.

7.12 CONTRACTOR'S Payments to CITY. CONTRACTOR shall make payment to CITY of a negotiated franchise fee, and such other fees as may be specified in this Contract.

7.12.1 Franchise Fee. The franchise fee for the fiscal year July 1, 2015 through June 30, 2016 shall be the initial franchise fee of Three Million Dollars ($3,000,000) adjusted by the annual change in the Consumer Price Index – All Urban Consumers, Series ID cuura422sa0, Not Seasonally adjusted, San Francisco-Oakland-San Jose, CA for the prior calendar year, January 1, 2014 through December 31, 2014. The franchise fee for the next fiscal year and each subsequent fiscal year shall be adjusted annually by the same percentage as the percentage used to adjust the Recyclable Materials per Ton rate of the Maximum Recycling Service Rates for that fiscal year as set forth in Section 7.06, except that in no year shall the franchise fee adjustment be less than zero (0) percent. The franchise fee for each fiscal year shall be divided into twelve (12) equal payments, and paid monthly no later than the fifteenth (15th) calendar day of each month for that month. The franchise fee payments will begin no later than July 15, 2015 and will continue each month throughout the term of this Contract.

7.12.2 Proposal Development and Cost Reimbursement Fee. No later than thirty (30) calendar days after the execution of this Contract by CITY and CONTRACTOR, CONTRACTOR shall submit a proposal development and cost reimbursement fee to CITY in the amount of Five Hundred Thousand Dollars ($500,000).

7.12.3 Revenue Sharing Payments. (Note this section will be amended to reflect the revenue sharing program proposed by CONTRACTOR)

7.12.4 Other Fees. CITY may set such other fees as it deems necessary. However, CONTRACTOR shall not be responsible for remitting such other fees to CITY until such time as the Maximum Recycling Service Rates as set forth in Exhibit 1 have been adjusted to include such other fees.

7.12.5 Acceptance of Payment. No acceptance by CITY of any payment 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 CONTRACTOR for any additional sums payable under the provisions of this Contract. All amounts paid shall be subject to independent audit and recalculation by CITY. If, after the audit, such recalculation indicates an underpayment CONTRACTOR shall pay to CITY the amount of the underpayment and shall reimburse CITY for all reasonable costs and expenses incurred in connection with the audit and recalculation within ten (10) Work Days of receipt of written notice from CITY that such is the case. If, after audit, such recompilation indicates an overpayment, CITY shall notify CONTRACTOR in writing of the amount of the overpayment, less costs and expenses incurred in connection with the audit and recalculation. CONTRACTOR may offset the amounts next due following receipt of such notice by the amount specified therein.

7.13 Billing Records. CONTRACTOR shall keep records, electronic or paper, of all billing documents and Customer account records, including but not limited to, invoices, receipts, and collection notices, each in chronological order, for a period of three (3) years after the date of receipt or issuance.

7.14 CITY Computer-Link Access to Customer Account and Service Information. CONTRACTOR shall provide CITY with a computer link to CONTRACTOR'S customer account and service information system. CONTRACTOR shall provide both hardware and software which meet CITY'S requirements, including a dedicated phone line for communication with CITY computer systems, if necessary, and shall provide CITY with training to access and sort data on the system. CITY shall have access to review, sort, and download all data in the system, related to this Contract, but shall not modify or input data on-line. CITY shall be able to access via CONTRACTOR'S computer system, at a minimum, the following information: (i) all routing information from route audits to include name and address of Customer, Service Recipient and route number; (ii) records of daily Collection, Recycling Residue Disposal, and Processing figures; (iii) account classification (i.e., SFD, MFD, Commercial, Roll-Off Box), and service level (i.e., number and size of Containers, frequency of Collection); (iv) notes on location of Carts and Bins at Service Addresses; (v) record of missed pickups; and (vi) customer service log. Upon expiration or termination of this Contract, CITY shall have the immediate and permanent right to access and copy all such information contained in CONTRACTOR'S customer account and service information system relevant to this Contract.

7.15 Recycling Service Census Data. On or before July 15, 2016 and annually thereafter during the term of this Contract, CONTRACTOR shall deliver to CITY, Recycling Service census data for all Service Addresses as of the preceding July 1st. This information shall be delivered electronically in a format approved by CITY, using software approved by CITY.

7.15.1 Census data for SFD Service Addresses shall consist of a list of SFD Service Recipients receiving, SFD Recycling Service during the previous month and include at a minimum: (i) Service Recipient name and Service Address; (ii) name and address of Customer if different from Service Recipient and Service Address; and (iii) service level (i.e., number and size of Containers, and frequency of Collection).

7.15.2 Census data for MFD, and Commercial Service Addresses shall consist of the number of Service Recipients receiving MFD, or Commercial Recycling Services during the preceding month. The census data shall be segregated by Customer type, and include at a minimum: (i) Service Recipient name and Service Address; (ii) name and address of Customer if different from Service Recipient and Service Address; and (iii) service level (i.e., number and size of Containers, and frequency of Collection).

Article 8. MATERIAL DIVERSION STANDARD

8.01 Material Diversion Standard. Beginning with calendar year 2016 and annually thereafter, CONTRACTOR shall Divert a minimum of (to be inserted) percent of all material Collected under the terms of this Contract. The standard shall represent the percentage of the actual amount of Tonnage Collected under the terms of this Contract that is Diverted in each calendar year. CONTRACTOR shall document compliance with this standard as follows. (methodology to be inserted based on that proposed by CONTRACTOR as amended and accepted by CITY.)

8.02 Failure to Meet Material Diversion Standard. CONTRACTOR'S failure to meet the minimum Diversion standards set forth in Section 8.01 in any calendar year may result in the imposition of liquidated damages.

8.02.1 Compliance with Material Diversion Standard. On or before February 15, 2016 and annually thereafter during the term of this Contract, CONTRACTOR shall submit a Material Diversion Standard Compliance Report to CITY. The report shall present the following information for the preceding full or partial calendar year:

8.02.1.1 The number of Tons of material Collected under the terms of this Contract by CONTRACTOR, (which should agree to the number of Tons invoiced to the MM& Contractor by CONTRACTOR for that period);

8.02.1.2 The number of Tons of material Collected under the terms of this Contract by CONTRACTOR that have been Diverted (calculated in accordance with the provisions of Exhibit 7;

8.02.1.3 The minimum material Diversion Tons, (calculated by multiplying the Tons of material Collected from Section 8.02.1.1 and the minimum Diversion standard percentage from Section 8.01); and

8.02.1.4 The number of over Diverted or under Diverted Tons, (calculated by subtracting minimum material Diverted Tons from Section 8.02.1.3 from the Diverted Tons from Section 8.02.1.2.

8.03 Failure to Meet Material Diversion Standard in Consecutive Years. In the event CONTRACTOR fails to meet the minimum Diversion standard set forth in Section 8.01 for three (3) consecutive calendar years CITY, at its sole discretion, may chose not to offer the Contract extension set forth in Section 3.01.1 of this Contract, and this Contract shall terminate no later than June 30, 2025.

Article 9. SFD RECYCLING SERVICES

9.01 SFD Recycling Services. These services shall be governed by the following terms and conditions:

9.01.1 Size and Frequency of Service. CONTRACTOR shall offer Recycling Carts in 20, 32, 64, and 96 gallon nominal Cart sizes, with the default Cart size being 64 gallons. The size of the Cart shall be selected by the SFD Service Recipient or Customer. SFD Recycling Services shall be provided one (1) time per week on a scheduled route basis. SFD Recycling Services shall be scheduled so that the service is provided to a Service Address on the same Work Day as the Mixed Material and Organics Collection Contractor Collects the Mixed Materials.

9.01.2 Manner of Collection. CONTRACTOR shall provide SFD Recycling Services with as little disturbance as possible. Except in the case of backyard SFD Recycling Services, CONTRACTOR shall leave any Recycling Cart in an upright position, with the lid closed, and replacement Used Oil Containers and Used Oil Filter Containers on the curb or at the edge of street pavement for streets without curbs, without obstructing alleys, roadways, driveways, sidewalks or mail boxes In the case of backyard SFD Recycling Services, CONTRACTOR shall remove the Recycling Container and Used Oil and Used Oil Filter Containers from the back or side of the Service Address (or from such other location as agreed to by CONTRACTOR and the Service Recipient), shall empty the contents into the Collection vehicle, and shall return the Recycling Container and replacement Used Oil and Used Oil Filter Containers to the location from which they were removed.

9.01.3 Curbside SFD Recycling Services. Curbside SFD Recycling Services shall be provided where Recyclable Materials and Used Oil and Used Oil Filter Containers are placed within three (3) feet of the curb, or at edge of street pavement for streets without curbs.

9.01.4 Premium Backyard SFD Recycling Services. CONTRACTOR shall provide premium backyard Collection of Recyclable Materials and Used Oil and Used Oil Filters to a SFD Service Address if requested by the SFD Customer for their convenience. CONTRACTOR shall be compensated for such services at the approved Maximum Recycling Service Rates provided in Exhibit 1 for premium backyard SFD Recycling Services.

9.01.5 Exempt Backyard SFD Recycling Services. Notwithstanding any term or definition set forth in this Contract, CONTRACTOR shall provide exempt backyard SFD Recycling Services to SFD Service Addresses whose occupants meet the requirements for the exemption programs set forth below in Sections 9.01.6 through 9.01.8 and, based on information provided by CITY to CONTRACTOR, those Service Addresses receiving such service from the prior Collection Contractor. CONTRACTOR shall provide exempt SFD backyard Recycling Services to SFD Service Addresses at no additional charge to CITY or the SFD Customer.

9.01.6 Frail Senior Exemption Program. CONTRACTOR shall provide exempt backyard SFD Recycling Services to SFD Service Addresses whose occupants demonstrate that they meet the requirements set forth in this Section 9.01.6 through the submission of a complete application requesting this exemption along with all required documentation and certifications. Services shall begin on the next regularly scheduled Collection day of the Service Address after CONTRACTOR'S receipt of the completed application. No additional monies shall be due to CONTRACTOR for the provision of exempt backyard SFD Recycling Services.

9.01.6.1 Applicant must be sixty (60) years of age or older.

9.01.6.2 Applicant must be the owner of record or primary renter.

9.01.6.3 The Dwelling Unit must be solely occupied by the applicant, unless all other occupants meet the requirements of frail senior exemption program

as set forth in this Section 9.01.6, the disability exemption program as set forth in Section 9.01.7 or are under the age of twelve (12) years old.

9.01.6.4 Applicant must provide a signed statement from a registered Doctor of Medicine (M.D.) stating that bringing the wheeled Containers to curbside creates an undue physical hardship on the applicant.

9.01.7 Disability Exemption Program. CONTRACTOR shall provide exempt backyard SFD Recycling Services to SFD Service Addresses whose occupants demonstrate that they meet the requirements set forth in this Section 9.01.7 through the submission of a complete application requesting this exemption along with all required documentation and certifications. Services shall begin on the next regularly scheduled Collection day of the Service Address after CONTRACTOR'S receipt of the completed application. No additional monies shall be due to CONTRACTOR for the provision of exempt backyard SFD Recycling Services.

9.01.7.1 Applicant must be the owner of record or primary renter.

9.01.7.2 The Dwelling Unit must be solely occupied by the applicant, unless all other occupants meet the requirements of frail senior exemption program as set forth in Section 9.01.6, the disability exemption program as set forth in this Section 9.01.7 or are under the age of twelve (12) years old.

9.01.7.3 Applicant must provide proof that is acceptable to CONTRACTOR of long term or permanent physical disability which may include; 1) a signed statement from a registered Doctor of Medicine (M.D.); 2) proof or registration as a disabled driver as determined by the Department of Motor Vehicles; or 3) documentation of grant of permanent disability status by the State of California.

9.01.7.4 Curbside Placement Exemption. CONTRACTOR may petition CITY for the provision of exempt backyard SFD Recycling Services from SFD Service Addresses other than as required by Sections 9.01.6 and 9.01.7.

9.01.8 Collection Day. CONTRACTOR shall provide exempt backyard SFD Recycling Services on the same Work Day that curbside SFD Recycling Services Collection would otherwise be provided to the Service Address.

9.02 SFD Recycling Collection Service. This service will be governed by the following additional terms and conditions:

9.02.1 Containerized Recyclable Materials. CONTRACTOR shall provide SFD Recycling Collection Service to all SFD Service Addresses in the Service Area whose Recyclable Materials are properly containerized in Recycling Containers, except as set forth in Section 9.02.2 below, regardless of whether the lid is fully closed, where the Containers have been placed within three (3) feet of the curb, paved surface of the public roadway, closest accessible roadway, or other such location agreed to by CONTRACTOR and Service Recipient, which will provide safe and efficient accessibility to CONTRACTOR'S Collection crew and vehicle.

9.02.2 Collection of Recyclable Materials Overages. CONTRACTOR shall also be required to Collect all Recyclable Materials Overages that are set out for Collection beside the Recycling Container in an additional container, bag, box, or bundle, or in the case of corrugated cardboard, in pieces not exceeding three (3) feet by three (3) feet, placed beside the Recycling Container. CONTRACTOR may Collect corrugated cardboard exceeding three (3) feet by three (3) feet or may leave the oversized material uncollected

along with a Non-Collection Notice that contains instructions on the proper procedures for setting out corrugated cardboard.

9.02.2.1 Additional Recyclable Materials Capacity. Upon notification to CONTRACTOR by CITY, a Customer or a Service Recipient that additional Recyclable Materials capacity is requested in the form of a larger Container or an additional Container, CONTRACTOR shall deliver such Recyclable Materials Containers as are needed to meet the capacity requirements of the Service Address no later than the next regularly scheduled Collection day. CONTRACTOR shall not receive additional compensation for the Collection of larger Recyclable Materials Containers. However, CONTRACTOR shall receive additional compensation for the Collection of additional Recyclable Materials Containers in accordance with the approved Maximum Recycling Service Rates as provided in Exhibit 1 or as may be adjusted under the terms of this Contract.

9.02.3 Materials Recovery Facility. All Recyclable Materials Collected as a result of performing SFD Recycling Collection Services shall be transported and delivered to the Materials Recovery Facility.

9.03 Used Oil Collection Service. CONTRACTOR shall perform Used Oil Collection Service in accordance with the following terms and conditions:

9.03.1 Conditions of Service. CONTRACTOR shall provide Used Oil Collection Service to all SFD Service Addresses in the Service Area utilizing Used Oil Containers for the accumulation and set-out of Used Oil, and Used Oil Filter Containers for the accumulation and set out of Used Oil Filters where the Used Oil Containers and Used Oil Filter Containers have been placed within three (3) feet of the curb, paved surface of the public roadway, closest accessible roadway, or other such location agreed to by CONTRACTOR and the Service Recipient, that will provide safe and efficient accessibility to CONTRACTOR'S collection crew and vehicle.

9.03.2 Non-Collection. CONTRACTOR shall not be required to Collect material placed in Used Oil Containers or Used Oil Filter Containers unless the material is Used Oil or Used Oil Filters, respectively. In the event of non-collection, CONTRACTOR shall affix to the Used Oil Container or Used Oil Filter Container a Non-Collection Notice explaining why Collection was not made. If non-collection is because the material placed in the Used Oil Container or the Used Oil Filter Container was identified by CONTRACTOR as a Hazardous Waste, prior to leaving the Service Address, CONTRACTOR shall notify the CITY of Oakland Fire Department of the non-collection. CONTRACTOR shall immediately notify CITY of any Hazardous Waste that has been identified, and submit an incident report to Contract Manager. If non-collection is because the Used Oil or Used Oil Filter was placed in an improper container, CONTRACTOR shall also leave Used Oil Containers or Used Oil Filter Containers in a number sufficient to contain the uncollected Used Oil (but not exceeding sixteen (16) quarts) or Used Oil Filters (but not exceeding two (2) Used Oil Filters) along with the Non-Collection Notice.

9.03.3 Spillage. CONTRACTOR shall carry oil absorbent material on all Used Oil Collection vehicles and shall cleanup any Used Oil that spills during Collection, or that has leaked from a Used Oil or Used Oil Filter Container, or that spills or leaks during the time the Used Oil or Used Oil Filter is in the Collection vehicle.

9.03.4 Used Oil Containers and Used Oil Filter Containers. No later than the next regularly scheduled Collection day after receipt of a verbal request from CITY or a Service Recipient, CONTRACTOR shall, at CONTRACTOR’S sole cost and expense, provide

the SFD Service Address with Used Oil Containers and Used Oil Filter Containers in the number requested by CITY or the SFD Service Recipient but not exceeding a number sufficient to hold sixteen (16) quarts of Used Oil and two (2) Used Oil Filters.

9.03.4.1 At the time CONTRACTOR Collects Used Oil from an SFD Service Address, CONTRACTOR shall, at CONTRACTOR'S sole cost and expense, leave at the Service Address one (1) Used Oil Container for each Used Oil Container Collected and one (1) Used Oil Filter Container for each Used Oil Filter Container Collected. CONTRACTOR shall keep the outside of all Used Oil Containers and Used Oil Filter Containers clean and may re-use the containers until the condition of the container makes it inappropriate for re-use.

Article 10. MFD RECYCLING SERVICES

10.01 MFD Recycling Services. These services shall be governed by the following terms and conditions:

10.01.1 Manner of Collection. CONTRACTOR shall provide MFD Recycling Services with as little disturbance as possible and shall leave any Container in an upright position, with the lid closed, at the same point it was Collected without obstructing alleys, roadways, driveways, sidewalks or mail boxes. CONTRACTOR shall close or lock, as appropriate, Containers and Container enclosures that were opened by CONTRACTOR as part of the Collection process.

10.01.2 Accessibility. CONTRACTOR shall Collect all Recyclable Materials Containers, and Used Oil and Used Oil Filter Containers as are readily accessible to CONTRACTOR'S crew and vehicles and not blocked. However, CONTRACTOR shall provide "push services" and "key services" as necessary during the provision of MFD Recycling Services. Push services shall include, but not be limited to, dismounting from the Collection vehicle, moving the Bins or Carts from their storage location for Collection and returning the Bins or Carts to their storage location. Push services may include unlocking and relocking the Bin or enclosure. Key services shall include the provision of a master lock and key by CONTRACTOR to the Service address for the convenience of CONTRACTOR. CONTRACTOR shall be compensated for providing "push services" and/or "key services" in accordance with the approved Maximum Recycling Service Rates as provided in Exhibit 1 or as may be adjusted in accordance with the terms of this Contract.

10.01.3 Difficult to Serve. If CONTRACTOR determines that the set--out location for Carts, Bins or Used Oil and Used Oil Filter Containers is Difficult to Serve, CONTRACTOR shall contact the MFD Customer to discuss a change in the set out location. In the event a new set out location is not agreed to between the CONTRATOR and MFD Customer, then CONTRACTOR shall be compensated for providing Difficult to Serve MFD Recycling Collection Services in accordance with the approved Maximum Recycling Service Rates as provided in Exhibit 1 or as may be adjusted in accordance with the terms of this Contract.

10.02 MFD Recycling Collection Service. This service will be governed by the following additional terms and conditions:

10.02.1 Containerized Recyclable Materials. CONTRACTOR shall provide MFD Recycling Collection Service to all MFD Service Addresses in the Service Area where the Recyclable Materials are properly containerized in Carts or Bins, except as set forth in Section 10.02.2 regardless of whether the lid is fully closed, where the Carts or Bins are accessible as set forth in Section 10.01.2 above.

10.02.2 Service Frequency. CONTRACTOR shall provide MFD Recycling Collection Service once per week on a scheduled route basis. However, in those instances where the scheduled Collection day falls on a holiday as set forth in Section 6.10 herein, the Collection day may be adjusted in a manner agreed to between the MFD Service Recipient and CONTRACTOR as long as service is received one (1) time per week.

10.02.2.1 CONTRACTOR shall respond to requests for service utilizing Roll-Off Boxes within two (2) Work Days of the request from the MFD Customer.

10.02.3 Container Sizes. CONTRACTOR shall offer Recyclable Materials Containers in 20, 32, 64 and 96 gallon nominal Cart sizes and in 1, 1.5 2, 3, 4, 6 and 7 cubic yard Bins. CONTRACTOR shall offer Roll-Off Boxes in 10, 20, 30, and 40 cubic yard sizes with lids.

10.02.4 Minimum Capacity. CONTRACTOR shall provide Recyclable Materials Container sizes as requested by the MFD Customer such that the total weekly capacity of Recyclable Materials Collection Service is sufficient ensure that no Recyclable Materials, except as set forth in Section 10.02.5 need be placed outside the Recyclable Materials Container on a regular basis.

10.02.5 Collection of Recyclable Materials Overages. CONTRACTOR shall also be required to Collect all Recyclable Materials Overages that are set out for Collection beside the Recycling Container in an additional container, or in the case of corrugated cardboard, in pieces not exceeding three (3) feet by three (3) feet, placed beside the Recycling Container. CONTRACTOR may Collect corrugated cardboard exceeding three (3) feet by three (3) feet or may leave the oversized material uncollected along with a Non-Collection Notice that contains instructions on the proper procedures for setting out corrugated cardboard.

10.02.6 Multiple Overages. In the case of repeated Overages of Recyclable Materials, except corrugated cardboard, CONTRACTOR may send written notification to the MFD Customer that includes dates of observed Overages, any previous notifications, photographic documentation of said Overages, and an offer to arrange for an appropriate change in Bin or Cart size, and/or Collection frequency. Should Overages persist after three (3) notifications and CONTRACTOR is unable to reach an agreement with the MFD Customer regarding an appropriate change in Bin or Cart size and/or frequency of Collection, CONTRACTOR may impose such service level increase as is needed to avoid the Overages and notify the MFD Customer and Contract Manager in writing. The MFD Customer may petition CITY regarding any change in Bin or Cart size and/or Collection frequency. Should three (3) months elapse with no Overage recurrence taking place following the change in service the Overage problem shall be considered resolved.

10.02.7 Additional Recyclable Materials Capacity.

10.02.7.1 Increase in Container Size. Upon notification to CONTRACTOR by CITY or a Customer that additional Recyclable Materials capacity is requested in the form of a larger Container or an additional Container, CONTRACTOR shall deliver such Recyclable Materials Containers as are needed to meet the capacity requirements of the Service Address no later than the next regularly scheduled Collection day. CONTRACTOR shall not receive additional compensation for the provision or Collection of larger or additional Recyclable Materials Containers.

10.02.7.2 Increase in Collection Frequency. Customers may obtain additional Recyclable Material capacity through the subscription of Collection frequency in

excess of the default frequency of one (1) time per week. CONTRACTOR shall be compensated for providing MFD Recycling Collection Services in excess of one (1) time per week in accordance with the approved "Excess Frequency" Maximum Recycling Service Rate as provided in Exhibit 1 or as may be adjusted under the terms of this Contract.

10.02.8 Materials Recovery Facility. All Recyclable Materials Collected as a result of performing MFD Recycling Collection Service shall be delivered to the Materials Recovery Facility.

10.03 Used Oil Collection Service. CONTRACTOR shall perform Used Oil Collection Service in accordance with the following terms and conditions:

10.03.1 Conditions of Service. CONTRACTOR shall provide Used Oil Collection Service to all MFD Service Addresses in the Service Area utilizing Used Oil Containers for the accumulation and set-out of Used Oil, and Used Oil Filter Containers for the accumulation and set out of Used Oil Filters where the Used Oil Containers and Used Oil Filter Containers have been placed in a collection box at a location agreed to by CONTRACTOR and the MFD Customer, that will provide safe and efficient accessibility to CONTRACTOR'S collection crew and vehicle.

10.03.2 Non-Collection. CONTRACTOR shall not be required to Collect material placed in Used Oil Containers or Used Oil Filter Containers unless the material is Used Oil or Used Oil Filters. In the event of non-collection, CONTRACTOR shall affix to the Used Oil Container or Used Oil Filter Container a Non-Collection Notice explaining why Collection was not made. If non-collection is because the material placed in the Used Oil Container or the Used Oil Filter Container was identified by CONTRACTOR as a Hazardous Waste, prior to leaving the Service Unit CONTRACTOR shall notify the CITY of Oakland Fire Department of the non-collection. CONTRACTOR shall immediately notify CITY of any Hazardous Waste that has been identified, and submit an incident report to Contract Manager. If non-collection is because the Used Oil or Used Oil Filter was placed in an improper container, CONTRACTOR shall also leave Used Oil Containers or Used Oil Filter Containers in a number sufficient to contain the uncollected Used Oil (but not exceeding five (5) quarts per Dwelling Unit) or Used Oil Filters (but not exceeding one (1) Used Oil Filter per Dwelling Unit) along with the Non-Collection Notice.

10.03.3 Spillage. CONTRACTOR shall carry oil absorbent material on all Used Oil Collection vehicles and shall cleanup any Used Oil that spills during Collection, which has leaked from the Used Oil or Used Oil Filter Container, or which spills or leaks during the time the Used Oil or Used Oil Filter is in the Collection vehicle.

10.03.4 Used Oil Containers and Used Oil Filter Containers. No later than the next regularly scheduled Collection day after receipt of a verbal request from CITY or a MFD Customer, CONTRACTOR shall, at CONTRACTOR'S sole cost and expense, provide the MFD Customer or management of the MFD Service Address with a sufficient number of collection boxes for the storage of Used Oil and Used Oil Filters. Each collection box shall contain six (6) Used Oil Containers, three (3) Used Oil Filter Containers, and one (1) oil funnel.

10.03.4.1 At the time CONTRACTOR Collects Used Oil from an MFD Service Address, CONTRACTOR shall, at CONTRACTOR'S sole cost and expense, leave at the Service Address one (1) Used Oil Container for each Used Oil Container Collected and one (1) Used Oil Filter Container for each Used Oil Filter Container Collected. CONTRACTOR shall

keep the outside of all Used Oil Containers and Used Oil Filter Containers clean and may re-use the containers until the condition of the container makes it inappropriate for re-use.

Article 11. COMMERCIAL NON-EXCLUSIVE RECYCLING COLLECTION SERVICE

(Note: this Article may be amended depending on the award of Non-Exclusive Commercial Recycling Collection Services.)

11.01 Commercial Non-Exclusive Recycling Collection Service. These services will be governed by the following terms and conditions.

11.01.1 Containerized Recyclable Materials. CONTRACTOR shall provide Commercial Non Exclusive Recycling Collection Service to all Commercial Service Addresses in the Service Area requesting such service, where the Recyclable Materials are properly containerized in Recyclable Materials Carts, Bins, or Roll-Off Boxes regardless of whether the lid is fully closed, where the Carts, Bins or Roll-Off Boxes are accessible as set forth in Section 11.01.3. CONTRACTOR shall be compensated for the provision of Commercial Non-Exclusive Recycling Collection Services in accordance with the Maximum Recycling Service Rates set forth in Exhibit 1 to this Contract.

11.01.2 Manner of Collection. CONTRACTOR shall provide Commercial Non-Exclusive Recycling Collection Service with as little disturbance as possible and shall leave any Container in an upright position, with the lid closed, at the same point it was Collected without obstructing alleys, roadways, driveways, sidewalks or mail boxes. CONTRACTOR shall close or lock, as appropriate, Containers and Container enclosures that were opened by CONTRACTOR as part of the Collection process.

11.01.3 Accessibility. CONTRACTOR shall Collect those Commercial Recyclable Materials Containers that are readily accessible to CONTRACTOR'S crew and vehicles and not blocked. However, CONTRACTOR shall provide "push services" and "lock services" as necessary during the provision of Commercial Non-Exclusive Recycling Collection Services. Push services shall include, but not be limited to, dismounting from the Collection vehicle, moving the Bins or Carts from their storage location for Collection and returning the Bins or Carts to their storage location. Push services may include unlocking and relocking the Bin or enclosure. Key services shall include the provision of a master lock and key by CONTRACTOR to the Service Address for the convenience of CONTRACTOR. CONTRACTOR shall be compensated for providing "push services" and/or "key services" in accordance with the approved Maximum Recycling Service Rates as provided in Exhibit 1 or as may be adjusted in accordance with the terms of this Contract.

11.01.4 Difficult to Serve. If CONTRACTOR determines that the set-out location for Carts, Bins or Roll-Off Boxes is Difficult to Serve, CONTRACTOR shall contact the Commercial Customer to discuss a change in the set out location. In the event a new set out location is not agreed to between the CONTRATOR and Commercial Customer, then CONTRACTOR shall be compensated for providing Difficult to Serve Collection Services in accordance with the approved Maximum Recycling Service Rates as provided in Exhibit 1 or as may be adjusted in accordance with the terms of this Contract.

11.01.5 Service Frequency. CONTRACTOR shall provide Commercial Non-Exclusive Recycling Collection Service at least weekly. However, in those instances where the scheduled Collection day falls on a holiday as set forth in Section 6.10 herein, the

Collection day may be adjusted in a manner agreed to between the Commercial Service Recipient and CONTRACTOR as long as service is received a minimum of one (1) time per week.

11.01.5.1 CONTRACTOR shall respond to requests for service utilizing Roll-Off Boxes within two (2) Work Days of the request from the MFD Customer.

11.01.6 Container Sizes. CONTRACTOR shall offer Recyclable Materials Containers in 20, 32, 64 and 96 gallon nominal Cart sizes and in 1, 1.5 2, 3, 4, 6 and 7 cubic yard Bins. CONTRACTOR shall offer Roll-Off Boxes in 10, 20, 30, and 40 cubic yard sizes with lids.

11.01.7 Minimum Capacity. CONTRACTOR shall provide Recyclable Materials Container sizes as requested by the Commercial Customer such that the total weekly capacity of Recyclable Materials Collection Service is sufficient ensure that no Recyclable Materials, except as set forth in Section 11.01.8 need be placed outside the Recyclable Materials Container on a regular basis.

11.01.8 Collection of Recyclable Materials Overages. CONTRACTOR shall also be required to Collect all corrugated cardboard, in pieces not exceeding three (3) feet by three (3) feet, placed beside the Recycling Container. CONTRACTOR may Collect corrugated cardboard exceeding three (3) feet by three (3) feet or may leave the oversized material uncollected along with a Non-Collection Notice that contains instructions on the proper procedures for setting out corrugated cardboard.

11.01.9 Multiple Overages. In the case of repeated Overages of Recyclable Materials, except corrugated cardboard, CONTRACTOR may send written notification to the MFD Customer that includes dates of observed Overages, any previous notifications, photographic documentation of said Overages, and an offer to arrange for an appropriate change in Bin or Cart size, and/or Collection frequency. Should Overages persist after three (3) notifications and CONTRACTOR is unable to reach an agreement with the Commercial Customer regarding an appropriate change in Bin or Cart size and/or frequency of Collection, CONTRACTOR may impose such service level increase as is needed to avoid the Overages and notify the Commercial Customer and Contract Manager in writing. The Commercial Customer may petition CITY regarding any change in Bin or Cart size and/or Collection frequency. Should three (3) months elapse with no Overage recurrence taking place following the change in service the Overage problem shall be considered resolved.

11.01.10 Materials Recovery Facility. All Recyclable Materials Collected as a result of performing MFD Recycling Collection Service shall be delivered to the Materials Recovery Facility.

Article 12. CITY RECYCLING COLLECTION SERVICE

12.01 CITY Recycling Collection Service. CONTRACTOR has offered to donate the following service as corporate good will, and such provisions of donated services shall have no rate impact of any kind to CITY, or any Commercial Customer. These services will be governed by the following terms and conditions.

12.01.1 Containerized Recyclable Materials. CONTRACTOR shall provide CITY Recycling Collection Service to all CITY Facilities in the Service Area where the Recyclable Materials are properly containerized in Recyclable Materials Carts, Bins, or Roll-Off Boxes regardless of whether the lid is fully closed, where the Carts, Bins or Roll-Off Boxes

are accessible as set forth in Section 12.01.3. CONTRACTOR shall not be compensated for the provision of CITY Recycling Collection Services in as set forth in Section 12.01.

12.01.2 Manner of Collection. CONTRACTOR shall provide CITY Recycling Collection Service with as little disturbance as possible and shall leave any Container in an upright position, with the lid closed, at the same point it was Collected without obstructing alleys, roadways, driveways, sidewalks or mail boxes. CONTRACTOR shall close or lock, as appropriate, Containers and Container enclosures that were opened by CONTRACTOR as part of the Collection process.

12.01.3 Accessibility. CONTRACTOR shall Collect those CITY Recyclable Materials Containers that are readily accessible to CONTRACTOR'S crew and vehicles and not blocked. However, CONTRACTOR shall provide "push services" and "lock services" as necessary during the provision of CITY Recycling Collection Services. Push services shall include, but not be limited to, dismounting from the Collection vehicle, moving the Bins or Carts from their storage location for Collection and returning the Bins or Carts to their storage location. Push services may include unlocking and relocking the Bin or enclosure Key services shall include the provision of a master lock and key by CONTRACTOR to the Service Address for the convenience of CONTRACTOR. CONTRACTOR shall not be compensated for providing "push services" and or "key services".

12.01.4 Difficult to Serve. If CONTRACTOR determines that the set-out location for Carts, Bins or Roll-Off Boxes is Difficult to Serve, CONTRACTOR shall contact the CITY Customer to discuss a change in the set out location.

12.01.5 Service Frequency. CONTRACTOR shall provide CITY Recycling Collection Service at least weekly. However, in those instances where the scheduled Collection day falls on a holiday as set forth in Section 6.10 herein, the Collection day may be adjusted in a manner agreed to between the Commercial Service Recipient and CONTRACTOR as long as service is received a minimum of one (1) time per week.

12.01.5.1 CONTRACTOR shall respond to requests for service utilizing Roll-Off Boxes within two (2) Work Days of the request from the MFD Customer.

12.01.6 Container Sizes. CONTRACTOR shall offer Recyclable Materials Containers in 20, 32, 64 and 96 gallon nominal Cart sizes and in 1, 1.5 2, 3, 4, 6 and 7 cubic yard Bins. CONTRACTOR shall offer Roll-Off Boxes in 10, 20, 30, and 40 cubic yard sizes with lids.

12.01.7 Minimum Capacity. CONTRACTOR shall provide Recyclable Materials Container sizes as requested by the Commercial Customer such that the total weekly capacity of Recyclable Materials Collection Service is sufficient ensure that no Recyclable Materials, except as set forth in Section 12.01.8 need be placed outside the Recyclable Materials Container on a regular basis.

12.01.8 Collection of Recyclable Materials Overages. CONTRACTOR shall also be required to Collect all corrugated cardboard, in pieces not exceeding three (3) feet by three (3) feet, placed beside the Recycling Container. CONTRACTOR may Collect corrugated cardboard exceeding three (3) feet by three (3) feet or may leave the oversized material uncollected along with a Non-Collection Notice that contains instructions on the proper procedures for setting out corrugated cardboard.

12.01.9 Multiple Overages. In the case of repeated Overages of Recyclable Materials, except corrugated cardboard, CONTRACTOR may send written

notification to the Commercial Customer that includes dates of observed Overages, any previous notifications, photographic documentation of said Overages, and an offer to arrange for an appropriate change in Bin or Cart size, and/or Collection frequency. Should Overages persist after three (3) notifications and CONTRACTOR is unable to reach an agreement with the Commercial Customer regarding an appropriate change in Bin or Cart size and/or frequency of Collection, CONTRACTOR may impose such service level increase as is needed to avoid the Overages and notify the Commercial Customer and Contract Manager in writing. The Commercial Customer may petition CITY regarding any change in Bin or Cart size and/or Collection frequency. Should three (3) months elapse with no Overage recurrence taking place following the change in service the Overage problem shall be considered resolved.

12.01.10 Materials Recovery Facility. All Recyclable Materials Collected as a result of performing Commercial Non-Exclusive Recycling Collection Service shall be delivered to the Materials Recovery Facility.

Article 13. COLLECTION ROUTES

13.01 Collection Routes. Within five (5) Work Days of receipt of a request from CITY, CONTRACTOR shall provide CITY with maps precisely defining Collection routes, and the travel routes to the Collection routes, together with the days and the times at which Collection shall regularly commence.

13.02 Subsequent Collection Route Changes. In the event a Collection route change will change the Collection day for a Service Address, CONTRACTOR shall meet with the MM&O Contractor to coordinate the route changes so that SFD Recycling Services are provided to each Service Address on the same day as SFD Mixed Material Collection Services. Once the route changes have been coordinated between CONTRACTOR and the Residential Recycling Contractor, so that CONTRACTOR shall notify those Service Addresses and the Contract Manager in writing of the Collection route changes, but not less than thirty (30) days before the proposed date of implementation. CONTRACTOR shall not change Collection days if that change would result in a Service Address receiving SFD Recycling Services on a different day as SFD Mixed Material Collection Services.

13.03 Route Map Update. CONTRACTOR shall revise the Customer route maps to show the addition of Customers added due to construction/occupancy and shall provide such revised maps to the Contract Manager upon request.

13.04 CONTRACTOR Audit of Routes. In addition to any other auditing requirements under this Contract, CONTRACTOR shall perform a comprehensive audit of SFD, and MFD Customer Routes every full or partial three (3) calendar years, and submit to CITY a written report on the results of that audit, no later than thirty (30) calendar days after completion of the audit. The report should include the testing protocols, and the details of the route audit findings along with recommendations, if any, on how CONTRACTOR will modify the current system to correct any errors noted during the audit. If CITY requests, CONTRACTOR shall cooperate fully with CITY to allow CITY to verify the accuracy of CONTRACTOR'S route audit report.

13.05 Coordination with Street Sweeping. CITY AND CONTRACTOR acknowledge that CONTRACTOR may have to modify Collection days to accommodate CITY's street sweeping schedule.

Article 14. COLLECTION EQUIPMENT

14.01 General Provisions. All equipment used by CONTRACTOR in the performance of Recycling Collection Services under this Contract shall be of a high quality. At the start of this Contract, all route Collection vehicles utilized by CONTRACTOR pursuant to this Contract shall be new 2014/2015 manufactured vehicles as specified in Exhibit 10 which is attached to and included in this Contract. The vehicles shall be designed and operated so as to prevent Collected materials from escaping from the vehicles. Hoppers shall be closed on top and on all sides with screening material to prevent Collected materials from leaking, blowing or falling from the vehicles. All trucks and Containers shall be watertight and shall be operated so that liquids do not spill during Collection or in transit.

14.02 Vehicle Registration, Licensing and Inspection. On or before July 1, 2015 and upon request by CITY thereafter during the term of this Contract, CONTRACTOR shall submit documentation to the Contract Manager to verify that each of CONTRACTOR'S Collection vehicles is in compliance with all registration, licensing and inspection requirements of the California Highway Patrol, the California Department of Motor Vehicles, and any other applicable laws or regulations. CONTRACTOR shall not use any vehicle that is not in compliance with applicable registration, licensing and inspection requirements to perform Recycling Collection Services. Each vehicle shall comply, at all times, with all applicable statutes, laws or ordinances of any public agency.

14.03 Clean Air Vehicles. During the term of this Contract, to the extent required by law, CONTRACTOR shall provide its Collection vehicles to be in full compliance with local, State and federal clean air requirements that were enacted or scheduled to be enacted, including, but not limited to, the California Air Resources Board Heavy Duty Engine Standards as currently proposed to be contained in CCR Title 13, Section 2020 et seq; the Federal EPA's Highway Diesel Fuel Sulfur regulations and any other applicable air pollution control.

14.04 Global Positioning Systems (GPS). CONTRACTOR shall provide all route Collection vehicles equipped with fully functioning on-board GPS with direct and real-time linkages to CONTRACTOR'S Customer service system.

14.05 Vehicle Noise Level. All Collection operations shall be conducted as quietly as possible and must comply with U.S. EPA noise emission regulations currently codified at 40 CFR Part 205, California Vehicle Code Section 27207, and other applicable State, County, and CITY noise control regulations.

14.06 Safety Equipment. All Collection equipment used by CONTRACTOR shall have appropriate safety markings including, but not limited to, highway lighting, flashing and warning lights, clearance lights, and warning flags. All such safety markings shall be in accordance with the requirements of the California Vehicle Code, as may be amended from time to time. All Collection vehicles shall be equipped with audible back-up warning devices.

14.07 Vehicle Signage and Painting. Collection vehicles shall have signage in letters of contrasting color, at a size approved by CITY, on each side and the rear of each vehicle that clearly states that the Collection vehicle is servicing the CITY of Oakland provides CONTRACTOR'S name, CONTRACTOR'S Customer service telephone number, CITY'S Oakland Recycles logo and the number of the vehicle. CONTRACTOR shall repaint all vehicles (including vehicles striping) during the term of this Contract on a frequency as necessary to maintain a positive public image as reasonably determined by the Contract Manager.

14.08 Collection Vehicle Education Requirements. All new Collection vehicles shall include space for outdoor poster advertising to be utilized by CITY. No advertising shall be permitted other than the name and corporate logo of CONTRACTOR except promotional advertisement of the Recyclable Materials and Organic Materials programs.

14.09 Bin, Compactor and Roll-Off Box Signage, Painting, and Cleaning. All metal Bins, Compactors or Roll-Off Boxes furnished by CONTRACTOR shall be either painted or galvanized. All Bins, Compactors or Roll-Off Boxes shall display CONTRACTOR'S name, CONTRACTOR'S toll free customer service telephone number, and shall be kept in a clean and sanitary condition. Each Bin, Compactor or Roll-Off Box shall include a description of the type of material to be placed in the Container and shall be painted in a color and manner, acceptable to CITY, which is unique to that type of material. Such Bins, Compactors or Roll-Off Boxes as are provided by CONTRACTOR shall be steam cleaned and repainted by CONTRACTOR as frequently as necessary, but no more often than one (1) time per quarter, so as to maintain them in a sanitary condition. However, no more often than one (1) time per quarter, upon receipt of notification by CONTRACTOR of graffiti on a Bin, Compactor or Roll-Off Box, CONTRACTOR shall clean or replace such Bin, Compactor or Roll-Off Box within five (5) Work Days.

14.10 Vehicle Maintenance. CONTRACTOR shall maintain Collection vehicles in a clean condition and in good repair at all times and ensure that no Collected materials, oil, grease, or other substances will blow, fall out, escape or leak out of the vehicle, with the exceptions of vehicle emission. All parts and systems of the Collection vehicles shall operate properly and be maintained in a condition satisfactory to CITY. CONTRACTOR shall wash all Collection vehicles at least once a week. All washings shall be conducted in a manner that conforms to the BMP Guidelines for Non-Point Source Pollutants in the publication entitled Storm Water Best Management Practices Handbook for Industrial Commercial published by the California Storm Water Quality Association (CASQA).

14.10.1 Maintenance Log. CONTRACTOR shall maintain a maintenance log for all Collection vehicles. The log shall at all times be accessible to CITY for physical inspection upon request of Contract Manager, and shall show, at a minimum, each vehicles' CONTRACTOR assigned identification number, date purchased or initial lease, dates of performance of routine maintenance, dates of performance of any additional maintenance, and description of additional maintenance performed.

14.11 Equipment Inventory. On or before July 1, 2015, and annually thereafter, CONTRACTOR shall provide to CITY an inventory of Collection vehicles and major equipment used by CONTRACTOR for Collection or transportation and performance of services under this Contract. The inventory shall indicate each Collection vehicle by CONTRACTOR assigned identification number, DMV license number, the age of the chassis and body, type of fuel used, the type and capacity of each vehicle, the number of vehicles by type, the date of acquisition, the decibel rating and the maintenance status. CONTRACTOR shall submit to the Contract Manager, either by web, cloud e-mail, an updated inventory annually to CITY or more often at the request of the Contract Manager. Each vehicle inventory shall be accompanied by a certification signed by CONTRACTOR that all Collection vehicles meet the requirements of this Contract.

14.12 Reserve Equipment. CONTRACTOR shall have available to it, at all times, reserve Collection equipment that can be put into service and operation within one (1) hour of any breakdown. Such reserve equipment shall correspond in size and capacity to the equipment used by CONTRACTOR to perform the contractual duties.

14.13 Covering of Loads. All loads not in covered body trucks shall be tarped or restrained to prevent spilling.

14.14 Weight Restrictions. CONTRACTOR shall not load vehicles in excess of the manufacturer's recommendations or limitations imposed by federal, State or local weight restrictions on vehicles. CONTRACTOR acknowledges that CITY may document compliance with this provision of the Contract through review of scale tickets and records of the Disposal and Processing Facilities.

Article 15. LOCAL OFFICE

15.01 Oakland Office. During the term of this Contract CONTRACTOR shall maintain an office in the Service Area. CONTRACTOR'S office shall provide toll-free telephone access to CITY residents, and shall be located where Customers can make service requests or inquires in person. The office shall be open and staffed from 8:00 am to 6:00 pm on Work Days. The office shall have a responsible person in charge who is familiar with the specific Recycling Collection Services provided by CONTRACTOR to CITY. CONTRACTOR shall equip the office with a direct terminal connection to the customer service system operated at CONTRACTOR'S call center.

Article 16. CUSTOMER SERVICE

(Note: this Article may be amended depending on the award of Non-Exclusive Commercial Recycling Collection Services.)

16.01 Customer Service Program. CONTRACTOR shall develop, implement, and maintain a Customer Service Program approved by CITY to ensure that all services provided under this Contract are high quality. CONTRACTOR'S Customer Service Plan is attached as Exhibit 8 of this Contract.

16.02 CONTRACTOR'S Customer Center and Telephone and Email Access. CONTRACTOR shall maintain a Customer center located in Alameda County (Note: this may be amended based on the final selection of the CITY) that provides toll-free telephone and email access to residents and businesses of CITY, and is staffed by trained and experienced Customer Service Representatives (CSRs). Such Customer center shall have responsible persons in charge during Collection hours, and shall be open 8:00 a.m. to 6:00 p.m. on regularly scheduled Work Days (Monday through Friday) and when SFD or MFD Recycling Services are scheduled to be provided on Saturday; and be staffed with a sufficient number of CSRs and equipped with sufficient telephone and email capacity such that:

16.02.1 Up to ten (10) incoming calls can be received at one time;

16.02.2 Customer or Service Recipient calls received during normal business hours are answered within five (5) rings;

16.02.3 Customer or Service Recipient on-hold waiting time shall be three (3) minutes or less based on a daily average;

16.02.4 During any on-hold waiting time and when the call center is closed, Customers or Service Recipients are offered the option to leave a voice message;

16.02.5 Any call "on-hold" in excess of one and one half (1.5) minutes shall have the option to remain "on-hold" or to be switched to a message center where the Customer can leave a message.

16.02.6 Customer or Service Recipient voice messages are returned in the order received and at latest by the close of the Work Day following the day the voice message is received; and

16.02.7 Customer or Service Recipient emails are responded to in the order received and at latest by the close of the Work Day following the day the email is received.

16.03 Telephone Access From the MM&O Contractor. CONTRACTOR shall provide a local telephone number that allows callers to be automatically transferred from the MM&O Contractor, as appropriate. It shall be CONTRACTOR'S responsibility to ensure that transferred callers experience no changes in volume or clarity from that associated with direct calls to the MM&O Contractor. CONTRACTOR.

16.04 Multilingual/TDD Service. CONTRACTOR'S call center shall at all times during the normal business hours set forth in Section 16.02 maintain the capability of responding to telephone calls in English, Chinese (Cantonese), Vietnamese, Spanish, and such other languages as reasonably may be directed by CITY in accordance with its Equal Access Program requirements. CONTRACTOR shall at all times maintain the capability of responding to telephone calls through Telecommunications Device for the Deaf (TDD) Services.

16.05 Website. CONTRACTOR shall develop and maintain a state-of-the-art website dedicated to services provided in CITY, which is accessible by the public. The web site shall include answers to frequently asked questions, rates for Residential Recycling Collection Services, listing and description of Residential Recycling Collection Services schedules and maps, and other related topics. The site shall have a link to CITY'S web site and a link to the MM&O Collection Contractor's website. CONTRACTOR shall arrange for CITY'S website to include an e-mail link to CONTRACTOR and a link to CONTRACTOR'S website. CONTRACTOR'S website shall provide the public the ability to e-mail comments inquiries and request services or service changes to CONTRACTOR.

Article 17. PUBLIC OUTREACH SERVICES

(Note: this Article may be amended depending on the award of Non-Exclusive Commercial Recycling Collection Services)

17.01 Community Outreach Services. CONTRACTOR shall be required to implement, at its own expense, CONTRACTOR'S Community Outreach Strategy which is attached as Exhibit 6 to this Contract. The Community Outreach Strategy will provide an overview of CONTRACTOR'S plans to engage the community in full use of the Collection Services and the Diversion goals of the Contract.

17.01.1 Transitional Outreach Plan. CONTRACTOR shall prepare and implement, at its own expense, a transitional outreach plan consisting of a community outreach campaign that makes aware and fully informs SFD and MFD Customers of the Residential Recycling Collection Services, highlighting changes to the current services, relevant to the Customer experience, which will occur through execution of the Contract. The transitional outreach plan will be consistent with and informed by the CONTRACTOR'S Community Outreach Strategy as set forth in Exhibit 6. The transitional outreach plan will be implemented beginning January 2015, or with execution of the Contract, whichever is later. The Transitional Plan will cover all CONTRACTOR'S community outreach services in calendar year 2015. The budget for the Transitional Plan shall be not more than five-hundred thousand dollars ($500,000).

17.02 Annual Outreach Plan. CONTRACTOR, at its own expense, shall prepare, submit and implement an annual outreach plan that is consistent with and informed by CONTRACTOR'S Community Outreach Strategy as set forth in Exhibit 6. CONTRACTOR shall submit the initial annual outreach plan for CITY approval no later than September 1, 2015, and subsequent annual outreach plans no later than September 1st each calendar year thereafter. CITY shall review and respond to the proposal within forty five (45) days. Implementation of the annual outreach plan would begin on January 1st of each year. The annual outreach plan must include specific steps designed to increase Diversion and Customer participation in the Residential Recycling Collection Services, and measure the effectiveness of these efforts. The annual outreach plan should target specific materials, or demographic or service sectors where improvements can be maximized. Outreach targets should be based on measured trends and patterns in recycling and disposal activities, participation, and tonnages by service sector, within the Service Area and within identified Service Area localities, as indicated by information obtained by both the Contract Manager and CONTRACTOR'S staff.

17.03 Community Outreach Budget. CONTRACTOR shall be required to allocate or spend not more than Five-hundred Thousand Dollars ($500,000) in the first calendar year of the contract, to implement the transitional outreach plan, and not more than Two-hundred and Fifty Thousand Dollars ($250,000) per calendar year thereafter to implement the annual outreach plan. All such expenditures require prior written approval from CITY. CITY and CONTRACTOR may mutually agree to perform joint Public Outreach activities using all or some of the annual Public Outreach budget. Public relations activity costs cannot be applied to the Public Outreach budget. At the end of the calendar year, any funds in the approved annual outreach budget that remain unspent shall be carried forward to the following calendar year. However, in the event CONTRACTOR has unspent funds at the end of three (3) consecutive calendar years, the unspent funds shall be retained by CONTRACTOR and deposited in a separate interest bearing Rate Stability Funds account, whose interest accrues to the account. These rate stability funds may only be used at the direction of CITY. Rate stability fund account balances, including balances of zero (0) shall be reported to the Contract Manager no later than the tenth (10th) day of February beginning in February of 2016 and annually thereafter during the term of this Contract.

17.04 Community Outreach Professional Services. CONTRACTOR will engage the services of a professional firm or firms that specialize in community outreach, marketing, public relations, and graphic design, that preferably are based in Oakland or the Bay Area. Such firms shall possess a minimum five (5) years' experience in marketing, communications and/or community outreach, including two years' experience conducting outreach in a city comparable to Oakland in size and complexity; and knowledge of outreach best practices, such as community-based social marketing.

17.05 CITY Approval Required. All marketing, messaging or other mass communications, including but not limited to print, outdoor media, broadcast, web-based, e-mail, and telephone voice messages, directed to Customers or Service Recipients, must be approved by the Contract Manager prior to execution or delivery to the Customer or Service Recipient, regardless of whether these communications relate to the Collection Services. All public relations, press and community outreach activities that involve the Collection Services, or that are targeted to the Service Recipients or Customers, must have prior written approval from the Contract Manager, whether or not they are being paid for from the Community Outreach budget. CONTRACTOR shall not perform any work on Community Outreach materials or activities without prior written approval from the Contract Manager. All materials shall be submitted in

writing for review and approval. Written authorization by the Contract Manager is required prior to final production of any Community Outreach materials.

17.06 Outreach Production Requirements. CONTRACTOR shall utilize designers, printers and mail houses located within the Service Area for the design, development, printing and mailing of all community outreach materials related to this Contract, unless otherwise approved by Contract Manager. In addition, unless Contract Manager has granted an exception in writing, the Community Outreach materials shall:

17.06.1 be printed on one hundred (100) percent recycled paper with at least fifty (50) post-consumer recycled content using soy based (or other non-toxic) inks;

17.06.2 include the CITY'S Oakland Recycles logo and the CITY'S recycling hotline phone number;

17.06.3 include four (4) languages whenever possible and/or needed; and

17.06.4 be made accessible to those with disabilities, in accordance with all applicable federal, state, and local laws and regulations.

17.07 Copyrights. At CONTRACTOR'S sole expense. CONTRACTOR shall execute appropriate documents to assign to CITY the copyright to works created pursuant to this Contract if so requested by CITY. CONTRACTOR shall provide space in CONTRACTOR'S printed public outreach materials, for CITY to include announcements, community information, articles, and photographs.

17.08 News Media Relations. CITY shall oversee all press activities including press releases, press conferences, press kits, press packets and general press inquiries regarding the Program. CONTRACTOR shall notify the Contract Manager by e-mail or phone of all requests for news media interviews related to the Collection Services program within twenty-four (24) hours of CONTRACTOR'S receipt of the request. Before responding to any news media inquiries involving controversial issues or any issues likely to affect participation or Customer perception of services, CONTRACTOR will discuss CONTRACTOR'S proposed response with the Contract Manager. Copies of draft news releases or proposed trade journal articles shall be submitted to CITY for prior review and approval at least five (5) Work Days in advance of release. Copies of articles resulting from media interviews or news releases shall be provided to CITY within five (5) Work Days after publication.

Article 18. EMERGENCY SERVICE PROVISIONS

18.01 Emergency Services. CONTRACTOR shall provide emergency services (i.e., special collections, transport, processing,) at CITY'S request in the event of a declared local, State, or federal state of emergency, major accidents, disruptions or natural calamities. CONTRACTOR shall be capable of providing emergency services within twenty-four (24) hours of notification by CITY, or as soon thereafter as is reasonably practical in light of the circumstances. An emergency contact number shall be accessible during the term of this Contract twenty-four hours per day for the Contract Manager or other CITY Administrator to contract CONTRACTOR. CONTRACTOR shall receive additional compensation, above the normal compensation contained in this Contract, to cover the costs of rental equipment, additional personnel, overtime hours and other documented expenses based on the Maximum Recycling Service Rates set forth in Exhibit 1 to this Contract provided CONTRACTOR has first secured written authorization and approval from CITY through the CITY Administrator.

18.02 In the event of an emergency as set forth above, the Contract Manager may grant CONTRACTOR a variance from regular routes and schedules. As soon as practicable after such event, CONTRACTOR shall advise the Contract Manager when it is anticipated that normal routes and schedules can be resumed. The Contract Manager shall make an effort through the local news media to inform the public when regular services may be resumed.

Article 19. RECORD KEEPING & REPORTING REQUIREMENTS

(Note: this Article may be amended depending on the award of Non-Exclusive Commercial Recycling Collection Services.)

19.01 Record Keeping.

19.01.1 Accounting Records. CONTRACTOR shall maintain full, complete and separate financial, statistical and accounting records, pertaining to cash, billing, and provisions of all Recycling Collection Services provided under this Contract, prepared on an accrual basis in accordance with generally accepted accounting principles. Such records shall be subject to audit and inspection. Gross Receipts derived from provision of the Recycling Collection Services shall be recorded as revenues in the accounts of CONTRACTOR. These records shall be separate and segregated from other records maintained by CONTRACTOR for the provision of other services outside the scope of this Contract as may be provided by CONTRACTOR. CONTRACTOR shall maintain and preserve all cash, billing and Disposal records for a period of not less than five (5) years following the close of each of CONTRACTOR'S fiscal years.

19.01.2 CONTRACTOR Payments to CITY. CONTRACTOR shall maintain records of all payments made to CITY for all items listed in Section 7.12.

19.01.3 Tonnage Records. CONTRACTOR shall maintain records of the incoming and outgoing quantities of Recyclable Materials Collected, processed, composted, purchased, sold, donated or given for no compensation and Recycling Residue Disposed under the terms of this Contract.

19.01.4 Records. CONTRACTOR shall maintain all other records reasonably related to provision of Residential Collection Services, whether or not specified in this Article 19 or elsewhere in the Contract.

19.01.4.1 CONTRACTOR shall maintain a relational database that includes data from all required reports for the term of this Contract, and provide CITY with access to the database. Database shall be flexible to accommodate changing needs and conditions over the term of this Contract.

19.02 Reporting Requirements. Monthly Reports shall be delivered to CITY no later than fifteen (15) calendar days after the end of the prior month. Quarterly reports shall be delivered to CITY no later than twenty (20) calendar days after the end of the reporting quarter. Annual reports shall be delivered to the CITY no later than thirty (30) days after the end of each preceding calendar year. Monthly, quarterly and annual reports shall be provided electronically in forms and formats acceptable to CITY.

19.02.1 Monthly Reports. CONTRACTOR shall provide reports that include the following each month and year to date:

19.02.1.1 Collection Service Account Data. Number of SFD and MFD buildings and units served; number of Commercial and CITY facilities served. Number of

containers in service by SFD, MFD Commercial and CITY facilities, by container size, and by container service location (e.g., Curbside or Premium Backyard service and Ancillary service). Number of Non-Collection Notices issued by SFD, MFD Commercial and CITY facilities and by reason for non-collection.

19.02.1.2 Collected Tonnage Data. Tonnage for all materials Collected by SFD, MFD, Commercial and CITY facilities. Used Oil Containers and Used Oil Filters Containers Collected shall be reported by item count.

19.02.1.3 Processed Materials Data. Tonnage of each material produced through the Processing of Collected materials at CONTRACTOR's Processing Facility, e.g., old corrugated containers, old newspaper, mixed paper, glass, and various plastic and metal commodity grades. CONTRACTOR shall use a statistically significant method approved by CITY to calculate the tonnage of finished Processed material, net of Recycling Residue, attributable to material Collected under this Contract.

19.02.1.4 Recycling Residue Tonnage Data. Tonnage for all Recycling Residue from Processing of Collected materials. CONTRACTOR shall use a statistically significant method approved by CITY to calculate the tonnage of Recycling Residue attributable to material Collected under this Contract.

19.02.1.5 Customer Service Data. List of Customer contacts, e.g., phone calls or electronic communications, including Customer name, Service Address, and by date and topic.

19.02.1.6 Local Hire Requirement Update. CONTRACTOR shall provide monthly updates on its compliance with Local Hire Requirements in Article 55 of this Contract.

19.02.2 Quarterly Reports. CONTRACTOR shall provide the following information each quarter:

19.02.2.1 Processing Facility Recycling Residue Rate. CONTRACTOR shall use a statistically significant method approved by CITY to calculate the Recycling Residue rate for all material received by, Processed at and shipped from the MRF.

19.02.2.2 Public Outreach and Information Activities. Report on all public outreach and information activities undertaken during the period, including distribution of outreach materials and other promotional activities.

19.02.2.3 Processing and Marketing Activities. Report on Recyclable Materials Processing and marketing issues or conditions, if any, occurring during the previous quarter.

19.02.2.4 Customer Service Activities. Report on customer service and Call Center issues or conditions, if any, occurring during the previous quarter.

19.02.2.5 Operational Issues and Activities. Report on significant changes in Collection Service or Processing operations, instances of property damage or accidents, scavenging, or other operational issues.

19.03 Annual Reports. CONTRACTOR shall provide the following data and information each year:

19.03.1.1 Customer Data. List of all Customers serviced under this Contract including and sortable by SFD, MFD Commercial and CITY facilities, Customer name,

Service Address (street number, street name, Zip Code), type of service (e.g., Curbside or Premium Backyard service, and Ancillary service), number of Containers and Container size.

19.03.1.2 Local Business Presence and Participation. CONTRACTOR shall provide the Local Business Presence and Participation report per Article 54 of this Contract.

19.03.1.3 Local Hire Requirement Annual Report. CONTRACTOR shall provide an annual report on its compliance with Local Hire Requirements in Article (55) of this Contract

19.03.1.4 Gross Receipts. CONTRACTOR shall provide a summary of the prior year's Gross Receipts received.

19.03.1.5 Equipment Inventory. Updated complete inventory of Collection vehicles used pursuant to this Contract, by vehicle chassis identification number, vehicle body identification number, license number and model year.

19.03.1.6 Business Tax Certificate. Copy of current business tax certificate.

19.03.1.7 Annual Cart and Bin Replacement Reports pursuant to Section 6.06.10 of this Contract.

19.04 Additional Reporting and Access to Information.

19.04.1 CONTRACTOR shall provide CITY with any additional data and information as requested by CITY, as may reasonably be provided. Such reports to be provided within a reasonable time following the request.

19.04.2 CONTRACTOR shall provide CITY with CONTRACTOR's Call Center records as requested by CITY, as may reasonably be provided.

19.04.3 CONTRACTOR shall provide a large wall map of the Service Area that shows Collection day of service for SFD and MFD routes. CONTRACTOR shall provide an updated map whenever route changes include a change to day of service.

19.04.4 CONTRACTOR shall provide CITY with Collection Route information as requested by CITY, as may reasonably be provided. Such information to be provided within a reasonable time following the request.

19.05 GPS Reports. CONTRACTOR shall provide CITY with CONTRACTOR's Collection vehicle global positioning system (GPS) reports as requested by CITY, as may reasonably be provided.

Article 20. NONDISCRIMINATION

20.01 Nondiscrimination. In the performance of all work and services under this Contract, CONTRACTOR shall not discriminate against any person on the basis of such person's race, color, religion/religious creed, sex/gender, pregnancy, marital status, age, national origin/ancestry, physical and/or mental disability, medical condition, sexual orientation, gender identity, military or veteran status, or status in any other group protected by federal, State or local law. CONTRACTOR shall comply with all applicable local, State and federal laws and regulations regarding nondiscrimination, including those prohibiting discrimination in employment.

Article 21. SERVICE INQUIRIES AND COMPLAINTS

21.01 CONTRACTOR'S Customer Service. All Customer and Service Recipient inquiries and complaints about the Services shall be directed to CONTRACTOR. A representative of CONTRACTOR shall be available to receive the inquiries and complaints during normal business hours. All service inquiries and requests will be handled by CONTRACTOR in a prompt, courteous, and efficient manner. In the case of a dispute between CONTRACTOR and a Customer, the matter may be reviewed and a decision made by the Contract Manager.

21.02 Customer Service System. CONTRACTOR will utilize an automated Customer service system to maintain a record of all inquiries and complaints in a manner prescribed by CITY. In addition thereto, CONTRACTOR shall maintain, at CONTRACTOR'S place of business, an automated Customer service system, listing all Customer service requests, complaints and CONTRACTOR notices. Said system shall contain the names and addresses of parties involved, date of such service request, complaint or noticing, nature of same, and the date and manner of disposition of each case. Such system shall be kept so that it may conveniently be inspected by representatives of CITY upon request.

21.03 Response Requirements. For those complaints related to missed Collections that are received by 12:00 noon on a Work Day, CONTRACTOR will return to the Customer address and Collect the missed Carts or Bins before leaving the Service Area for the day. For those complaints related to missed Collections that are received after 12:00 noon on a Work Day, CONTRACTOR shall have until the end of the following Work Day to resolve the complaint. For those complaints or service requests related to Carts or Bins for new Customers, or repair, replacement or exchange of Carts or Bins, the appropriate Articles of this Contract shall apply.

21.03.1 CONTRACTOR agrees that it is in the best interest of CITY that all Recyclable Materials be Collected on the scheduled Collection day. Accordingly, missed Collections will normally be Collected as set forth herein regardless of the reason that the Collection was missed. However, in the event a Service Address reports missed Residential Recycling Collection Services more than two (2) times in any consecutive two (2) month period the Contract Manager will work with CONTRACTOR to determine an appropriate resolution to that situation. In the event CONTRACTOR believes any complaint to be without merit, CONTRACTOR shall notify the Contract Manager, by e-mail. The Contract Manager will investigate all disputed complaints and render a decision.

Article 22. QUALITY OF PERFORMANCE OF CONTRACTOR

22.01 Intent. CONTRACTOR acknowledges and agrees that one of CITY'S primary goals in entering into this Contract is to ensure that Recycling Collection Services are of the highest caliber, that Service Recipient and Customer satisfaction remains at the highest level, that maximum Diversion levels are achieved, and that materials Collected are put to the highest and best use to the extent feasible.

22.02 Contract Compliance Coordinator. CONTRACTOR will provide for a full-time Contract Compliance Coordinator dedicated to CITY. The Contract Compliance Coordinator shall be responsible for monitoring CONTRACTOR'S programs and services and assisting CITY in maintaining full contractual compliance at all times during the term of the Contract. These duties shall include but not be limited to issues related to new and existing Customer needs,

public education, routing, and customer service. The Contract compliance Coordinator shall meet monthly with CITY staff to provide updates on all areas of service as needed.

22.03 Services Manager. CONTRACTOR shall designate a manager to be in charge of the Recycling Collection Services within the Service Area. The manager shall have the authority and knowledge to direct CONTRACTOR resources as need to resolve matters of concern to CITY. The Services Manager, or designee shall be available to the Contract Manager through the use of a mobile telephone at all times that CONTRACTOR is providing Recycling Collection Services.

22.04 Liquidated Damages. The parties further acknowledge that consistent and reliable Collection Service is of utmost importance to CITY and that CITY has considered and relied on CONTRACTOR'S representations as to its quality of service commitment in awarding the Contract to it. 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 CONTRACTOR fails to achieve the performance standards, or fails to submit required documents in a timely manner, CITY, and CITY'S residents and businesses will suffer damages and that it is and will be impractical and extremely difficult to ascertain and determine the exact amount of damages. Therefore, without prejudice to CITY'S right to treat such non-performance as an event of default under Article 27, the parties agree that the liquidated damages amount defined in this Article represent reasonable estimates of the amount of such damages considering all of the circumstances existing on the effective date of this Contract, including the relationship of the sums to the range of harm to CITY, Service Recipients and the community as a whole 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 obtain an explanation of the liquidated damage provisions at the time that the Contract was made.

CITY Initial Here _____ CONTRACTOR Initial Here_____

CONTRACTOR agrees to pay (as liquidated damages and not as penalty) the following amounts:

1	Failure to accurately maintain and timely submit to CITY all documents and reports required under the provisions of this Contract (Various Sections).	$100 per incident per day
2	Failure to provide accurate billing services (Sections 7.02.1, 7.02.2 and 7.02.3).	$100 per incident per day
3	Failure to remit the Franchise Fee and other payments to CITY by the 15th of each month (Section 7.12).	$250.00 per incident per day
4	Failure to maintain the insurance provisions in the manner set out in this Contract (Article 25).	$500.00 per incident per day
5	Failure to provide timely transition documents or meet transition requirements (Section 6.18).	$300 per item per day
6	Failure to respond to each complaint or service request within the time set forth in this Contract (Section 21.03).	$150 per incident per day

7	Failure to notify CITY daily of all situations that prevent or hinder Collection from any CITY Facility, unless otherwise directed by CITY (Section 12.01.4).	$100.00 per day
8	Failure to Collect or otherwise recover a missed Collection or Service Failure by close of the next Work Day upon notice to CONTRACTOR (Articles 9, 10, 11 and 12).	$150 per incident per day
9	Missed or incomplete Collection at the same Service Address for: Two consecutive scheduled Collections Three of six scheduled Collections Eight Collections in six months Twelve Collections in twelve months (Articles 9, 10, 11 and 12).	$250 per incident $250 per incident $500 per incident $1,000 per incident
10	Failure to repair or replace, deliver, remove or exchange damaged, missing or abandoned Carts or Bins within the time required by this Contract (Sections 6.06.4 through 6.06.9).	$150 per incident per day
11	Failure to clean up spills, leaks, or litter caused by CONTRACTOR within two (2) hours of notification from CITY (Section 6.15).	$500 per incident
12	Failure to properly return empty Carts or Bins to the point of Collection, upright with lids closed and locks secured, and in a location that avoids pedestrian or vehicular traffic impediments. (Section 6.04).	$150.00 per incident per day
13	Failure to answer a Customer call within five (5) rings (Section 16.02.2).	$150.00 per incident
14	Customer on-hold wait time, based on a daily average that is: • Greater than three minutes and up to four minutes • Greater than four minutes and up to five minutes • Over five minutes (Section 16.02.3)	 $150.00 per day $300.00 per day $450.00 per day
15	Failure to return a Customer voice message or respond to a Customer e-mail by the close of the Work Day following the day the voice message or e-mail is received (Section 16.02.6 and 16.02.7).	$150.00 per incident per day
16	Failure to begin Collection service within three (3) days for a new customer account, or receipt of an application for premium backyard Collection, exempt backyard Collection programs or the curbside placement exemption program (Sections 9.01.3, 9.01.4, 9.01.5, 9.01.6, and 9.01.7).	$150.00 per incident per day

17	Failure to maintain Collection vehicles in a clean and sanitary manner and to display CONTRACTOR'S name and Customer Service phone number (Section 14.10, 33.01.7).	$150 per incident per day
18	Failure to mark and label Carts, Bins and Roll-off Boxes; to inspect, clean and maintain metal Bins, Compactors or Roll-Off Boxes in a clean and sanitary manner (Sections 6.06.1, 6.06.2, 6.06.3, 14.09).	$150 per incident per day
19	Failure to meet vehicle noise requirements (Section 14.05).	$100 per incident per day
20	Failure to comply with State of California Vehicle Code, including covering loads and adherence to collection vehicle weight restrictions (Section 14.13, 14.14).	$500 per incident
21	Commingling Recyclable Materials with other material types, or CITY materials with materials collected in another city prior to delivery to the designated processing facility (Section 6.14).	$500 per incident
22	Failure to ensure that a vehicle operator is properly licensed (Section 33.01.4).	$500 per incident per day
23	Failure to maintain office and call center hours as required by this Contract (Section 15.01).	$100 per incident per day
24	Failure to maintain Collection hours and days as required by this Contract (Section 6.02).	$250 per incident per day
25	Failure to have CONTRACTOR personnel in proper uniform (Section 33.01.3).	$250 per incident per day
26	Failure to repair damage or compensate CITY for damage to CITY property, including all City structures, public roadways and sidewalks caused by CONTRACTOR or its personnel (Section 26.1).	$500 per incident
27	Changing the Collection day of a residential Service Address without proper notice to the Contract Manager (Section 13.02), or to a day different than Mixed Material Collection.	$500 per incident per day
28	Failure to provide adequate primary and alternate capacity to accept and process Recyclable Materials (Sections 6.11.2, 6.11.3 and 6.11.4).	$500 per day
29	Failure to respond timely to CITY requests for services or information (Section 22.02).	$150 per incident
30	Disposal of Recyclable Materials in any Disposal Facility without first obtaining the required permission of CITY (Sections 6.11.4 and 6.11.5).	$1,000 per load

31	Failure to deliver any Collected materials to CITY approved Materials Recovery Facility, except as otherwise expressly provided in this Contract (Sections 6.11.2, 6.11.3, and 6.11.4).	$5,000 per load
32	Failure or neglect to complete at least ninety percent (90%) of each route on the regular scheduled Collection day (Sections 9.01.2, 10.01.1, 11.01.2 and 12.01.2).	$1,000 for each route not completed
33	Transferring loads on CITY streets except as otherwise expressly provided in this Contract (Section 6.03).	$150.00 per incident
34	Failure to ensure that all materials Collected in CITY are delivered to facilities that possess all existing permits and approvals by local enforcement agencies to be in full compliance with all regulatory agencies to conduct all operations at the approved location. (Sections 6.11.1).	$25,000 each failure
35	Changing routes without proper notification to CITY or Customers, as appropriate (Section 13.02).	$500.00 per incident per day
36	Failure to conduct route audits and report results to CITY in a timely manner (Section 13.04).	$150.00 per audit per day
37	Failure to maintain the capability of responding to telephone calls in English, Chinese (Cantonese), Vietnamese, Spanish, and such other languages as reasonably may be directed by CITY and TDD Services at all times (Section 16.04).	$150.00 per day
38	Failure to comply with the public outreach standards in the manner set out in this Contract (Article 17).	$150.00 per incident per day
39	Failure to cure non-compliance with the provisions of this Contract in the manner and time set forth in the Contract (Various Sections), exclusive of other specific Liquidated Damages listed herein.	$150.00 per incident per day
40	Failure to comply with 50% local hire preference for Oakland residents provision for new employees (Article 55).	
41	Failure to maintain number of Oakland residents in workforce as proposed in (Article 55).	
42	Failure to comply with commitment to train and hire local disadvantaged workers (Article 55).	
43	Failure to maintain Local Business Presence and Participation per Article 54.	
44	Failure to comply with worker retention requirements. Article 52.	

45	Failure to meet Minimum Diversion Standards in any calendar year (Article 8).	The number of under Diverted Tons (calculated in accordance with Section 8.02.1) multiplied by 105% of the then current Per Ton Collected Rate.

22.05 Procedure for Review of Liquidated Damages. The Contract Manager may assess liquidated damages pursuant to this Article 22 on a monthly basis. At the end of each month during the term of this Contract, the Contract Manager may issue a written notice to CONTRACTOR ("Notice of Assessment") of the liquidated damages assessed and the basis for each assessment.

22.05.1 The assessment shall become final unless, within thirty (30) calendar days of the date of the notice of assessment, CONTRACTOR provides a written request for a meeting with the Contract Manager to present evidence that the assessment should not be made.

22.05.2 The Contract Manager shall schedule a meeting between CONTRACTOR and the CITY Administrator or the CITY Administrator's designee as soon as reasonably possible after timely receipt of CONTRACTOR'S request.

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

22.05.4 In the event CONTRACTOR does not submit a written request for a meeting within thirty (30) calendar days of the date of the Notice of Assessment, the Contract Manager's determination shall be final and CONTRACTOR shall submit payment to CITY no later than fifteen (15) calendar days following final determination. Or at the sole option of CITY, if monies are owed to CONTRACTOR, CITY may deduct the liquidated damages from the letter of credit required by Section 22.06 of this Contract.

22.05.5 CITY'S assessment or Collection of liquidated damages shall not prevent CITY from exercising any other right or remedy, including the right to terminate this Contract, for CONTRACTOR'S failure to perform the work and services in the manner set forth in this Contract.

22.06 Security for Liquidated Damages. In order to insure the ability of CITY to collect liquidated damages assessed against CONTRACTOR, CONTRACTOR shall deposit with CITY an irrevocable letter of credit in an amount of One Hundred Thousand Dollars ($100,000). The letter of credit must be issued by a FDIC insured banking institution chartered to business in the State of California, (consistent with the Uniform Customs and Practice for Documentary Credits, then current revision or similar uniform convention approved by CITY), in CITY'S name, and be callable at the discretion of CITY. The letter of credit shall be structured so that in the event funds are drawn by CITY the balance of One Hundred Thousand Dollars ($100,000) is restored within two (2) Work Days.

22.07 Lockouts. Because it is the intent of this Contract that CONTRACTOR shall consistently provide the highest level of services to the residents of Oakland, CONTRACTOR shall never institute a lockout of any or all of its employees unless CONTRACTOR has previously provided an alternate plan of continuing the highest level of services during the entire possible period of such a lockout with ample fully trained substitutes for all such locked out employees, and CITY has approved such alternate plan in writing prior to such lockout being instituted by CONTRACTOR. In addition, CONTRACTOR shall fully defend, indemnify and hold harmless CITY against anything whatsoever related to any such lockout as provided in Article 26 hereof, including but not limited to any claims, proceedings, or suits against CITY relating to any such lockout. Compliance with this Section 22.07 shall in no way prevent the imposition of liquidated damages pursuant to Article 22 hereof if CONTRACTOR fails to meet the standards or violates any provision as set forth in Section 22.04 hereof.

Article 23. FRANCHISE FEE AUDIT AND PERFORMANCE REVIEWS

23.01 Franchise Fee Audit and Performance Review.

23.01.1 Selection and Cost. CITY may conduct two (2) franchise fee audit and performance reviews ("review") of CONTRACTOR'S performance during the initial term of this Contract. The review will be performed by a qualified firm under contract to CITY. CITY shall have the final responsibility for the selection of the firm but shall seek and accept comments and recommendations from CONTRACTOR. CONTRACTOR shall be responsible for the cost of the review up to a maximum of Seventy Five Thousand Dollars ($75,000).

23.01.2 Purpose. The review shall be designed to meet the following objectives:

23.01.2.1 Verify that Customer billing rates for ancillary services have been properly calculated and they correspond to the level of service received by the Customer.

23.01.2.2 Verify that Franchise Fees, and other fees required under this Contract have been properly calculated and paid to CITY.

23.01.2.3 Verify CONTRACTOR'S compliance with the reporting requirements and performance standards of this Contract.

23.01.2.4 Verify the Diversion recovery percentages reported by CONTRACTOR.

23.01.3 CONTRACTOR'S Cooperation. CONTRACTOR shall cooperate fully with the review and provide all requested data, including operational data, financial data and other data requested by CITY within thirty (30) Work Days. Failure of CONTRACTOR to cooperate or provide the requested documents in the required time shall be considered an event of default.

23.02 CITY Requested Program Review. CITY reserves the right to require CONTRACTOR to periodically conduct reviews of the SFD, MFD, and CITY Recycling Collection Service programs to assess performance indicators, including but not limited to: average volume of Recyclable Materials per setout per Service Address and per Dwelling Unit, SFD and MFD Recycling Service participation levels, contamination levels, etc. Prior to the program review, CITY and CONTRACTOR shall meet to discuss the purpose of the review and the method, scope, time frame for completion and data to be provided by CONTRACTOR. CONTRACTOR shall then prepare and submit to the Contract Manager a written program

review plan for review and approval. The Contract Manager shall review and, to the extent necessary at the sole discretion of CITY, modify the program review plan, and return it to CONTRACTOR for implementation.

23.03 Cooperation with Other Program Reviews. If CITY wants to Collect program data, perform field work, conduct route audits to investigate Customer participation levels and setout volumes and/or evaluate and monitor program results related to Recyclable Materials Collected in CITY by CONTRACTOR, CONTRACTOR shall cooperate with CITY or its agent(s), including StopWaste.Org. CONTRACTOR shall also cooperate with any material generation or characterization studies conducted by CITY or its agent(s).

Article 24. PERFORMANCE SECURITY

24.01 Performance Bond. A performance bond must be furnished by CONTRACTOR within fifteen (15) calendar days of notification to CONTRACTOR that that the Contract has been executed. CONTRACTOR shall furnish to CITY, and keep current, a performance bond in a form and with language that is acceptable to CITY, for the faithful performance of this Contract and all obligations arising hereunder in an amount of Three Million Dollars ($3,000,000).

24.02 Renewal. Beginning July 1, 2016, and each April 1st thereafter, CONTRACTOR shall have the performance bond renewed annually and executed by a surety company that is acceptable to CITY; an admitted surety company licensed to do business in the State of California; has an "A:VII" or better rating by A. M. Best or Standard and Poor's; and is included on the list of surety companies approved by the Treasurer of the United States.

24.03 Letter of Credit. As an alternative to the performance bond required by Section 24.01, at CITY'S option, CONTRACTOR may deposit with CITY an irrevocable letter of credit in an amount as set forth in Section 24.01. If allowed, the letter of credit must be issued by an FDIC insured banking institution chartered to do business in the state of California, consistent with the Uniform Customs and Practice for Documentary Credits, then current revision or similar uniform convention approved by CITY in CITY'S name, and be callable at the discretion of CITY. Nothing in this Article shall, in any way, obligate CITY to accept a letter of credit in lieu of the performance bond.

Article 25. INSURANCE

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

25.02 Minimum Scope of Insurance. Insurance coverage shall be at least this broad:

25.02.1 Commercial General Liability: Insurance Services Office (ISO) Occurrence Form CG 0001 or, if approved by CITY, Claims Made Form No. CG0 0002. Automobile Liability: Insurance Services Office Form No. CA 0001, code 1 "any auto".

25.02.2 Workers' Compensation Insurance as required by the State of California and Employers Liability Insurance.

25.02.3 Hazardous Waste and Environmental Impairment Liability Insurance.

25.02.4 Crime Policy for Employee Theft.

25.03 Minimum Limits of Insurance. CONTRACTOR shall maintain insurance limits no less than:

25.03.1 Commercial General Liability. Twenty Million Dollars ($20,000,000.00) combined single limit per occurrence Twenty Million Dollars ($20,000,000.00) annual aggregate; including products and completed operations coverage.

25.03.1.1 Coverage afforded on behalf of the CITY, Councilmembers, directors, officers, agents, employees and volunteers shall be primary insurance. Any other insurance available to the City, Councilmembers, directors, officers, agents, employees and volunteers under any other policies shall be excess insurance (over the insurance required by this Contract).

25.03.2 Automobile Liability. Ten Million Dollars ($10,000,000.00) combined single limit per accident for bodily injury and property damage.

25.03.3 Workers' Compensation and Employers Liability. Workers' Compensation insurance as required by the State of California, with statutory limits, and Employers Liability insurance with limits of Two Million Dollars ($2,000,000.00) per accident.

25.03.4 Hazardous Waste and Environmental Impairment Liability. Ten Million Dollars ($10,000,000.00) each occurrence/Ten Million Dollars ($10,000,000.00) policy aggregate covering liability arising from the release of waste materials and/or irritants, contaminants or pollutants. Hazardous Waste and Environmental Impairment Liability will include coverage for all operations of CONTRACTOR, and include all owned, non-owned landfills or waste disposal sites and transfer stations. If coverage is on a Claims Made basis, the retroactive date must be shown, and must be before the date of the Contract or the beginning of Contract work. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Contract of work. If coverage is cancelled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior the contract effective date, CONTRACTOR must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work. CITY, its Councilmembers, directors, officers, agents, employees and volunteers are to be covered as additional insureds with respect to liability arising from the release of waste materials and/or irritants, contaminants or pollutants. Such coverage shall, if commercially available without involvement of CITY, automatically broaden in its form of coverage to include legislated changes in the definition of waste material and/or irritants, contaminants or pollutants.

25.03.5 Crime Policy for Employee Theft. $500,000 per loss.

25.04 Deductibles and Self-Insured Retention. Any deductibles or self-insured retention must be declared to, and approved by, CITY. CITY shall not withhold approval of any Deductible or Self-Insured Retention amounts where CONTRACTOR can demonstrate a successful history of managing such Deductibles or Self-Insured Retention amounts.

25.05 Endorsements. The liability policies are to contain, or be endorsed to contain, the following provisions:

25.05.1 CITY, its Councilmembers, directors, officers, employees, agents and volunteers are to be covered as additional insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of CONTRACTOR; products and completed operations of CONTRACTOR; liability arising out of work or operations performed by or on behalf of CONTRACTOR, including material parts or equipment furnished

in connection with such work or operations; and with respect to Hazardous Waste, Pollution and/or Environmental Impairment Liability.

25.05.2 CONTRACTOR'S insurance coverage shall be primary insurance as respects CITY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by CITY, its officers, officials, employees, agents or volunteers shall be excess of CONTRACTOR'S insurance and shall not contribute with it.

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

25.05.4 The limits of insurance are the minimum required limits and if CONTRACTOR maintains higher limits, CITY shall be entitled to coverage for the higher limits maintained by CONTRACTOR.

25.05.5 The Automobile Liability policy shall be endorsed to delete the Pollution and/or the Asbestos exclusion, or documentation that CONTRACTOR carries environmental pollution liability coverage for solid waste transported by CONTRACTOR. The Automobile Liability policy shall also be endorsed to add the Motor Carrier act endorsement (MCS-90) TL 1005, TL 1007 and /or other endorsements required by federal or state authorities.

25.06 Waiver of Subrogation. CONTRACTOR hereby agrees to waive subrogation which any insurer of CONTRACTOR may acquire from CONTRACTOR by virtue of the payment of any loss. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of CITY for all work performed by CONTRACTOR, its employees, agents and subcontractors.

25.07 Cancellation. Each insurance policy required by this clause shall be occurrence-based or an alternate form as approved by CITY and endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or limits except after sixty (60) days' prior written notice by certified mail, return receipt requested, has been given to CITY.

25.08 Any failure to comply with reporting provisions of the policies shall not affect CONTRACTOR'S obligations to CITY, its officers, officials, employees, agents or volunteers.

25.09 Claims Made Coverage. If General Liability or Hazardous Waste and Environmental Impairment Liability coverage is written on a claims-made from:

25.09.1 The "Retro Date" must be shown, and must be before the date of the contract or the beginning of contract work.

25.09.2 Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

25.09.3 If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a "Retro Date" prior to the contract effective date, CONTRACTOR must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

25.09.4 A copy of the claims reporting requirements must be submitted to CITY for review.

25.10 Acceptability of Insurers. Insurance is to be placed with insurers admitted to transact business in California with a current A.M. Best's rating of no less than A:VII. If pollution and/or Environmental Impairment and/or errors and omission coverage are not available from an admitted" insurer, the coverage may be written with CITY's permission, by a non-admitted insurance company. A Non-admitted company should have an A.M. Best's rating of A:X or higher.

25.11 Verification of Coverage. CONTRACTOR shall furnish CITY with original certificates and amendatory endorsements effecting coverage required by this clause. All certificates and endorsements are to be received and approved by CITY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive CONTRACTOR'S obligation to provide them. CITY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

25.12 Subcontractors. CONTRACTOR shall include all subcontractors as insureds under its policies or require and verify that all subcontractors maintain insurance meeting all the requirements of this contract.

Proof of insurance shall be mailed to the following address or any subsequent address as may be directed in writing by CITY.

Contract Manager
Environmental Services Division, PWA
250 Frank Ogawa Plaza, Suite 5301
Oakland, CA 94612

25.13 Modification of Insurance Requirements. The insurance requirements provided in this Contract may be modified or waived by CITY, in writing, upon the request of CONTRACTOR if CITY determines such modification or waiver is in the best interest of CITY considering all relevant factors, including exposure to CITY.

Article 26. INDEMNIFICATION

26.01 Indemnification of CITY. CONTRACTOR shall defend, with counsel acceptable to CITY, indemnify and hold harmless, to the fullest extent allowed by law, CITY, its officers, officials, employees, volunteers agents and assignees (indemnitees)), from and against any and all loss, liability, penalties, forfeitures, claims, demands, actions, proceedings or suits, 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 or in any way connected with: (i) the operation of CONTRACTOR, its agents, employees, contractors, and/or subcontractors, in exercising the privileges granted to it by this Contract; (ii) the failure of CONTRACTOR, its agents, employees, contractors, and/or subcontractors to comply in all respects with the provisions and requirements of this Contract, applicable laws, ordinances and regulations, and/or applicable permits and licenses; and (iii) the acts of CONTRACTOR, its agents, employees, contractors, and/or subcontractors in performing services under this Contract for which strict liability is imposed by law. The foregoing indemnity shall apply regardless of whether such loss, liability, penalty, forfeiture, claim, action, suit injury, death or damage is also caused in part by any of the indemnitees' negligence.

26.02 CONTRACTOR'S obligation to defend, hold harmless, and indemnify shall not be excused because of CONTRACTOR'S inability to evaluate liability or because CONTRACTOR evaluates liability and determines that CONTRACTOR is not liable to the claimant.

CONTRACTOR must respond within thirty (30) days to the tender of a claim for defense and indemnity by CITY, unless this time has been extended by CITY. If CONTRACTOR fails to accept or reject a tender of defense and indemnity within thirty (30) days, in addition to any other remedy authorized by law, so much of any money due CONTRACTOR by virtue of this Contract as shall reasonably be considered necessary by CITY, may be retained by CITY as an offset against its costs and damages until final disposition has been made or the claim or suit for damages, or until CONTRACTOR accepts or rejects the tender of defense, whichever occurs first.

26.03 With respect to third party claims against CONTRACTOR, CONTRACTOR waives any and all rights of any type to express or implied indemnity against the Indemnities.

26.04 Hazardous Substances Indemnification. CONTRACTOR shall indemnify, defend with counsel acceptable to CITY, protect and hold harmless CITY, its officers, officials, employees, agents, assigns and any successor or successors to CITY'S interest from and against all claims, damages (including but not limited to special, consequential, natural resources and punitive damages) injuries, hazardous materials response mediation and removal costs, losses, demands, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties, attorney's fees for the adverse party and expenses (including but not limited to attorney's and expert witness fees and costs incurred in connection with defending against any of the foregoing or enforcing this indemnity) of any kind whatsoever paid, incurred or suffered by, or asserted against CITY or its officers, officials, employees, agents, assigns, or contactors arising from or attributable to acts or omissions of CONTRACTOR, or its agents, including but not limited to any repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure and post-closure or other plan (regardless of whether undertaken due to governmental action) concerning any hazardous substance or hazardous wastes at any place where CONTRACTOR transports, stores, or Disposes of Mixed Materials pursuant to this Contract. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of CERCLA, 42 U.S.C. Section 9607(c) and California Health and Safety Code Section 25364, to defend insure, protect, hold harmless and indemnify CITY from liability.

26.04.1 This provision is in addition to all other provisions in this Contract and is intended to survive the end of the term of this Contract. CONTRACTOR'S Guaranty shall extend to the indemnification obligation hereunder.

26.05 Maximum Recycling Service Rates. To the greatest extent permissible by Public Resources Code section 40059.2, CONTRACTOR shall defend, with counsel acceptable to CITY hold harmless, and indemnify CITY, its officers, officials, employees, volunteers, agents and assignees from and against any loss, liability, penalties, forfeiture, claims, damages, demands, actions, proceedings or suits, in law or equity, of every kind and description, arising from the CITY'S setting of Maximum Service Rates for Collection Services under this Contract and/or in connection with the application of Article XIIIC and Article XIIID of the California Constitution to the imposition, payment, or collection of Maximum Service Rates and charges for services provided by CONTRACTOR under and/or in connection with this Contract, provided, however, that such obligation to defend, hold harmless and indemnify shall not apply to claims, demands, actions, proceedings, and suits that assert that franchise fees, or any other amounts payable to CITY under this Contract are not imposed in accordance with Article XIIIC or Article XIIID of the California Constitution. Notwithstanding anything to the contrary in the foregoing, CONTRACTOR's duty to defend CITY described in this Section shall apply to claims, demands, actions, proceedings or suits, in law or equity, of every kind or description, even if the particular claim, demand, action, proceeding or suit also alleges that CITY imposes franchise

fees or other amounts payable to CITY under this Contract in a manner that violates Article XIIIC or Article XIIID of the California Constitution.

26.06 Environmental Indemnification. CONTRACTOR shall indemnify, defend with counsel acceptable to CITY, and hold harmless, at CONTRACTOR'S sole cost and expense, CITY, its City Council, officers, officials, employees, volunteers and agents, and the Collection Contractor (collectively, "Indemnitees") from and against any and all claims, damages, injuries, costs (including and without limit any and all response, remediation and removal costs), losses, demands, debts, liens, liabilities, causes of action suits, legal or administrative proceedings, interest, fines, charges, penalties, and expenses (including reasonable attorneys' and expert witness fees, expenditures for investigation and remediation) and costs of any kind whatsoever, paid, imposed upon, incurred, or suffered by or asserted against any of the Indemnitees by any lawsuit brought or threatened, settlement reached, or government hearing, investigation, inquiry, proceeding, or order relating to, or arising from, directly or indirectly, CONTRACTOR'S alleged failure or actual failure to comply with the environmental laws and regulations. This indemnification will not extend to environmental claims to the extent they are caused by the sole or joint or contributory negligence or intentional misconduct or omission of CITY, its officers, employees or agents, or the Collection Contractor(s).

26.06.1 This provision is in addition to all other provisions in this Contract and is intended to survive the end of the term of this Contract. CONTRACTOR'S Guaranty shall extend to the indemnification obligation hereunder.

26.07 Separate Counsel. CITY may elect to have separate legal counsel from CONTRACTOR at any time at its sole discretion, and in such case CONTRACTOR will pay one-half (1/2) of all fees and costs and charges for such separate legal counsel.

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

26.09 Obligation. The execution of this Contract by CONTRACTOR shall obligate CONTRACTOR to comply with the foregoing indemnification provisions; however, the collateral obligation of providing insurance must also be fully complied with as set forth in Article 25 above.

26.10 Subcontractors. CONTRACTOR shall require all subcontractors to enter into an Contract containing the provisions set forth Sections 26.01, 26.02, 26.03, 26.04, 26.05, 26.06, 26.07, and Article 25 in its entirety and in the preceding subsection in which Contract the subcontractor fully indemnifies CITY in accordance with this Contract.

26.11 Exception. Notwithstanding Sections 26.01, 26.02 and 26.03, CONTRACTOR'S obligation to indemnify, hold harmless and defend CITY, its officers and employees shall not extend to any loss, liability, penalty, claim, damage, action or suit arising or resulting solely from acts or omissions constituting willful misconduct or sole negligence on the part of CITY its officers or employees.

26.12 Damage by CONTRACTOR. If CONTRACTOR'S employees or subcontractors cause any injury, damage or loss to CITY property, including but not limited to CITY streets or curbs, CONTRACTOR shall reimburse CITY for CITY'S cost of repairing such injury, damage or loss. Such reimbursement is not in derogation of any right of CITY to be indemnified by CONTRACTOR for any such injury, damage or loss. With the prior written approval of CITY, CONTRACTOR may repair the damage at CONTRACTOR'S sole cost and expense.

Article 27. DEFENSE OF CONTRACTOR'S RIGHTS

27.01 CITY will make reasonable good faith effort to prevent infringement by third parties of the rights granted to CONTRACTOR under this Contract. When CITY determines in its sole discretion that there are infringements, CITY shall take such actions as it deems reasonable to prevent the infringement, potentially including legal actions. If requested by CITY, CONTRACTOR shall, with counsel reasonably acceptable to CITY, assume the prosecution necessary to enforce such rights, and, shall defend, with counsel approved by CITY, indemnify and hold harmless CITY, its employees and officials, against any and all claims arising out of CITY'S performance under this Article 27. CITY will reasonably cooperate with CONTRACTOR in prosecuting and defending its exclusive Contract rights. CONTRACTOR shall reimburse CITY within thirty (30) days of receipt of an invoice, for all actual, reasonable cost associated with defense of Contract rights (including, but not limited to, CITY staff and CITY Attorney time, including applicable CITY overhead allocations, and outside consultants, including attorney fees and costs). Notwithstanding anything to the contrary contained in this Contract, CONTRACTOR shall defend with counsel approved by CITY, indemnify and hold harmless CITY, its employees and officials, against any and all claims to challenge, annul, void, set–aside or invalidate CITY'S award of this Contract or its performance thereunder.

Article 28. OBLIGATION TO PROVIDE SERVICE

28.01 CITY and CONTRACTOR agree, as more fully set forth in the Recitals to this Contract, that proper Collection of Mixed Waste and Organic Materials is fundamental to the protection of the public health, safety and the well-being of the residents of CITY. CITY'S responsibility for ensuring the adequacy of these sanitation services in part provides the justification for the granting of an exclusive franchise to CONTRACTOR. This exclusive grant creates an obligation that Collection Services are continued to be provided even under difficult or adverse circumstances, such as but not limited to, natural disaster, labor unrest, and any period where legal actions impact the effectiveness of portions of this Contract.

28.02 Specifically, with reference to any legal action contesting charges for services under this Contract, should a court of competent jurisdiction or other regulatory agency set aside, invalidate or stay all or a portion of the Maximum Service Rates established by CITY, CONTRACTOR agrees to continue to provide Collection Services as otherwise set forth herein. CITY may take such urgency actions as necessary to facilitate CONTRACTOR'S continuation of service, potentially including interim suspension of portions of Contract, such as the Maximum Service Rate limitations. Under such circumstances, CITY and CONTRACTOR agree to cooperate and mutually act in good faith and, if needed, immediately meet and confer to address the impact of these legal actions. Such legal actions shall not be considered a change in law or force majeure event excusing CONTRACTOR'S performance.

28.03 If as a result of a legal action CONTRACTOR is unable to include Franchise Fees or other governmental fees or charges in the rates it charges for Collection Services, then CONTRACTOR agrees, upon direction from CITY, to reduce its charges to Customers in an amount corresponding to the disallowed fee or charge, and shall thereafter not be required to remit the amount of the disallowed fee or charge, provided it is not collected from Customers.

28.04 Neither CONTRACTOR nor CITY shall have the right to obtain payment from the other party for losses either may sustain due to a court of competent jurisdiction or other regulatory agency invalidating, setting aside, or staying the collection of all or a portion of the Maximum Service Rates. CONTRACTOR shall bear the risk of losses associated with the cost

of providing continued service as a result of such a legal action or ruling and similarly CITY shall bear the loss of franchise fees or other CITY charges during any period where Maximum Service charges cannot be lawfully collected from Customers by CONTRACTOR.

28.05 Nothing herein is intended to imply that California Constitution Articles XIII(C) or (D) apply to the Maximum Service Rates provided for under this Contract. The foregoing paragraphs are merely intended as a contractual allocation of risks in the event of an unanticipated event affecting the ability to impose or collect Maximum Service Rates.

Article 29. DEFAULT OF CONTRACT

29.01 Termination. CITY may cancel this Contract, except as otherwise provided below in this Article, by giving CONTRACTOR thirty (30) calendar days advance written notice, to be served as provided in Article 45, upon the happening of any one of the following events:

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

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

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

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

29.01.5 CONTRACTOR has defaulted by allowing any final judgment for the payment of money to stand against it unsatisfied and said default is not cured within thirty (30) calendar days of receipt of written notice by CITY to do so; or

29.01.6 In the event that the monies due CITY under Section 29.01.4 above or an unsatisfied final judgment under Section 29.01.5 above is the subject of a judicial proceeding, CITY may, at its option call the Performance Bond, or hold CONTRACTOR in default of this Contract. All bonds shall be in the form acceptable to the CITY Attorney; or

29.01.7 In the event that CONTRACTOR substantially fails to implement the Diversion recovery plan in Exhibit 7, CITY may, at its option call the Guaranty or assess liquidated damages for each Work Day that the diversion plan goals are not met, or hold CONTRACTOR in default of this Contract; or

29.01.8 CONTRACTOR has defaulted, by failing or refusing to perform or observe the terms, conditions or covenants in this Contract, including satisfactory conformance with the requirements of Article 23, the service levels prescribed herein, or any of the rules and regulations promulgated by CITY pursuant thereto or has wrongfully failed or refused to comply with the instructions of the Contract Manager relative thereto; provided that said default is not cured within thirty (30) calendar days of receipt of written notice by CITY to do so, or if by reason of the nature of such default, the same cannot be remedied within thirty (30) calendar days following receipt by CONTRACTOR of written demand from CITY to do so, CONTRACTOR fails to commence the remedy of such default within said thirty (30) calendar days following such written notice or having so commenced shall fail thereafter to continue with diligence the curing thereof. In any dispute concerning failure to remedy or diligence in pursuing a cure, CONTRACTOR shall have the burden of proof to demonstrate (a) that the default cannot be cured within thirty (30) calendar days, and (b) that it is proceeding with diligence to cure said default, and such default will be cured within a reasonable period of time. However, notwithstanding anything contained herein to the contrary, for the failure of CONTRACTOR to provide Recycling Collection Services for a period of three (3) consecutive Work Days, on the fourth (4th) Work Day CITY may secure CONTRACTOR'S equipment, records and other property used or useful in providing Recycling Collection Services under this Contract in order to provide interim Recycling Collection Services until such time as the matter is resolved and CONTRACTOR is again able to perform pursuant to this Contract; provided, however, if CONTRACTOR is unable for any reason or cause to resume performance at the end of thirty (30) calendar days all liability of CITY under this Contract to CONTRACTOR shall cease and this Contract may be deemed terminated by CITY, and CITY shall retain equipment, records and other property used in providing Recycling Collection Services on an interim basis until CITY has made other suitable arrangements for the provision of Recycling Collection Services, which may include award of the Contract to another contractor. Notwithstanding any other provision in this Contract to the contrary, CITY'S right to take interim possession of, or make use of, any of CONTRACTOR'S equipment, including, without limitation, vehicles, Carts, Bins and Containers, shall not allow CITY to assign ownership of such vehicles, Carts, Bins and Containers to another contractor and CITY acknowledges that CONTRACTOR'S lender has a security interest in such equipment; or

29.01.9 CONTRACTOR has defaulted, by failing or refusing to remit payment to the Recyclable Materials Collection Contractor for billing invoices successively for three (3) months, or longer.

29.01.10 In the event that the Contract is terminated, CONTRACTOR shall furnish CITY with immediate access to all of its business records related to its Customer and billing accounts for Recycling Collection Services.

29.02 Violations. Notwithstanding the foregoing and as supplemental and additional means of termination of this Contract under this Article, in the event that CONTRACTOR'S record of performance shows that CONTRACTOR has frequently, regularly or repetitively defaulted in the performance of any of the covenants and conditions required herein to be kept and performed by CONTRACTOR regardless of whether CONTRACTOR has corrected each individual condition of default, CITY in its sole discretion determines that CONTRACTOR shall be deemed a "habitual violator", in which case CONTRACTOR shall be deemed to have waived the right to any further notice or grace period to correct, and all of said defaults shall be considered cumulative and Collectively shall constitute a condition of irredeemable default. CITY shall thereupon issue CONTRACTOR a final warning citing the circumstances therefore,

and any single default by CONTRACTOR of whatever nature, subsequent to the occurrence of the last of said cumulative defaults, shall be grounds for immediate termination of the Contract. A history of liquidated damages imposed pursuant to Article 22 may be used as a basis for deeming CONTRACTOR to be a habitual violator; however, any failure to have imposed liquidated damages where applicable shall not prevent use of CONTRACTOR'S underlying failures from consideration for determining a habitual violator. In the event of any such subsequent default, CITY may terminate this Contract upon giving of final written notice to CONTRACTOR, such cancellation to be effective upon the date specified in CITY'S written notice to CONTRACTOR, and all contractual fees due hereunder plus any and all charges and interest shall be payable to said date, and CONTRACTOR shall have no further rights hereunder. Immediately upon the specified date in such final notice CONTRACTOR shall proceed to cease any further performance under this Contract.

29.03 Effective Date. In the event of the aforesaid events specified above, and except as otherwise provided in said subsections, termination shall be effective upon the date specified in CITY'S written notice to CONTRACTOR and upon said date this Contract shall be deemed immediately terminated and upon such termination all liability of CITY under this Contract to CONTRACTOR shall cease, and CITY shall have the right to call the performance bond and shall be free to negotiate with other contractors for the operation of the herein specified services. CONTRACTOR for failure to perform shall reimburse CITY all direct and indirect costs of providing interim Recycling Collection Services.

29.04 Immediate Termination. CITY may terminate this Contract immediately upon written notice to CONTRACTOR in the event CONTRACTOR fails to provide and maintain the performance bond as required by this Contract, or if CONTRACTOR fails to obtain or maintain insurance policies endorsements as required by this Contract, or if CONTRACTOR fails to provide the proof of insurance as required by this Contract, or if CONTRACTOR offers or gives any gift prohibited by CITY administrative policy.

29.05 Termination Cumulative. CITY'S right to terminate this Contract is cumulative to any other rights and remedies provided by law or by this Contract.

29.06 Force Majeure. The parties shall be excused from performing their respective obligations hereunder in the event they are prevented from so performing by reason of Force Majeure.

Article 30. MODIFICATIONS TO THE CONTRACT

30.01 Contract Modifications and Changes in Law. CITY and CONTRACTOR understand and agree that the California Legislature has the authority to make comprehensive changes in Recyclable Materials management legislation and that these and other changes in law in the future that mandate certain actions or programs for counties or municipalities may require changes or modifications in some of the terms, conditions or obligations under this Contract. CONTRACTOR agrees that the terms and provisions of CITY'S Municipal Code, as it now exists or as it may be amended in the future, shall apply to all of the provisions of this Contract and the Customers of CONTRACTOR located within the Service Area, provided, however, that CITY will not amend CITY'S Municipal Code in a way that is inconsistent with the Contract unless compelled to do so by federal or State law. In the event any future Change in Law, modifications to CITY'S Municipal Code, or directed changes by CITY materially alters the obligations of CONTRACTOR, then the affected compensation as established under this Contract shall be adjusted. Nothing contained in this Contract shall require any party to perform any act or function contrary to law. CITY and CONTRACTOR agree to enter into good faith

negotiations regarding modifications to this Contract, which may be required in order to implement changes in the interest of the public welfare or due to Change in Law. When such modifications are made to this Contract, CITY and CONTRACTOR shall negotiate in good faith a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of CONTRACTOR due to any modification in the Contract under this Section 30.01. CITY and CONTRACTOR shall not unreasonably withhold agreement to such compensation adjustment.

30.01.1 Compensation Adjustments. In the event of a Change in Law or regulations of any governmental agency that will require additional or different services to be provided by CONTRACTOR which are not otherwise covered by this Contract, CONTRACTOR shall provide CITY with a written rate increase request for additional compensation to CONTRACTOR based on such additional or different services. The rate increase request shall include but not be limited to the information set forth in Sections 30.04.1 through 30.04.9 below. If the proposed rate increase exceeds five (5) percent and CITY does not agree with such rate increase, CITY, in addition to negotiating with CONTRACTOR may submit the matter to non-binding mediation as set forth in Section 30.02.1.

30.02 Dispute Resolution. All disputes relating to service or compensation changes as specified in Section 30.01 of this Contract shall be resolved by the following procedures:

30.02.1 Mediation. The parties shall participate in non-binding mediation of any dispute arising under this Contract (whether contract, tort, or otherwise), as provided hereafter:

30.02.1.1 The party desiring mediation shall give written notice thereof to the other party to this Contract, specifying the dispute to be mediated.

30.02.1.2 The mediation shall be held at Oakland, California, or at such other location as may be mutually agreed among the parties. The mediation shall be conducted according to and a mediator chosen pursuant to the rules of the American Arbitration Association.

30.02.1.3 At least ten (10) Work Days before the date of the mediation, each side shall provide the mediator with a statement of its position and copies of all supporting documents. Each party shall send to the mediation a person who has authority to bind the party. If a subsequent dispute will involve third parties, such as insurers or subcontractors, they shall also be asked to participate in the mediation.

30.03 Changes In Required Services. CITY may direct changes in the services required under this Contract, including the addition of new services and programs, the deletion of existing services, and the modification of the manner in which existing services are performed. CONTRACTOR shall promptly and cooperatively comply with such directions and the rates shall be adjusted to fairly and fully reflect the additional costs, or cost reduction, associated with the directed change in scope of services but not for the preparation of CONTRACTOR'S proposal to perform such services. CITY'S authority to delete existing services is not in derogation of CONTRACTOR'S exclusive Contract rights, i.e., if a service is within the scope of the Contract is discontinued at CITY'S election under this Section CITY shall not allow a third party to perform it. All sums that appear in this Section 30.03 are expressed in July 2015 dollars and shall be adjusted as set forth below beginning July 1, 2016 and annually thereafter during the term of this Contract.

30.03.1 New Programs. Pilot programs and innovative services which may entail new Collection methods or new requirements for Customers and Service Recipients are included among the kinds of changes CITY may direct. Before directing changes in service that would affect CONTRACTOR'S annual cost by an amount of more than One Hundred Thousand Dollars ($100,000) per year, which amount shall be adjusted annually by the same percentage as the percentage used to adjust the Maximum Recycling Service Rates for that fiscal year as set forth in Section 7.06, except that in no year shall the adjustment be less than zero (0) percent. CITY will request CONTRACTOR to evaluate and report on changes being considered. Within sixty (60) calendar days of receiving such a request, CONTRACTOR shall provide a service proposal to CITY as set forth in Section 30.04 below.

30.03.2 Implementing Changes in Services. If changes in service will affect CONTRACTOR'S costs by less than One Hundred Thousand Dollars ($100,000) per year, CONTRACTOR shall implement the change in accordance with a schedule directed by CITY. If changes in service will affect CONTRACTOR'S costs by the amount set forth in Section 30.03.1 or more per year, CITY will consider CONTRACTOR'S service proposal as provided under Section 30.04. If the parties agree on the appropriate amount by which rates should be adjusted, CONTRACTOR shall implement the changes in accordance with the schedule directed by CITY. If the parties have not agreed but the changes will not require CONTRACTOR to make a capital investment of more than One Million Dollars ($1,000,000), CONTRACTOR shall also implement the changes, CITY shall adjust the rates as it believes proper and CONTRACTOR may challenge the adequacy of such rates. If the parties have not agreed, and the changes will require CONTRACTOR to make a capital investment of more than One Million Dollars ($1,000,000), then CONTRACTOR need not implement the change, but in such case CITY may engage another Person to do so and may modify the scope of work under this Contract accordingly. If the scope of work is modified pursuant to this Section 30.03.2, the bonding and insurance requirements set forth in Articles 24 and 25 shall be reviewed for their sufficiency and purpose.

30.03.3 New Technology. In the event that technological advancements in the Collection, transportation, Processing, or handling of Recyclable Materials are made, and which if implemented alone or in conjunction with another technology would cumulatively reduce the initial rates established by this Contract by approximately ten (10) percent or more, CONTRACTOR shall so notify CITY, and CITY may require CONTRACTOR to utilize or implement said new technology and new rates shall be mutually agreed upon and established. CONTRACTOR shall retain the ability to propose changes to CITY in its Residential Recycling Collection Services for the purpose of maximizing efficiency. Said changes will not be implemented without the written approval of CITY.

30.04 Service Proposal. Within sixty (60) calendar days of receipt of a request for a service change from CITY, CONTRACTOR shall submit a proposal to provide such service. At a minimum, the proposal shall contain a complete description of the following:

30.04.1 Collection methodology to be employed (equipment, manpower, etc.);

30.04.2 Equipment to be utilized, including equipment to be purchased (vehicle number, types, capacity, age, etc.);

30.04.3 Labor requirements (number of employees by classification);

30.04.4 Type of Carts or Bins to be utilized;

30.04.5 Provision for program publicity, outreach, and marketing;

30.04.6 Five (5) 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, giving full effect to the savings or costs to existing services;

30.04.7 Advantages and disadvantages of the change;

30.04.8 A recommendation as to whether the change should be implemented; and

30.04.9 An implementation schedule.

30.05 Acknowledgment. CONTRACTOR acknowledges and agrees that CITY may permit other contractors or companies besides CONTRACTOR to provide additional Residential Recycling Collection Services and such other services not otherwise contemplated if CONTRACTOR and CITY cannot agree on terms and conditions, including compensation adjustments, of such services in one hundred twenty (120) calendar days from the date when CITY first requests a proposal from CONTRACTOR to perform such services.

30.06 Monitoring and Evaluation. If CITY requests, CONTRACTOR shall meet with CITY to describe the progress of each new program and other service issues. If applicable, CONTRACTOR shall document the results of the new programs on a monthly basis, including at a minimum the Tonnage Diverted by material type, the end use or processor of the Diverted materials, the cost per Ton for transporting and Processing each type of material, and other such information requested by CONTRACTOR and/or CITY necessary to evaluate the performance of each program.

At each meeting, CITY and CONTRACTOR shall have the opportunity to discuss revisions to the program. CITY shall have the right to terminate a program if, in CITY'S sole discretion, CONTRACTOR is not cost effectively achieving the program's goals and objectives. Prior to such termination, CITY shall meet and confer with CONTRACTOR for a period of up to ninety (90) calendar days to resolve CITY'S concerns. Thereafter, CITY may utilize a third party to perform these services if CITY reasonably believes the third party can improve on CONTRACTOR'S performance and/or cost. Notwithstanding these changes, CONTRACTOR shall continue the program during the ninety (90) calendar day period and, thereafter, until the third party takes over the program.

Article 31. LEGAL REPRESENTATION

31.01 Acknowledgement. It is acknowledged that each party was, or had the opportunity to be, represented by counsel in the preparation of and contributed equally to the terms and conditions of this Contract and, accordingly, the rule that a contract or Contract shall be interpreted strictly against the party preparing the same shall not apply herein due to the joint contributions of both parties.

Article 32. FINANCIAL INTEREST

32.01 Representation. CONTRACTOR warrants and represents that no elected official, officer, agent or employee of CITY has a financial interest, directly or indirectly, in this Contract or the compensation to be paid under it and, further, that no CITY employee who acts in CITY as a "purchasing agent" as defined in the appropriate Section of California Statutes, nor any elected or appointed officer of CITY, nor any spouse or child of such purchasing agent,

employee or elected or appointed officer, is a partner, officer, director or proprietor of CONTRACTOR and, further, that no such CITY employee, purchasing agent, CITY elected or appointed officer, or the spouse or child of any of them, alone or in combination, has a material interest in CONTRACTOR. Material interest means direct or indirect ownership of more than five (5) percent of the total assets or capital stock of CONTRACTOR.

Article 33. CONTRACTOR'S PERSONNEL

33.01 Personnel Requirements. CONTRACTOR shall employ and assign qualified personnel to perform all services set forth herein. CONTRACTOR shall be responsible for ensuring that its employees comply with all applicable laws and regulations and meet all federal, State and local requirements related to their employment and position.

33.01.1 CITY may request the transfer of any employee of CONTRACTOR who materially violates any provision hereof, or who is wanton, negligent, or discourteous in the performance of his duties.

33.01.2 CONTRACTOR shall not permit its employees to demand or solicit, directly or indirectly, any additional compensation or gratuity from Customers or Service Recipients for the provision of Collection Services under the terms of this Contract.

33.01.3 CONTRACTOR'S field operations personnel shall be required to wear a clean uniform shirt bearing CONTRACTOR'S name. CONTRACTOR'S employees, who normally come into direct contact with the public, including drivers, shall bear some means of individual photographic identification such as a name tag or identification card.

33.01.4 Each driver of a Collection vehicle shall at all times carry a valid California driver's license and all other required licenses for the type of vehicle that is being operated.

33.01.5 Each driver of a Collection vehicle shall at all times comply with all applicable state and federal laws, regulations and requirements.

33.01.6 CONTRACTOR'S employees, officers, and agents shall at no time be allowed to identify themselves or in any way represent themselves as being employees of CITY.

33.01.7 CONTRACTOR'S name and the Customer Service telephone number shall be properly displayed on all Collection vehicles.

Article 34. UNACCEPTABLE WASTE

34.01 CONTRACTOR shall not be required to Collect, transport or deliver for Disposal, Unacceptable Waste, but may offer such services. All such Collection, transport and delivery for Disposal of Unacceptable Waste is not regulated under this Contract, but if provided by CONTRACTOR shall be in strict compliance with all federal, State and local laws and regulations.

Article 35. INDEPENDENT CONTRACTOR

35.01 In the performance of services pursuant to this Contract, CONTRACTOR shall be an independent contractor and not an officer, agent, servant or employee of CITY. CONTRACTOR shall have exclusive control of the details of the services and work performed and over all persons performing such services and work. CONTRACTOR shall be solely

responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any. Neither CONTRACTOR nor its officers, employees, agents, contractors or subcontractors shall obtain any right to retirement benefits, Workers Compensation benefits, or any other compensation or benefits, which accrue, to CITY employees and CONTRACTOR expressly waives any claim it may have or acquire to such compensation or benefits.

Article 36. LAWS TO GOVERN

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

Article 37. CONSENT TO JURISDICTION

37.01 The parties agree that any litigation between CITY and CONTRACTOR concerning or arising out of this Contract shall be filed and maintained exclusively in the Municipal or Superior Courts of Alameda County, State of California, or in the United States Court for the Northern District of California to the fullest extent permissible by law. Each party consents to service of process in any manner authorized by California law.

Article 38. ASSIGNMENT

38.01 CITY Right to Terminate in Event of Assignment. CONTRACTOR acknowledges that this Contract involves rendering a vital service to CITY'S residents and businesses, and that CITY has selected CONTRACTOR to perform the services specified herein based on (1) CONTRACTOR'S experience, skill and reputation for conducting its operations in a safe, effective and responsible fashion, at all times in keeping with applicable environmental laws, regulations and best management practices for the provision of Recycling Collection Services and (2) CONTRACTOR'S financial resources to maintain the required equipment and to support its indemnity obligations to CITY under this Contract. CITY has relied on each of these factors, among others, in choosing CONTRACTOR to perform the services to be rendered by CONTRACTOR under this Contract. Any assignment by CONTRACTOR, either directly or indirectly, in whole or in part, of its rights or any interest it may have in this Contract including any transfer of its stock or assets to a third party shall give CITY, in its sole discretion, the basis for terminating this Contract in whole or in part upon the giving of a thirty (30) day written notice to CONTRACTOR. In the event such notice of termination is given as authorized by this Article, CONTRACTOR shall continue, for up to six (6) months following notice of termination, to provide any or all of the services it is obligated to perform under this Contract if requested by CITY in writing. CITY'S right to terminate the Contract in whole or in part shall expire unless exercised within sixty (60) days of receiving written notice from CONTRACTOR as provided herein of an assignment by CONTRACTOR. "Assignment" or "Assign" as used in this Contract shall include, but not be limited to, (i) a sale, exchange or other transfer of substantially all of CONTRACTOR'S assets dedicated to any or all of the services to be provided under this Contract to a third party (ii) a sale, exchange or other transfer of outstanding common stock of CONTRACTOR to a third party provided said sale, exchange or transfer results in a change of control of CONTRACTOR or any sale, exchange or transfer of the common stock of CONTRACTOR which results in the effective transfer of control of substantially all of CONTRACTOR'S assets dedicated to any or all of the services to be provided under this Contract to a third party; (iii) any dissolution, reorganization, consolidation, merger, re-capitalization, stock issuance or re-issuance, voting trust, pooling agreement, escrow arrangement, liquidation or other transaction to which results in a change of ownership or

control of CONTRACTOR; (iv) any assignment by operation of law, including insolvency or bankruptcy, making assignment for the benefit of creditors, writ of attachment for an execution being levied against this Contract, appointment of a receiver taking possession of CONTRACTOR'S property, or transfer occurring in the event of a probate proceeding; and (v) any combination of the foregoing (whether or not in related or contemporaneous transactions) which has the effect of any such transfer or change of ownership, or change of control of CONTRACTOR, or substantially all of the assets used for providing any of the services under this Contract to a third party.

38.02 Procedure for CITY Evaluation of Proposed Assignment. If CONTRACTOR requests CITY'S consideration of and consent to an assignment, CONTRACTOR shall meet the following preliminary requirements:

38.02.1 CONTRACTOR shall pay CITY its reasonable expenses for attorney's fees, consultant's fees and investigation costs necessary to investigate the suitability of any proposed assignee, and to review and finalize any documentation required as a condition for approving any such assignment;

38.02.2 CONTRACTOR shall furnish CITY with audited financial statements of the proposed assignee's operations for the immediately preceding three (3) operating years;

38.02.3 CONTRACTOR shall furnish CITY with satisfactory proof that: (1) the proposed assignee has at least ten (10) years of experience providing Residential Recycling Collection Services on a scale equal to or exceeding the scale of operations conducted by CONTRACTOR under this Contract; (2) in the last five (5) years, the proposed assignee has not suffered any significant citations or other censure from any federal, State or local agency having jurisdiction over its Residential Recycling Collection Services operations due to any significant failure to comply with State, federal or local environmental laws and the assignee has provided CITY with a complete list of such citations and censures; (3) the proposed assignee has at all times conducted its operations in an environmentally safe and conscientious fashion; (4) the proposed assignee conducts its Residential Recycling Collection Services operation practices in accordance with sound management practices in full compliance with all federal, State and local laws regulating the provision of Residential Recycling Collection Services; and, (5) of any other information required by CITY to ensure the proposed assignee can fulfill the terms of this Contract in a timely, safe and effective manner.

38.03 CONTRACTOR Default. Under no circumstances shall CITY be obliged to consider any proposed assignment if CONTRACTOR is in default at any time during the period of consideration.

38.04 CITY Discretion to Accept or Reject Assignment. CITY, in its sole discretion, may accept, reject or conditionally accept the proposed assignment. If CITY accepts a partial assignment, the corporate Guaranty provided in Section 1.36 and Exhibit 15 and the performance security provided in Article 24 shall remain in effect unless CITY in its sole discretion consents to adequate substitutes by the assignee or to a novation, and absent a novation CONTRACTOR shall not be released from liability under this Contract.

38.05 Subcontractor. The use of a subcontractor to perform services under this Contract shall not constitute delegation of CONTRACTOR'S duties provided that CONTRACTOR has received prior written authorization from CITY to subcontract such services and the Contract Manager has approved a subcontractor who will perform such services. CONTRACTOR shall be responsible for directing the work of CONTRACTOR'S subcontractors

and any compensation due or payable to CONTRACTOR'S subcontractor shall be the sole responsibility of CONTRACTOR. CITY shall have the right to require the removal of any approved subcontractor for reasonable cause.

Article 39. COMPLIANCE WITH LAWS

39.01 In the performance of this Contract, CONTRACTOR shall comply with all applicable laws, regulations, ordinances and codes of the federal, state and local governments, including without limitation the Municipal Code of the CITY of Oakland.

39.02 CITY shall provide written notice to CONTRACTOR of any planned amendment of the CITY Municipal Code that would substantially affect the performance of CONTRACTOR'S services pursuant to this Contract. Such notice shall be provided at least thirty (30) calendar days prior to the CITY Council's approval of such an amendment.

Article 40. PERMITS AND LICENSES

40.01 CONTRACTOR shall obtain, at its own expense, all permits and licenses required by law or ordinance and maintain same in full force and effect throughout the term of this Contract. CONTRACTOR shall provide proof of such permits, licenses or approvals and shall demonstrate compliance with the terms and conditions of such permits, licenses and approvals upon the request of the Contract Manager.

Article 41. OWNERSHIP OF WRITTEN MATERIALS

41.01 All reports, documents, brochures, public education materials, and other written, printed, electronic or photographic materials developed by CITY or CONTRACTOR in connection with the services to be performed under this Contract, whether developed directly or indirectly by CITY or CONTRACTOR shall be and shall remain the property of CITY without limitation or restrictions on the use of such materials by CITY. CONTRACTOR shall not use such materials in connection with any project not connected with this Contract without the prior written consent of the Contract Manager. This Article 41 does not apply to ideas or concepts described in such materials and does not apply to the format of such materials.

Article 42. WAIVER

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

Article 43. POINT OF CONTACT

43.01 The day-to-day dealings between CONTRACTOR and CITY shall be between CONTRACTOR and the Contract Manager.

Article 44. CONFLICT OF INTEREST

44.01 CONTRACTOR covenants and declares it has no conflicts of interest that would in any manner impair or affect CONTRACTOR'S ability to perform under this Contract.

Article 45. NOTICES

45.01 Except as provided herein, whenever either party desires to give notice to the other, it must be given by written notice by registered or certified mail, or by other methods designated for next day delivery with proof of receipt, addressed to the party for whom it is intended, at the place last specified and to the place for giving of notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective persons and places for giving of notice:

As to CITY:

City Administrator
Office of the City Administrator
City of Oakland
1 Frank Ogawa Plaza, 3rd Floor
Oakland, CA 94612
Telephone: 510-238-3301
E-mail: cityadministrator@oaklandnet.com

With copies to:

Director of Public Works
Public Works Agency
City of Oakland
250 Frank Ogawa Plaza, Suite 4314
Oakland, CA 94612
Telephone: 238-4470
E-mail: vtroyan@oaklandnet.com

City Attorney
Office of the City Attorney
City of Oakland
1 Frank Ogawa Plaza, 6th Floor
Oakland, CA 94612
Telephone: (510) 238-3601
E-mail: info@oaklandcityattorney.org

Director of Finance and Management
Finance and Management Agency
City of Oakland
150 Frank Ogawa Plaza, Suite 5215
Oakland, CA 94612
Telephone: (510) 238-2220
E-mail: sjohnson@oaklandnet.com

As to CONTRACTOR:

[Title]
[Company]
[Street Address]
[City, State, Zip]
Telephone: (xxx) xxx-xxxx
E-mail: xxx@xxx.xxx

and

[Title]
[Company]
[Street Address]
[City, State, Zip]
Telephone: (xxx) xxx-xxxx
E-mail: xxx@xxx.xxx

45.02 Notices shall be effective when received at the address as specified above. Changes in the respective address to which such notice is to be directed may be made by written notice with a courtesy copy provided by email. The original of items that are transmitted by email must also be mailed as required herein.

45.03 Notice by CITY to CONTRACTOR of a Collection or other Customer problem or complaint may be given to CONTRACTOR orally by telephone at CONTRACTOR'S local office with confirmation sent as required above by the end of the Work Day.

Article 46. TRANSITION TO NEXT CONTRACTOR

46.01 In the event CONTRACTOR is not awarded a Contract extension to continue to provide Recycling Collection Services following the expiration or upon early termination of this Contract, CONTRACTOR shall cooperate fully with CITY and any subsequent contractors to assure a smooth transition of services described in this Contract. Such cooperation shall include but not be limited to transfer of computer data, files and tapes; providing routing information, route maps, vehicle fleet information, and list of Customers; providing a complete inventory of all Carts and Bins; providing adequate labor and equipment to complete performance of all Recycling Collection Services required under this Contract; taking all actions necessary to transfer ownership of Carts and Bins, as appropriate, to CITY, including transporting such Containers to a location designated by the Contract Manager; coordinating Collection of materials set out in new Containers if new Containers are provided for a subsequent Contract and providing other reports and data required by this Contract.

Article 47. CONTRACTOR'S RECORDS

47.01 CONTRACTOR shall maintain any and all letters, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to Customers for a minimum period of five (5) years, or for any longer period required by law, from the date of final payment to CONTRACTOR pursuant to this Contract.

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

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

47.04 Where CITY has reason to believe that such records or documents may be lost or discarded due to the dissolution, disbandment or termination of CONTRACTOR'S business, CITY may, by written request or demand of any of the above named officers, require that custody of the records be given to CITY and that the records and documents be maintained in CITY Hall. Access to such records and documents shall be granted to any party authorized by CONTRACTOR, CONTRACTOR'S representatives, or CONTRACTOR'S successor-in-interest.

Article 48. ENTIRE CONTRACT

48.01 This Contract and the Exhibits attached hereto constitute the entire Contract and understanding between the parties hereto, and it shall not be considered modified, altered, changed or amended in any respect unless in writing and signed by the parties hereto.

Article 49. SEVERABILITY

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

Article 50. RIGHT TO REQUIRE PERFORMANCE

50.01 The failure of CITY at any time to require performance by CONTRACTOR of any provision hereof shall in no way affect the right of CITY thereafter to enforce same. Nor shall waiver by CITY of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

Article 51. CORPORATE GUARANTY

51.01 In addition to the performance security required in Article 24, CONTRACTOR is required to obtain a Guaranty, and Guarantor has agreed to guarantee CONTRACTOR'S performance of this Contract, including CONTRACTOR'S indemnification obligations hereunder pursuant to a Guaranty in substantially the form attached as Exhibit 15. The Guaranty is being provided concurrently with CONTRACTOR'S execution of this Contract.

Article 52. EMPLOYEE RETENTION REQUIREMENTS

52.01 CONTRACTOR acknowledges that if and when Recycling Collection Services are transferred to CONTRACTOR, as the successful proposer, that workers who perform services for CITY'S current Contractor (if different from CONTRACTOR) may be displaced from their employment. CONTRACTOR represents and warrants that it shall offer employment to all qualified displaced workers who have been employed by the current Contractor for at least one

hundred twenty (120) calendar days prior to July 1, 2015 provided that CONTRACTOR shall not be required to create additional positions that CONTRACTOR does not need nor to lay-off or discharge CONTRACTOR'S employees in order to employ qualified displaced workers. A qualified displaced worker includes non-management workers of the current Contractor who have been employed, in a full-time paid status, for at least one hundred twenty (120) calendar days prior to July 1, 2015 and who would otherwise be laid-off. CONTRACTOR is prohibited from discharging any qualified displaced workers for at least ninety (90) calendar days after July 1, 2015 except for cause. After the initial ninety (90) calendar days, the continued employment of qualified displaced workers will be under the terms and conditions established for all of CONTRACTOR'S workers in the particular job classification. CONTRACTOR shall submit displaced worker hiring status reports to the Contract Manager on the last working day of October 2015 and on the last working day of June 2016.

Article 53. SUBCONTRACTING

53.01 CONTRACTOR shall not engage any subcontractors to perform any of the services required of it under this Contract without the prior written approval of CITY. CONTRACTOR shall notify CITY no later than ninety (90) days prior to the date on which it proposes to enter into a subcontract, providing CITY with all information it requests with respect to the proposed subcontractor. CITY may approve or reject any proposed subcontract and/or subcontractor in its sole discretion if the proposed subcontract replaces essential services to be performed by CONTRACTOR pursuant to Article 9, Article 10, Article 11, and Article 12 of this Contract. CITY'S consent to a subcontract and/or subcontractor shall not be unreasonably withheld as to other aspects of this Contract that are not deemed to involve essential services to CITY.

Article 54. LOCAL BUSINESS PRESENCE AND PARTICIPATION

54.01 CONTRACTOR represents and warrants that during the term and course of its contract with the CITY, it will abide by commitments it made to local business presence and participation in its proposal to earn preference points as reported in Exhibit 13. CONTRACTOR shall report annually using form provided by CITY on current local business presence and participation. Failure to abide by commitments shown Exhibit 13 may result in liquidated damages per Article 22. In year seven (7) of this Contract, CITY will assess local business presence and participation and if substantially different from Exhibit 13, then CITY may choose to not extend Contract per Article 3.

Article 55. LOCAL HIRE COMPLIANCE

55.01 CONTRACTOR represents and warrants that at least fifty (50) percent of all new hires in their workforce will be Oakland residents (i.e., for every two (2) new hires, one (1) will be a resident of Oakland). A compliance baseline will be determined on October 1, 2015. The baseline calculation will be total number of full-time equivalent employees with a verified Oakland address assigned to this Contract divided by the .total number of full-time equivalent employees assigned to this Contract. CONTRACTOR shall provide documentation for the number of employees used in the baseline and employees that are used in the calculation as Oakland residents.

55.02 Beginning November 2015, CONTRACTOR will provide a monthly report in accordance with Section 19.02.1.6 showing the total number of employees hired in the previous month and of those employees hired, the city of residence of those new employees. CITY will

calculate annually the percent of new hires that are Oakland residents. Failure to maintain new hires at fifty (50) percent Oakland residents annually may result in liquidated damages per Article 22. CITY may put CONTRACTOR on a corrective action plan to achieve compliance with Section 55.01. Failure to meet the corrective action plan may result in CITY not extending Contract per Article 3

55.03 CONTRACTOR may provide documentation of employees that are Oakland residents that do not work on this Contract for the CITY's consideration. CITY, at its sole discretion, may choose to use the number of Oakland residents that are employees of CONTRACTOR that do not work on this Contract in the annual calculation for compliance with this Article.

55.04 CONTRACTOR represents and warrants that during the term and course of its contract with CITY, that it will maintain (to be completed) number of Oakland Residents in its work force as committed to in its proposal for award of preference points. A compliance baseline will be determined on October 1, 2015. The baseline calculation will be total number of full-time equivalent employees with a verified Oakland address assigned to this Contract divided by total number of full-time equivalent employees assigned to this Contract. CONTRACTOR shall provide documentation for the number of employees used in the baseline and number of employees that are used in the calculation as Oakland residents. Beginning November 2015, CONTRACTOR will provide a monthly report in accordance with Section 19.02.1.6 showing the total number of employees and the city of residence of employees. CITY will calculate annually the number of employees that are Oakland residents. Failure to maintain the number of Oakland residents committed to in its proposal for award of preference points may result in liquidated damages per Article 22. [Section 55.04 will be removed if no preference points are awarded.]

55.05 CONTRACTOR will train and hire the number of local disadvantaged workers as committed to in its proposal for award of preference points. Beginning November 2015, CONTRACTOR will provide a monthly report in accordance with Section 19.02.1.6 that shows the total number of disadvantaged local workers being trained and the total number hired for the previous month. Failure to maintain the number of disadvantaged local workers as committed to in this Section may result in the assessment of liquidated damages per Article 22. [Section 55.05 will be removed if no preference points are awarded.]

Article 56. RELIGIOUS PROHIBITION

56.01 There shall be no religious worship, instruction, or proselytization as part of, or in connection with, the performance of this Contract.

Article 57. POLITICAL PROHIBITION AND CAMPAIGN CONTRIBUTIONS

57.01 This Contract is subject to the City of Oakland Campaign Reform Act of Chapter 3.12 of the Oakland Municipal Code and its implementing regulations. The Campaign Reform Act prohibits contractors that are doing business or seeking to do business with CITY from making campaign contributions to Oakland candidates between commencement of negotiations and either one hundred eighty (180) days after completion of, or termination of, Contract negotiations. CONTRACTOR has signed and dated an Acknowledgment of Campaign Contribution Limits Schedule O attached hereto and incorporated herein as Attachment 3.

Article 58. BUSINESS TAX CERTIFICATE

58.01 CONTRACTOR shall obtain and provide proof of a valid CITY business tax certificate. Said business tax certificate will be valid prior to and to the conclusion of this Contract. A copy of the business tax certificate for 2015 is attached hereto and incorporated herein as Exhibit 16. A copy of subsequent business tax certificates shall be sequentially numbered and attached hereto.

Article 59. ATTORNEYS FEES

59.01 In any dispute between the parties, whether or not resulting in litigation or any appeal therefrom, the prevailing party shall be entitled to recover from the other party all reasonable costs, including, without limitation, reasonable attorneys' fees. "Prevailing parties" shall include without limitation (i) a party who dismisses an action in exchange for sums allegedly due such party; (ii) the party which received performance from the other party of an alleged breach of a covenant or a desired remedy where such performance is substantially equal to the relief sought in an action; or (iii) the party determined to be the prevailing party by a court of law.

Article 60. LIMITATION OF FELONY DISCLOSURE ON JOB APPLICATION

60.01 CONTRACTOR is required to exclude from the initial job application, any requirement of the applicant to disclose felony history as long as it complies with governing laws.

Article 61. COMPETITIVE WAGES AND BENEFITS

61.01 Living Wage Requirements. CONTRACTOR shall comply with CITY Living Wage Ordinance Chapter 2.28 of the Oakland Municipal Code and its implementing regulations. The Ordinance requires among other things, submission of the Declaration of Compliance attached and incorporated herein as Attachment 3. All of the provisions of Section 61.01, or any part hereof, may be waived in a bona fide collective bargaining agreement, but only if the waiver is explicitly set forth in such agreement in clear and unambiguous terms.

61.02 Competitive Wages and Benefits. CONTRACTOR shall pay Competitive Wages and Benefits defined as wages and benefits equivalent to or better than collectively bargained contracts in use in Alameda, Contra Costa, San Francisco, Santa Clara, and San Mateo Counties. CONTRACTOR shall provide CITY evidence of compliance with this provision at CITY'S request.

61.02.1 CONTRACTOR shall provide CITY ninety (90) day notice for expiration any of CONTRACTOR'S collectively bargained contracts. CONTRACTOR shall timely notice CITY should other issues arise with CONTRACTOR'S collectively bargained contracts.

Article 62. VALIDITY OF CONTRACTS

62.01 This Contract shall not be binding or of any force or effect until signed by the City Administrator or his or her designee and approved as to form and legality by the City Attorney or his or her designee.

Article 63. EQUAL BENEFITS ORDINANCE

63.01 This Contract is subject to the Equal Benefits Ordinance of Chapter 2.232.010 of the Oakland Municipal Code and its implementing regulations. Entities which enter into a "contract" with the City for an amount of Twenty-Five Thousand Dollars ($25,000.00) or more for public works or improvements to be performed, or for goods or services to be purchased or grants to be provided at the expense of the City or to be paid out of moneys deposited in the treasury or out of trust moneys under the control of or collected by the City; and Entities which enter into a "property contract" pursuant to Section 2.23.020(D) with the City in an amount of Twenty-Five Thousand Dollars ($25,000.00) or more for the exclusive use or occupancy (1) of real property owned or controlled by the City or (2) of real property owned by others for the City's use or occupancy, for a term exceeding twenty-nine (29) days in any calendar year.

63.02 The Ordinance shall only apply to those portions of CONTRACTOR'S operations that occur (1) within the CITY; (2) on real property outside Oakland if the property is owned by CITY or if CITY has a right to occupy the property, and if CONTRACTOR'S presence at that location is connected to a contract with CITY; and (3) elsewhere in the United States where work related to a City contract is being performed. The requirements of this Section shall not apply to subcontracts or subcontractors of any contract or contractor. The Equal Benefits Ordinance requires among other things, submission of Schedule N-1, the Equal Benefits-Declaration of Nondiscrimination, incorporated herein.

Article 64. LABOR PEACE

64.01 CITY has determined that the level of vulnerability of the proposed Contract to labor disputes is sufficient to warrant that labor peace is essential to the propriety interests of CITY. Therefore, CONTRACTOR shall at all times comply with the provisions of CONTRACTOR'S Employee and Labor Relations Plan set forth in Exhibit 14 to this Contract.

Article 65. AMENDMENT

65.01 No modification, amendment, or supplement to this Contract will be binding on the parties unless it is made in writing, duly authorized by CONTRACTOR and CITY, and signed by both parties.

Article 66. ALL PRIOR CONTRACTS SUPERSEDED

66.01 This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained in this Contract and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Contract that are not contained in this document or in the Disposal Services Contract or the Mixed Materials and Organics Collection Services Contract which are being executed simultaneously with this document. Accordingly, it is agreed that no deviation from the terms of this Contract shall be predicated upon any prior representations or agreements, whether oral or written.

Article 67. HEADINGS

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

Article 68. LEGAL REPRESENTATION

68.01 Each of the parties has received the advice of legal counsel prior to signing this Contract. The parties agree no provision or provisions may be subject to any rule of construction based upon any party being considered the party “drafting” this Contract.

Article 69. EXHIBITS

69.01 Each Exhibit referred to in this Contract forms an essential part of this Contract. Each such Exhibit is a part of this Contract and each is incorporated by this reference.

Article 70. EFFECTIVE DATE

This Contract shall become effective at such time as it is properly executed by CITY and CONTRACTOR and CONTRACTOR shall begin Recycling Collection Services, as covered herein, as of July 1, 2015.

IN WITNESS WHEREOF, CITY and CONTRACTOR have executed this Contract on the day and year first written above.

CITY OF OAKLAND	[Contractor Company Name]
By:_____	By:_____
[Name, Title]	[Name, Title]
_____	_____
Date	Date
	_____
	CITY of Oakland Business License Number

The foregoing Contract has been reviewed and approval is recommended:

Resolution No. _____ C.M.S.
Approved by CITY Council

APPROVED AS TO FORM:

_____
[Name, Title]
CITY Attorney

Attest:

By: _____	_____
[Name, Title]	Date
CITY Clerk	

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EXHIBIT 1
MAXIMUM RECYCLING SERVICE RATES

EXHIBIT 1A
MAXIMUM RECYCLING SERVICE RATES – SFD SERVICES

3328

EXHIBIT 1A MAXIMUM RECYCLING SERVICE RATES – PER COLLECTED TON

3329

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EXHIBIT 1B
MAXIMUM RECYCLING SERVICE RATES – SFD ANCILLARY SERVICES

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EXHIBIT 1C
MAXIMUM RECYCLING SERVICE RATES – MFD ANCILLARY SERVICES

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EXHIBIT 1D
MAXIMUM RECYCLING SERVICE RATES – NON-EXCLUSIVE COMMERCIAL SERVICES

3335

EXHIBIT 1E MAXIMUM RECYCLING SERVICE RATES – EMERGENCY SERVICE RATES - EMPLOYEES	
Labor Position	**Hourly Rate**

EXHIBIT 1F MAXIMUM RECYCLING SERVICE RATES -- EMERGENCY SERVICE RATES - EQUIPMENT		
Labor Position or Equipment Type	**Make & Model**	**Hourly Rate**

3345

EXHIBIT 2
REFUSE RATE INDEX

The "Refuse Rate Index" adjustment for the Residential Recycling Collection Services Contract shall be calculated in the following manner:

1. The expenses of the Collection and Processing services for the designated fiscal period shall be prepared in the format set forth in the Operating Cost Statement - Description on the following page.
2. The expenses of the disposal services shall be broken down into the following eight (8) cost categories: Labor, Diesel Fuel, CNG Fuel, Vehicle Replacement, Vehicle Maintenance, Mixed Waste Processing, Disposal and All Other. Each cost category is assigned a weighted percentage factor on that cost category's proportionate share of the total of the costs shown for all cost categories.
3. The following indices published by the United States Department of Labor, Bureau of Labor Statistics (BLS), are used to calculate the adjustment for each cost category except, CNG Fuel, Mixed Waste Processing and Disposal. The change in each index is calculated in accordance with the terms of the Contract. In the event any index is discontinued, a successor index shall be selected by mutual agreement of the parties. Successor indices shall be those indices that are most closely equivalent to the discontinued indices as recommended by the BLS.

Cost Category	**Index**
Labor	Series ID: ceu6056210008 Service Producing Industries
Diesel Fuel	Series ID: wpu057303 #2 Diesel Fuel
CNG Fuel	Schedule G-NGV-1, compiled and published by the Pacific Gas and Electric Co. Analysis and Rate Department and reported monthly in the "Gas Rate Finder" publication (http://www.pge.com/tariffs) reflecting the sum of the Customer, procurement, transportation and public purpose program charges.
Vehicle Replacement	Series ID: pcu336211336211 Truck, bus, car, and other vehicle bodies, for sale separately
Vehicle Maintenance	Series ID: pcu3339243339243 Parts and attachments for industrial work trucks
All Other	Series ID: cuura422sa0 Consumer Price Index, All Urban Consumers, All Items – Bay Area

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

Operating Cost Statement-Description

EXHIBIT 2
REFUSE RATE INDEX

Labor:	List all salary accounts.
	List payroll tax accounts, health and welfare, payroll insurance and pension accounts directly related to the above salary accounts.
Diesel Fuel:	List all diesel fuel accounts.
CNG Fuel:	List all CNG fuel accounts.
Vehicle Replacement:	
	List all collection and collection related vehicle depreciation accounts.
	List all vehicle lease or rental accounts related to collection or collection related vehicles.
Vehicle Maintenance:	
	List all collection or collection related vehicle parts accounts.
All Other:	List all other expense accounts related to the services provided under this Contract. This category includes, insurance including general liability, fire, truck damage, and extended coverage; rent on property, truck licenses and permits; real and personal property taxes; telephone and other utilities; employee uniforms; safety equipment; general yard repairs and maintenance; non-diesel or non-CNG fuel; office supplies; postage; trade association dues and subscription; advertising; and miscellaneous other expenses.

RRI Example

EXHIBIT 2
REFUSE RATE INDEX

Item #	Category	Data Source	Percentage Change	Item Weight	Weighted Percentage Change
1	Labor (Other)	Series ID: ceu6056210008 Service Producing Industries	4.19%	34.65%	1.45%
2	Diesel Fuel	Series ID: wpu057303 #2 Diesel Fuel	8.09%	7.35%	0.59%
3	CNG Fuel	PG & E Schedule G-NGV-1,	4.28%	20.23%	0.87%
4	Vehicle Replacement	Series ID: pcu336211336211 Truck, bus, car, and other vehicle bodies, for sale separately	6.79%	12.47%	0.85%
5	Vehicle Maintenance	Series ID: pcu3339243339243 Parts and attachments for industrial work trucks	1.20%	7.92%	0.10%
6	All Other	Series ID: cuura422sa0 Consumer Price Index, All Urban Consumers, All Items Bay Area	2.70%	17.38%	0.47%
Total				100.00%	4.33%

In this example, the Refuse Rate Index is 4.33%.

EXHIBIT 3
APPROVED FACILITIES

1.

EXHIBIT 4 CITY FACILITIES	
Building / Facility	**Estimated Service Level**
All CITY Building and Facilities	

EXHIBIT 5
TRANSITION PLAN

3357

EXHIBIT 6
COMMUNITY OUTREACH STRATEGY

EXHIBIT 7 DIVERSION RECOVERY PLAN

3360

EXHIBIT 8
CUSTOMER SERVICE PLAN

EXHIBIT 9
RECYCLING COLLECTION SERVICE OPERATIONS PLAN

EXHIBIT 10 VEHICLE SPECIFICATIONS

EXHIBIT 11
CONTAINER SPECIFICATIONS

3367

EXHIBIT 12 MEMORANDUM OF UNDERSTANDING

3368

3369

EXHIBIT 13
LOCAL BUSINESS PRESENCE AND PARTICIPATION REPORTING FORM

Item #	Category	Data Source	Total $	% of $	Total LBE	% of Total LBE
1	Labor (Other)	Series ID: ceu6056210008 Service Producing Industries				
2	Diesel Fuel	Series ID: wpu057303 #2 Diesel Fuel				
3	CNG Fuel	PG & E Schedule G-NGV-1,				
4	Vehicle Replacement	Series ID: pcu336211336211 Truck, bus, car, and other vehicle bodies, for sale separately				
5	Vehicle Maintenance	Series ID: pcu3339243339243 Parts and attachments for industrial work trucks				
6	All Other	Series ID: cuura422sa0 Consumer Price Index, All Urban Consumers, All Items Bay Area				
Total						

3370
3371

EXHIBIT 13 A
LOCAL BUSINESS PRESENCE AND PARTICIPATION REQUIREMENTS

3372

EXHIBIT 14
EMPLOYEE AND LABOR RELATIONS PLAN

EXHIBIT 15
GUARANTY AGREEMENT

City of Oakland

This Guaranty, made as of the date written below by CONTRACTOR, to and for the benefit of the City of Oakland (CITY)

WHEREAS, CONTRACTOR, and the CITY, entered into a CONTRACT BETWEEN THE CITY AND CONTRACTOR FOR provision of Collection Services, dated as of insert date, (the **"Contract"**), which Contract is incorporated in this Guaranty by reference and by this Guaranty made part of this Agreement; and

WHEREAS, the CITY is willing to enter into the Contract only upon the condition that Guarantor execute this Guaranty; and

WHEREAS, in the event the CONTRACTOR fails to timely and fully perform its obligations, including the payment of moneys, pursuant to the Contract and as it may hereafter be amended or modified by CONTRACTOR and the CITY, the Guarantor is willing to guaranty CONTRACTOR'S timely and full performance thereof.

NOW, THEREFORE, as an inducement to the CITY to enter into the Contract as described above, the Guarantor agrees as follows:

Capitalized terms used in the Contract and not otherwise defined in this Agreement, will have the meaning assigned to them in the Contract.

1. **Guaranty of CONTRACTOR'S Performance Under Contract.** Guarantor by this Guaranty directly, unconditionally, irrevocably, and absolutely guaranties the timely and full performance of CONTRACTOR'S obligations under the Contract in accordance with the terms and conditions contained therein or to cause the timely and full performance. Within thirty (30) days' written request therefore by the CITY, Guarantor will honor the Guaranty. Notwithstanding the unconditional nature of the Guarantor's payment obligations set forth in this Agreement, the Guarantor may assert the defenses provided in the paragraph entitled Defenses under Section 8 of this Guaranty, against claims made under this Guaranty.

2. **Governing law; consent to jurisdiction; service of process.** This Guaranty is governed by the laws of the State of California. The Guarantor by this Guaranty agrees to the service of process in the State for any claim or controversy arising out of the Guaranty or relating to any breach. The Guarantor by this Guaranty agrees that the courts of the State and to the extent permitted by law, the United States District Court for the Northern District of California, will have the exclusive jurisdiction of all suits, actions, and other proceedings involving itself and to which the CITY may be party for the adjudication of any claim or controversy arising out of this Guaranty or relating to any breach of this Guaranty, waives any objections that it might otherwise have to the venue of any Court for the trail of any suit, action, or proceeding, any consents to the service of process in any suit, action, or proceeding by prepaid registered mail return receipt required.

3. **Enforceability; no assignment.** This Guaranty is binding upon and enforceable against Guarantor, its successors, assigns, and lawful representatives. It is for the benefit of the CITY, its successors and assigns. The Guarantor may not assign or delegate the

performance of the Guaranty without the prior written consent of the CITY in its sole discretion. Any assignment made without the prior written consent of the CITY is voidable by the CITY in its sole discretion. Together with its request for CITY consent, Guarantor will pay CITY $10,000 for its reasonable expenses for private attorney's fees and investigation costs ("assignment expenses") necessary to investigate the suitability of any proposed assignee, and to review and finalize any documentation required as a condition for approving any assignment. CITY will reimburse Guarantor the excess, if any, over those assignment expenses it incurs. Contrariwise, Guarantor will pay CITY the excess assignment expenses, if any, over $10,000 CITY incurs within thirty (30) days' of CITY'S request therefore. Guarantor will further pay the CITY the CITY'S reimbursement costs for fees of attorneys who are not CITY employees and investigation costs necessary to enjoin the assignment or to otherwise enforce this provision within thirty (30) days of the CITY'S request therefore ("injunction costs"). Guarantor's obligation to pay CITY assignment expenses and injunction costs will not exceed $35,000 in the aggregate, excluding any costs that the CITY may recover under applicable law, including court costs paid to a prevailing party.

For purposes of the Guaranty "assign" and "assignment" means:

a) selling, exchanging or otherwise transferring effective control of management of the Guarantor (through sale, exchange or other transfer of outstanding stock or otherwise);

b) issuing new stock or selling, exchanging or otherwise transferring 20% or more of the then outstanding common stock of the Guarantor;

c) any dissolution, reorganization, consolidation, merger, re-capitalization, stock issuance or re-issuance, voting trust, pooling agreement, escrow arrangement, liquidation or other transaction which results in a change of ownership or control of Guarantor;

d) any assignment by operation of law, including insolvency or bankruptcy, making assignment for the benefit of creditors, writ of attachment of an execution, being levied against Guarantor, appointment of a receiver taking possession of any of Guarantor's tangible or intangible property; and,

e) any combination of the foregoing (whether or not in related or contemporaneous transactions) which has the effect of any transfer or change of Ownership or control of Guarantor.

For purposes of determining "Ownership", the constructive ownership provisions of Section 318(a) of the Internal Revenue Code of 1986, as in effect on the date here, will apply, provided that (1) 10 percent is substituted for 50 percent in Section 318(a)(2)(C) and in section 218(a)(3)(C) thereof; and (2) Section 218(a)(5)(C) is disregarded. For proposes of determining ownership under this paragraph and constructive or indirect ownership under Section 318(a), ownership interest of less than 20 percent is disregarded and percentage interests is determined on the basis of the percentage of voting interest or value which the ownership interest represents, whichever is greater.

4. **Guarantor absolute and unconditional.** The undertakings of Guarantor set forth in this Guaranty are absolute and unconditional, and the CITY is entitled to enforce any or all of those undertakings against Guarantor without being first required to enforce any remedies or to seek to compel the CONTRACTOR to perform its obligations under the Contract or to seek, or obtain recourse against any other party or parties, including but

not limited to the CONTRACTOR or any assignee of the CONTRACTOR, who are, or may be, liable therefore in whole or in part, irrespective of any cause or state of facts whatever. Without limiting the generality of the foregoing, the Guarantor expressly agrees that its state of facts or the happening from time to time of an event, other than the payment of the terms of the Contract, including, without limitation, any of the following, each of which is by this Guaranty expressly waived as a defense to its liability under this Guaranty, except to the extent those defenses would be available to the CONTRACTOR and release, discharge or otherwise offset CONTRACTOR'S obligations under the Agreement:

a) the invalidity, irregularity, illegality or unenforceability, of or any defect in or objections to the Contract;

b) any modification or amendment or compromise of or waiver of compliance with or consent to variation from any of the provisions of the Contract by the CONTRACTOR;

c) any release of any collateral or lien thereof, including, without limitation, any performance bond, or performance security;

d) any defense based upon the election of any remedies against the Guarantor of the CONTRACTOR, or both, including without limitation, any consequential loss by the Guarantor of its right to recover any deficiency, by the way of subrogation or otherwise, from the CONTRACTOR or any other Person or entity;

e) the recovery of any judgment against the CONTRACTOR to enforce any of that collateral, performance bond or performance security;

f) the CITY or its assigns taking or omitting to take any of the actions which it or any of that assign is required to take under the Contract; any failure, omission or delay on the part of the CITY or its assignees to enforce, assert or exercise any right, power or remedy conferred on it or its assigns by the Contract, except to the extent that failure, omission or delay gives rise to an applicable statute of limitations defense by the CONTRACTOR with respect to a specific obligation;

g) the default or failure of the Guarantor to fully perform any of its obligations set forth in the Guaranty;

h) the bankruptcy, insolvency, or similar proceeding involving or pertaining to the CONTRACTOR or the CITY, or any order or decree of a court, trustee or receiver in any proceeding;

i) in addition to those circumstances described in item (h), any other circumstance which might otherwise constitute a legal or equitable discharge of a guarantor or limit the recourse of the CITY to the Guarantor;

j) the existence or absence of any action to enforce the Contract;

k) subject to the provisions of the Contract relating to uncontrollable circumstances, any present or future law or order of any government or any agency thereof, purporting to reduce, amend or otherwise affect the Contract or to vary any terms of payment or performance under the Contract;

Providing that, notwithstanding the forgoing, Guarantor will not be required to pay any monetary obligation of CONTRACTOR to CITY from which CONTRACTOR would be discharged, released or otherwise excused under the provisions of the Contract.

5. **Waivers.** Guarantor by the Guaranty waives:

   a) notice of acceptance of the Guaranty and of the creation, renewal, extension and accrual of the limited financial obligations Guarantied under this Guaranty;

   b) notice that any Person has relied on this Guaranty;

   c) diligence, demand of payment and notice of default or nonpayment under this Guaranty or the Contract, and any and all other notices required under the Contract;

   d) filing of claims with a court in the event of reorganization, insolvency, or bankruptcy of the CONTRACTOR;

   e) any right to require a proceeding first against the CONTRACTOR or with respect to any collateral or lien, including, without limitation, any performance bond, or any other requirement that the CITY exercise any remedy or take any other action against the CONTRACTOR or any other Person, or in respect of any collateral or lien, before proceeding under this Guaranty;

   f) (i) any demand for performance or observance of, or (ii) any enforcement of any provision of, or (iii) any pursuit or exhaustion of remedies with respect to, any security (including, with limitation, any performance bond) for the obligations of the CONTRACTOR under the Contract; any pursuit of exhaustion of remedies against the CONTRACTOR or any other obligor or guarantor of the obligations; and any requirement of promptness or diligence on the part of any Person in connection therewith;

   g) to the extent that it lawfully may do so, any and all demands or notices of every kind and description with respect to the foregoing or which may be required to be given by any statute or rule of law, and any defense of any kind which it may now or hereafter have with respect to this Guaranty or the obligations of the CONTRACTOR under the Contract, *except* any Notice to the CONTRACTOR required pursuant to the Contract or applicable law which Notice preconditions the CONTRACTOR'S obligation or the defenses listed in Section 8 below.

   To the extent that it may lawfully do so, the Guarantor by this Guaranty further agrees to waive, and does by this Guaranty absolutely and irrevocably waive and relinquish, the benefit and advantage of, and does by this Guaranty covenant not to assert, any appraisement, valuation, stay extension, redemption or similar laws, now or any time hereafter in force, which might delay, prevent or otherwise impede the due performance or proper enforcement of the Guaranty, the Contract, or the obligations of the CONTRACTOR under the Contract and by this Guaranty expressly agrees that the right of the CITY under this Guaranty may be enforced notwithstanding any partial performance by the CONTRACTOR or the Guarantor, or the foreclosure upon any security (including, with limitation, any performance bond, or performance security) given by the CONTRACTOR for its performance of any of its obligations under the Contract.

6. **Agreements between CITY and CONTRACTOR; Waivers by CITY.** The Guarantor agrees that, without the necessity for any additional endorsement or Guaranty by or any reservation of rights against Guarantor and without any further assent by Guarantor, by mutual agreement between the CITY and CONTRACTOR, the CITY and CONTRACTOR may, from time to time:

   a) renew, modify or compromise the liability of the CONTRACTOR for or upon any of the obligations by the Guaranty Guarantied; or

b) consent to any amendment or change of an terms of the Contract; or

c) accept, release, or surrender any security (including, without limitation, any performance bond), or

d) grant any extensions or renewals of the obligations of the CONTRACTOR under the Contract, and any other indulgence with respect thereto, and to affect any release, compromise or settlement with respect thereto, all without releasing or discharging the liability of Guarantor under this Guaranty.

The Guarantor further agrees that the CITY or any of its assigns will have and may exercise full power in its uncontrolled discretion, without in any way affecting the liability of the Guarantor under this Guaranty, to waive compliance with and any default of the CONTRACTOR under, the Contract.

7. **Continuing Guaranty.** This Guaranty is a continuing Guaranty and will continue to be effective or be reinstated, as applicable, if at any time any payment of any of the obligations under this Guaranty is rescinded or is otherwise required to be returned upon reorganization, insolvency or bankruptcy of the CONTRACTOR or Guarantor or otherwise, all as though payment had not been made.

8. **Defenses.** Notwithstanding any provision in the Guaranty to the contrary, the Guarantor may exercise or assert any and all legal or equitable rights, defenses, counter claims or affirmative defenses under the Contract or applicable law which the CONTRACTOR could assert against any party seeking to enforce the Contract against the CONTRACTOR, and nothing in the Guaranty will constitute a waiver thereof by the Guarantor.

9. **Payment of costs of enforcing Guaranty.** Guarantor agrees to pay all costs, expenses and fees, including all reasonable attorney's fees, which may be incurred by the CITY in enforcing the Guaranty following the default on the part of the Guarantor under this Guaranty whether the same is enforced by suit or otherwise.

10. **Enforcement.** The terms of this Guaranty may be enforced as to any one or more breaches either separately or cumulatively.

11. **Remedies cumulative.** No remedy in this Guaranty conferred upon or reserved to the CITY under this Guaranty is intended to be exclusive or any other available remedy or remedies, but each and every remedy is cumulative and is in addition to every other remedy given under the Guaranty and the Contract or in this Guaranty after existing at law or in equity or by statute.

12. **Severability.** The invalidity or unenforceability of any one or more phrases, sentences or clauses in the Guaranty contained will not affect the validity or enforceability of the remaining portions of this Guaranty, or any part thereof.

13. **Amendments.** No amendment, change, modification or termination of this Guaranty is made except upon the written consent of Guarantor and the CITY.

14. **Term.** The obligations of the Guarantor under this Guaranty will remain in full force and effect until (i) all monetary obligations of the CONTRACTOR under the Contract will have been fully performed or provided for in accordance with the Contract, or (ii) the discharge, release or other excuse of those obligations in accordance with the terms of the Contract.

15. **No set-off, etc.**

By Guarantor. The obligation of Guarantor under this Guaranty will not be affected by any set-off, counterclaim, recoupment, defense or other right that Guarantor may have against the CITY on account of any claim of the Guarantor against the CITY; *provided* that Guarantor reserves the right to bring independent claims not arising from the Contract again the CITY so long as any claim will not be used to set-off or deduct from any claims which the CITY may have against the Guarantor arising from this Guaranty.

By CONTRACTOR. The obligation of Guarantor under this Guaranty is subject to any set-off, counterclaim, recoupment, defense or other right that the CONTRACTOR may assert pursuant to the Contract, if any, but the obligation of Guarantor under this Guaranty will not be subject to any set-off counterclaim, recoupment, defense or other right that the CONTRACTOR may assert independently of and outside the Contract.

16. **Warranties and representations.** The Guarantor warrants and represents that as of date of execution of this Guaranty:

    a) The Guarantor has the power, authority and legal right to enter into this Guaranty and to perform its obligations and undertakings under this Guaranty, and the execution, delivery and performance of this Guaranty by the Guarantor (i) have been duly authorized by all necessary corporate and shareholder action on the part of the Guarantor, (ii) have the requisite approval of all federal, State and local governing bodies having jurisdiction or authority with respect thereto, (iii) do not violate any judgment, order, law or regulation applicable to the Guarantor, (iv) do not conflict with or constitute a default under any agreement or instrument to which the Guarantor is a party or by which the Guarantor or its assets may be bound or affected; and (v) do not violate any provision of the Guarantor's articles or certificate of incorporation or by-laws.

    b) This Guaranty has been duly executed and delivered by the Guarantor and constitutes the legal, valid and binding obligation of the Guarantor, enforceable against the Guarantor in accordance with its terms; and

    c) There are no pending or, to the knowledge of the Guarantor, threatened actions or proceedings before any court administrative agency which would have a material adverse effect on financial condition of the Guarantor, or the ability of the Guarantor to perform its obligations or undertakings under this Guaranty.

17. **No merger; no conveyance of assets.** Guarantor agrees that during the term of this Guaranty in accordance with Section 14 Guarantor will not consolidate with or merge into any other corporation where the shareholders of the Guarantor yield control of the Guarantor, or a majority interest in the Guarantor, to the newly formed corporation, or convey, transfer or lease all or substantially all of its properties and assets to any person, firm, joint venture, corporation, and other entity, unless the CITY consents thereto in accordance with Section 3 above.

18. **Counterparts.** This Guaranty may be executed in any number of counterparts, some of which may not bear the signatures of all parties to the Guaranty. Each counterpart, when so executed and delivered, is deemed to be an original and all counterparts, taken together, will constitute one and the same instrument; *provided, however,* that in pleading or proving this Guaranty, it will not be necessary to produce more than one coy (or sets of copies) bearing the signature of the Guarantor.

19. **Notices.** All notices, instructions and other communications required or permitted to be given to or made upon any party to this Guaranty shall be given in writing, deposited in the U.S. mail, registered or certified, first class postage prepaid, addressed as follows:

City Administrator
Office of the City Administrator
City of Oakland
1 Frank Ogawa Plaza, 3rd Floor
Oakland, CA 94612
Telephone: (510) 238-3301
E-mail: cityadministrator@oaklandnet.com

With copies to:

Director of Public Works
Public Works Agency
City of Oakland
250 Frank Ogawa Plaza, Suite 4314
Oakland, CA 94612
Telephone(510) 238-4470
E-mail: vtroyan@oaklandnet.com

City Attorney
Office of the City Attorney
City of Oakland
1 Frank Ogawa Plaza, 6th Floor
Oakland, CA 94612
Telephone: (510) 238-3601
E-mail: info@oaklandcityattorney.org

Director of Finance and Management
Finance and Management Agency
City of Oakland
150 Frank Ogawa Plaza, Suite 5215
Oakland, CA 94612
Telephone: (510) 238-2220
E-mail: sjohnson@oaklandnet.com

As to the GUARANTOR:

[Title]
[Company]
[Street Address]
[City, State, Zip]
Telephone: xxx-xxx-xxx
E-mail: xxx@xxx.xxx

With a copy to:

[Title]
[Company]
[Street Address]
[City, State, Zip]
Telephone: xxx-xxx-xxx
E-mail: xxx@xxx.xxx

20. **Separate Suits.** Each and every payment default by CONTRACTOR under the Contract will give rise to a separate cause of action under this Guaranty, and separate suits may be brought under this Guaranty by the CITY or its assigns as each cause of action arises.

21. **Headings.** The Section headings appearing in this Guaranty are for convenience only and will not govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of this Guaranty.

22. **Entire Agreement.** This Guaranty constitutes the entire Guaranty between the parties to this Guaranty with respect to the transactions contemplated by this Guaranty. Nothing in this Guaranty is intended to confer on any Person other than the Guarantor, the CITY and their permitted successors and assigns under this Guaranty any rights or remedies under or by reason of this Guaranty.

23. **Personal Liability.** It is understood and agreed to by the CITY that nothing contained in the Guaranty will create any obligation or right to look to any director, officer, employee or stockholder of the Guarantor (or any affiliate thereof) for the satisfaction of any obligations under this Guaranty, and no judgment, order or execution with respect to or in connection with this Guaranty is taken against any director, officer, employee or stockholder.

24. **Events of Default.** Each of the following will constitute an event of default under this Guaranty:

    a) **Failure to fulfill payment of guaranty.** Guarantor fails to fulfill full and timely payment of any guaranty under this Guaranty, including Section 1, and the failure continues for five (5) days after Notice (which is deemed given upon receipt of registered or certified mailing by U.S. Postal Service or of invoiced commercial service) (hereinafter defined as "**Notice**") has been given to the Guarantor by the CITY, fails to perform any of its obligations under this Guaranty or engages in any acts prohibited under this Guaranty other than failures itemized below, and fails to cure that failure or conduct within thirty (30) days;

    b) **Breach of Guaranty.** The Guarantor fails to observe and perform any covenant, condition or agreement of this Guaranty, other than any failures listed explicitly in this section, and that failure continues for more than thirty (30) days after Notice has been given the Guarantor by the CITY;

    c) **Failure to give Notice of proposed assignment, etc.** The Guarantor fails to give CITY Notice in accordance with Section 19 within ten (10) days of the first to occur of

        (i) CONTRACTOR or any Affiliate issuing a press release as to any proposed assignment, (within the meaning of Section 3), or consolidation, merger, conveyance, transfer or lease described in paragraph (e) of this Section (24) or

(ii) The filing with the Securities and Exchange Commission of a Form 8-K or other filing with respect to a memorandum of intent or an agreement and plan therefore

(paragraph (i) and (ii) together defined as, "**Change Notice**");

d) **Consolidation, merger; conveyance of assets.** The Guarantor consolidates, merges or conveys, transfers or leases assets in violation of Section 17 despite CITY Council action following Change Notice in preceding paragraph c) withholding or denying CITY consent, and on or before 15 days thereafter does not provide CITY with a substitute Guarantor satisfaction to CITY in CITY'S sole discretion;

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

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

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

Upon any Event of Default the CITY may to proceed first and directly against the Guarantor under Guaranty without proceeding against or exhausting any other remedies, which it may have. The Guarantor acknowledges that any CONTRACTOR default comprises a default under the Agreement.

IN WITNESS WHEREOF Guarantor has executed this instrument the day and year first above written.

By: _____ Date: _____

Attest: _____ Date: _____

Proper notarial acknowledgement of execution by Guarantor must be attached.

(1) Chairman, president or vice-president, and (2) secretary, assistant secretary, CFO or assistant treasurer, must sign for corporations. Otherwise, the corporation must attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

IN WITNESS WHEREOF, the CITY and Guarantor have executed this Guaranty as of the day and year first written above.

CITY OF OAKLAND	[Contractor Company]
By:_____.	By:_____.
[Name, Title]	[Name, Title]

Approved as to Form:

_____

[Name, Title]

EXHIBIT 16
BUSINESS TAX CERTIFICATE