ATTACHMENT B

Agreement
AGREEMENT FOR SOLID WASTE, RECYCLABLE MATERIALS, ORGANIC MATERIALS AND YARD TRIMMINGS COLLECTION AND PROCESSING SERVICES

BETWEEN

THE CITY OF PALO ALTO

AND

GREENWASTE OF PALO ALTO

October 2008
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AGREEMENT FOR SOLID WASTE, RECYCLABLE MATERIALS, ORGANIC MATERIALS AND YARD TRIMMINGS COLLECTION AND PROCESSING SERVICES

THIS AGREEMENT is made as of this 20th day of October, 2008, by and between the CITY OF PALO ALTO, a chartered California municipal corporation ("City"), and GREENWASTE OF PALO ALTO, a California joint venture ("Contractor").

RECITALS

This Agreement is entered into on the basis of the following facts, understandings and intentions of the parties:

1. The State of California has found and declared that the amount of solid waste generated in California, coupled with diminishing landfill space and potential adverse environmental impacts from landﬁlling, have created an urgent need for State and local agencies to enact and implement an aggressive integrated waste management program. The State has, through enactment of the California Integrated Waste Management Act of 1989, now codified as Public Resources Code Section 40000, et seq. (the "Act"), directed the California Integrated Waste Management Board, and local agencies, to promote recycling and to maximize the use of feasible source reduction, recycling and composting options in order to reduce the amount of solid waste that must be disposed of in landﬁlls. The City has already achieved a level of waste diversion from landﬁll disposal that exceeds the level required by the Act.

2. In October 2005, the City Council approved a Zero Waste Strategic Plan developed by a task force of City residents and businesses. The City has since then formulated a Zero Waste Operational Plan, whose purposes are to reduce signiﬁcantly the amount of waste produced by residents, businesses and institutions within the City, to reduce the toxicity of the disposed waste stream, and to maximize diversion of recyclable and compostable materials generated within the City.

3. On February 29, 2008, the City issued a Request for Proposals ("RFP") seeking proposals from qualiﬁed companies to provide the collection of Solid Waste, Recyclable Materials, Organic Materials and Yard Trimmings, the processing of
Recyclable Materials for reuse, the delivery of Yard Trimings and Organic Materials for composting, the marketing of such materials and the transport of non-recyclable waste materials for disposal. The RFP requested proposals for new and expanded recycling services intended to implement the goals of the Zero Waste Operational Plan in an aggressive, cost-effective manner.

4. The City has evaluated all proposals submitted and has determined that the Contractor has proposed to provide the required services in a manner and on terms that are in the best interests of the City, taking into account (a) the Contractor’s qualifications and experience, (b) its commitment to recycling, (c) its understanding of the flexibility that will be required to accommodate the number of changes that will occur during the term of the Agreement due to closure of the City’s landfill and associated facilities, as well as the introduction and evolution of new programs intended to implement the Zero Waste Operational Plan, and (d) the cost of providing such services.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions contained in this Agreement and for other good and valuable consideration the parties agree as follows:
ARTICLE 1. DEFINITIONS

Unless the context otherwise requires, capitalized terms used in this Agreement will have the meanings specified in Attachment A.

Other capitalized terms, not defined in Attachment A, will have the meanings set forth in the definitions in Section 5.20.010 of the Palo Alto Municipal Code, which are incorporated herein by this reference.

If a term is neither defined in Attachment A nor in the Palo Alto Municipal Code, that term will have the same meaning as the definition of the term contained in the Act.
ARTICLE 2. TERM OF AGREEMENT

2.01 Effective Date. The effective date of this Agreement shall be November 24, 2008 ("Effective Date").

2.02 Term. The Term of the Agreement shall commence on the Effective Date and shall end at midnight on June 30, 2017, unless extended as provided in Section 2.03. Contractor’s obligation to collect Solid Waste and Recyclable Materials and provide other services to customers as required by this Agreement shall commence July 1, 2009.

2.03 Option to Extend Term. The City may extend the Term of this Agreement for one (1) or more periods of twelve (12) months, up to a maximum of four (4) years, on the same terms and conditions. If City wishes to extend the Term it shall deliver a written notice to Contractor at least six (6) months before the expiration of the Term (i.e. on or before December 31, 2016) specifying the number of additional months by which it wishes to extend the Term. If the City initially elects to extend the term for less than four (4) years, it may subsequently elect to further extend the term in increments of twelve (12) months, up to a total of four (4) years, i.e. until June 30, 2021. If the City wishes to further extend the term in this fashion it shall deliver a written notice to Contractor at least thirty (30) days prior to the expiration of the extended term.

2.04 Conditions to Effectiveness of Agreement. The obligation of the City to perform under this Agreement is subject to satisfaction, on or before the Effective Date, of each and all of the conditions set out below, which may be waived in whole or in part by City:

A. Accuracy of Representations. The representations and warranties made by Contractor in Article 3 of this Agreement shall be true and correct on and as of the Effective Date, and a certification to that effect dated as of the Effective Date shall be delivered by Contractor to City on the Effective Date.
B. **Absence of Litigation.** There shall be no litigation pending on the Effective Date in any court challenging the execution of this Agreement or seeking to restrain or enjoin its performance.

C. **Furnishing of Bond and Guaranty.** Contractor has furnished the Performance Bond required by Section 10.03, or alternative security described in Section 10.04 if approved by City, and the Guaranty required by Section 10.07.

D. **Effectiveness of City’s Approval.** The City’s approval of this Agreement shall have become effective, pursuant to California law, on or before the Effective Date.

In the event that any condition set forth in this Section 2.04 is not satisfied or waived by the Effective Date by the City, this Agreement shall be void and shall have no further force or effect. City may waive the satisfaction of conditions described in Section 2.04, allow this Agreement to become effective, and exercise its rights and remedies under this Agreement for Contractor’s failure to deliver the Performance Bond, alternative security, or Guaranty. Each party is obligated to perform in good faith the actions, if any, which this Agreement requires it to perform before the Effective Date and to cooperate towards the satisfaction of the conditions set forth above.
ARTICLE 3. REPRESENTATIONS AND WARRANTIES OF CONTRACTOR

3.01  **Corporate Status.** Contractor is a general partnership duly organized, validly existing and in good standing under the laws of the State of California, and is qualified to do business in the State of California. It has the power to own its properties and to carry on its business as now owned and operated and as required by this Agreement.

3.02  **Corporate Authorization.** Contractor has the authority to enter into and perform its obligations under this Agreement. The board of directors, the shareholders, and general partner of the Contractor's two partners have taken all actions required by law, their articles of incorporation and bylaws, their partnership agreements or otherwise to authorize the execution of this Agreement. The persons signing this Agreement on behalf of Contractor have authority to do so.

3.03  **Statements and Information in Proposal.** The Proposal submitted to City by Contractor and information submitted to City supplementary thereto, on which City has relied in entering into this Agreement does not contain any untrue statement of a material fact nor omit to state a material fact necessary in order to make the statements made; in light of the circumstances in which they were made, not misleading.

3.04  **No Conflict with Applicable Law or Other Documents.** Neither the execution and delivery by Contractor of this Agreement, nor the performance by Contractor of its obligations hereunder (i) conflicts with, violates or will result in a violation of any existing applicable law; or (ii) 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 or its partners are a party, or by which Contractor or its partners are bound.

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

3.06 Financial Condition. Contractor has made available to City information on its financial condition, and that of its partners. Contractor recognizes that City has relied on this information in evaluating the sufficiency of Contractor's financial resources to perform this Agreement and of its partners to guaranty such performance. To the best of Contractor's knowledge, this information is complete and accurate, does not contain any material misstatement of fact and does not omit any fact necessary to prevent the information provided from being materially misleading.

3.07 Expertise. Contractor has the expertise and professional and technical capability to perform all of its obligations under this Agreement and is ready, willing and able to so perform.
ARTICLE 4. COLLECTION OF SOLID WASTE, RECYCLABLE MATERIALS, ORGANIC MATERIALS AND YARD TRIMMINGS

4.01 Scope of Work - General. The work to be done by Contractor includes the furnishing of all labor, supervision, equipment, materials, supplies and all other items necessary to perform the services required by the Agreement in a thorough, workmanlike, cost-effective and efficient matter, so that residents, businesses and institutions within the City are provided reliable, courteous and high-quality services at all times. The enumeration of, and specification of requirements for, particular items of labor or equipment shall not relieve Contractor of the duty to furnish all others that may be required, whether enumerated or not.

Contractor shall perform all work in accordance with Attachments C and G, all provisions of which are incorporated herein whether or not such provisions are specifically referred to in any other section of this Agreement. In addition, to the extent that Contractor's Proposal includes promises to perform services in addition to, or at a higher standard of service than those required by the Request for Proposals, those promises are incorporated into this Agreement and Contractor hereby ratifies its agreement to perform as promised.

4.02 Transition and Implementation Plan. The parties recognize that substantial planning and preparation will be required to ensure a successful initiation of collection operations by Contractor on July 1, 2009. To that end, Contractor has prepared a detailed transition and implementation plan addressing the steps Contractor will take, and the schedule on which it will take them, to prepare for commencement of collection operations. The implementation plan covers, among other matters, Contractor's schedule for hiring and training of personnel, acquiring necessary collection vehicles and arranging for their registration and inspection, acquiring equipment including new containers (carts, bins and boxes), preparing customer information materials (including collection schedules, route maps, billing forms, complaint forms, service request forms and so forth), distributing new containers to customers as required, securing a local office and a vehicle and container storage facility, and developing a contingency plan, and is attached as Attachment B.
Contractor shall diligently adhere to the implementation plan and shall meet periodically, whenever City requests, to review progress. Failure to adhere to the implementation plan, including its schedule, shall constitute a breach of this Agreement which, if uncured, shall constitute a default under Section 11.01.

The specific plans and other materials required to be submitted by the implementation plan are subject to City's review and approval. City will take actions, make decisions, and provide directions to Contractor in accordance with the schedule and time allowances set forth in Attachment B, so as not to delay Contractor's adherence to the implementation plan schedule.

4.03  **Grant of Exclusive and Non-Exclusive Rights**

A. **Exclusive Rights.** Subject to the terms and conditions of this Agreement and State laws (including the right of State agencies and public schools to use a Solid Waste enterprise other than Contractor), and except as otherwise specifically provided herein, City grants to Contractor for the Term the exclusive authority, right and privilege to collect, transport and dispose of all Solid Waste generated by or accumulated on all Residential and Commercial/Industrial Premises in the City and to collect, transport and recycle all Recyclable Materials and Yard Trimmings from Residential Premises. This grant is also subject to the exceptions and exclusions provided in Section 5.20.110 of the Municipal Code.

B. **Non-Exclusive Rights.** Subject to the terms and conditions of this Agreement and State laws, and except as otherwise specifically provided herein, City grants to Contractor for the Term the non-exclusive right to collect, transport and recycle Recyclable Materials, Organic Materials and Yard Trimmings from Commercial/Industrial Premises.

4.04  **Collection of Solid Waste**

A. **Single Family Residential Premises.** Contractor shall collect all Solid Waste generated at Single Family Residential Premises within the City and placed for collection at curbside or at sideyard/backyard locations by Customers who subscribe for such collection or who are eligible for such collection under policies
adopted by City from time to time. Solid Waste shall be collected at the frequencies and in the manner specified in Attachment C, Section 1.A.

B. **Multiple Family Residential Premises.** Contractor shall collect all Solid Waste generated at Multiple Family Residential Premises within the City and placed for collection. Solid Waste shall be collected at the frequencies and in the manner specified in Attachment C, Section 1.B.

C. **Commercial/Industrial Premises.** Contractor shall collect all Solid Waste generated at Commercial/Industrial Premises within the City and placed for collection. Solid Waste shall be collected at the frequencies and in the manner specified in Attachment C, Section 1.C.

D. **City Facilities and City-Furnished Public Litter Receptacles.** Contractor shall collect all Solid Waste generated at City Facilities and placed for collection. The current City Facilities to be served, the frequency of collection and the number and capacity of containers to be collected are listed on Attachment D-1. The number and location of City Facilities to be provided service may change during the Term, as may the number and capacity of containers at each facility. Contractor shall also collect all Solid Waste deposited in City-owned receptacles, including those receptacles placed at bus stops. The approximate number of public Solid Waste receptacles, their current locations and collection frequencies are shown on Attachment D-2, each of which may change during the Term. Public Solid Waste receptacles shall be provided service at the frequencies and in the manner specified in Attachment C, Section 1.D.

4.05 **Collection of Recyclable Materials and Organic Materials.**

A. **Single Family Residential Premises.** Contractor shall collect Recyclable Materials from all Single Family Residential Premises within the City placed for collection at curbside or at sideyard/backyard locations by Customers who are eligible for such collection under policies adopted by the City from time to time. Recyclable Materials shall be collected at the frequencies and in the manner specified in Attachment C, Section 2.A.
B. **Multiple Family Residential Premises.** Contractor shall collect Recyclable Materials from all Multiple Family Residential Premises within the City placed for collection. Recyclable Materials shall be collected at the frequencies and in the manner specified in Attachment C, Section 2.B.

C. **Commercial/Industrial Premises.** Contractor shall collect Recyclable Materials from all participating Commercial/Industrial Premises that are placed for collection in Contractor-furnished containers. Contractor shall collect Organic Materials from all participating Commercial/Industrial Premises that are placed for collection in approved containers. Contractor shall also collect cardboard from shared containers in the business districts and wooden pallets. Recyclable Materials and Organic Materials shall be collected at the frequencies and in the manner specified in Attachment C, Section 2.C.

D. **City Facilities and City-Furnished Recycling Receptacles.** Contractor shall collect Recyclable Materials placed for collection at the City Facilities listed on Attachment D-1. Contractor shall collect Recyclable Materials deposited in City-owned Recycling Receptacles at City Hall and other locations in downtown Palo Alto, the number and location of which are shown on Attachment D-3. Contractor shall also collect and recycle polystyrene and plastic film at City Hall.

4.06 **Collection of Yard Trimmings.**

A. **Single Family Residential Premises.** Contractor shall collect Yard Trimmings from all Single Family Residential Premises within the City placed for collection at curbside or at sideyard/backyard locations by Customers who are eligible for such collection under policies adopted by the City from time to time. Yard Trimmings shall be collected at the frequencies and in the manner specified in Attachment C, Section 3.A.

B. **Multiple Family Residential Premises.** Contractor shall collect Yard Trimmings from all Multiple Family Residential Premises within the City placed for collection. Yard Trimmings shall be collected at the frequencies and in the manner specified in Attachment C, Section 3.B.
C. **Commercial/Industrial Premises.** Contractor shall collect Yard Trimmings from all participating Commercial/Industrial Premises that are placed for collection in City-furnished or Contractor-furnished containers. Yard Trimmings shall be collected at the frequencies and in the manner specified in Attachment C, Section 3.C.

D. **City Parks and Other Facilities.** Contractor shall collect Yard Trimmings placed for collection at the City Facilities listed on Attachment D-1.

4.07 **Drop-Box Collection Services.**

A. **Solid Waste.** Contractor shall collect Solid Waste deposited in Contractor-furnished drop boxes (7, 15, 20, 30 and 40 cubic yard capacities) on an on-call basis and on a monthly scheduled service basis, as requested by Customer. The drop boxes shall be provided and collected as specified in Attachment C, Section 4.

B. **Construction and Demolition Recycling.** Contractor shall collect Construction and Demolition Debris deposited in Contractor-furnished drop boxes (7, 15, 20, 30 and 40 cubic yard capacities) on an on-call basis. The drop boxes shall be provided and collected as specified in Attachment C, Section 4.

C. **Single-Source Separated Recyclables.** Contractor shall collect Single-Source Separated Recyclables deposited in Contractor-furnished drop boxes (7, 15, 20, 30 and 40 cubic yard capacities) on an on-call and monthly scheduled service basis, as requested by Customer. The drop boxes shall be provided and collected as specified in Attachment C, Section 4.

D. **Yard Trimmings.** Contractor shall collect Yard Trimmings deposited in Contractor-furnished drop boxes (15, 20, and 30 cubic yard capacities) on an on-call and on a monthly scheduled service basis, as requested by Customer. The drop boxes shall be provided and collected as specified in Attachment C, Section 4.

4.08 **Special Services.** Contractor shall provide the following special services as specified in Attachment C, Section 5.
- Solid Waste and Recyclables Collection at Household Hazardous Waste Events
- On-Call Recycling Cleanout Service
- Annual Clean-Up Days
- Special Events
- Physical Limitations Program

4.09 **Other Collection-Related Services.** Contractor shall provide the following services:

A. **General**
- Performance Audits
- Route Audits
- Waste Generation/Characterization on Single Stream Recycling
- Waste Audits for Green Business Certifications
- Program Evaluation Audits
- Customer Public Opinion Surveys

Details of each of the above are described in Attachment C, Section 5.G.

B. **Cleaning of Public Receptacles.** All public receptacles listed on Attachments D-2 and D-3, including lids and metal liners, shall be thoroughly power-washed (with high pressure water and a strong detergent) twice a year. The Contractor shall provide a list of dates for cleaning to Director for approval thirty (30) days in advance of the first scheduled date. In addition, Contractor shall wipe the exteriors and lids of all public receptacles listed on Attachments D-2 and D-3 with water and detergent every two weeks, on a schedule approved by the Director. Contractor shall clean the interiors of public receptacles whenever needed to avoid odors and shall collect any materials that have accumulated within or around the receptacles.

C. **Building Plan Review.** Contractor shall provide assistance to City by reviewing and providing comments on applications for City permits to construct new
buildings or to remodel existing buildings. Contractor shall review building plans for adequate space to accommodate the number and size of containers for Solid Waste, Recyclable Materials, Organic Materials, and Yard Trimmings for adequate collection vehicle access and turnaround. Contractor shall provide City, within five (5) Business Days of receiving the plans, its written evaluation of the plans and any recommendations to improve safety and assure sufficient storage space and convenient access.

D. **Program Evaluation.** Contractor shall periodically conduct surveys of the Single-Family Residential, Multi-Family Residential, and Commercial Solid Waste, Recyclable Materials, Organic Material, and Yard Trimmings Collection programs to assess one or more of the following performance indicators: average volume of Recyclable Materials per setout per customer, average volume of Organic Materials per setout per customer, average volume of Yard Trimmings per setout per customer, participation level (i.e., number of Customers setting out Containers per week), contamination levels, etc. Contractor shall perform up to five (5) days of route surveys each rate period. The City and Contractor shall meet and discuss the purpose of the survey and the method, scope, and data to be provided by the Contractor.

4.10 **Hours of Collection.** Collection of Solid Waste, Recyclable Materials, Organic Materials, and/or Yard Trimmings may occur only within hours authorized by the City. The City Municipal Code currently prohibits collection of Solid Waste, Recyclable Materials or Yard Trimmings (1) earlier than 6:00 a.m. or later than 6:00 p.m. in residential districts and at schools, churches and commercial premises adjacent to residential districts, and (2) earlier than 4:00 a.m. or later than 9:00 p.m. in commercial districts subject to reasonable modification made by the Director.

4.11 **Collection Standards.**

A. **Care of Private Property.** Contractor shall use due care when handling Solid Waste, Recyclable Materials, Organic Material, and Yard Trimmings Containers. Containers shall not be thrown from trucks, roughly handled, damaged or broken. Containers shall be returned to the collection point upright, with lids properly closed.
Contractor shall ensure that its employees close all gates opened by them in making collections, unless otherwise directed by the Customer, and avoid crossing landscaped areas and climbing or jumping over hedges and fences.

City will refer complaints about damage to private property, including common areas in common-area subdivisions, to Contractor. Contractor shall promptly repair, or arrange for the repair of, all damage to private property caused by its employees within ten (10) days of the complaint being received.

B. **Noise.** All collection operations shall be conducted as quietly as possible and shall conform to any federal, state, County and City noise level regulations. The noise level shall not exceed 95 decibels at a distance of 25 feet from the collection vehicle, as provided in Municipal Code Section 9.10.060(h). The City may conduct random checks of noise emission levels to ensure such compliance.

C. **Service Quality.** Contractor shall promptly (within ten (10) days) and courteously respond to, and satisfactorily resolve, Customer complaints relating to: missed pick-ups, spills and litter resulting from collection; collection schedule changes; broken or missing containers; improper set-outs; noise; obstruction of traffic or sidewalks during collection; and collection vehicle operation, including safety.

4.12 **Litter Abatement.**

A. **Minimization of Spills.** Contractor shall use due care to prevent Solid Waste, Recyclable Materials, Organic Materials, or Yard Trimmings from being spilled or scattered during the collection or transportation process. If any Solid Waste, Recyclable Materials, Organic Materials, or Yard Trimmings is spilled, Contractor shall promptly notify the City and clean up all spilled materials, whether on private or public property. Each collection vehicle shall carry a broom and shovel at all times for this purpose.

Contractor shall not transfer loads from one vehicle to another on any public street or private roadway, unless it is necessary to do so because of mechanical failure or damage to a collection vehicle which renders it inoperable.
B. **Clean Up.** The Contractor shall clean up litter in the immediate vicinity of any Solid Waste, Recyclable Materials, Organic Materials, or Yard Trimings storage area (including the areas where collection containers or bins and debris boxes are placed for collection) whether or not Contractor has caused the litter. Contractor shall notify the Customer and the City after the second such occurrence at a specific Premises in a calendar year. City may require the Customer to accept and pay for increased service (i.e., a larger bin or more frequent collections).

4.13 **Hazardous Waste**

A. **General.** Contractor shall be aware of, and comply with, all laws and regulations relating to the handling and transportation of Hazardous Waste and hazardous materials, including those regarding training and documentation.

B. **Notice to Customers.** Contractor shall notify all Customers at least once a year of (i) the prohibition against the disposal of Hazardous Waste in containers placed for collection by Contractor, (ii) the obligation of each Customer to provide for the proper handling and disposition of Hazardous Waste, and (iii) options available to Customers for the collection and appropriate processing of Hazardous Waste. To the extent that Contractor has actual knowledge of the existence of such Hazardous Waste in a container placed for collection, Contractor shall not collect such container. Contractor shall, prior to leaving the location where such Hazardous Waste has been observed, leave a tag at least 3" x 6" which informs the customer why the collection was not made and lists the telephone number for the City of Palo Alto Household Hazardous Waste Management Program.

C. **Contractor to Segregate and Dispose.** In the event Contractor inadvertently collects any Hazardous Waste and during the course of transportation and disposition becomes actually aware that it has collected such Hazardous Waste, Contractor shall segregate the Hazardous Waste, and shall arrange for its transport to a properly permitted recycling, treatment or disposal facility of Contractor's choosing. Contractor shall be solely responsible for the transport and appropriate disposition of all Hazardous Waste that is collected by the Contractor. Contractor shall cooperate with City attempts to locate and collect from the responsible Customer.
D. Operating Procedures and Employee Training. Contractor shall establish, implement and maintain written operating procedures designed to ensure Contractor's utilization of techniques generally accepted in the waste hauling industry for cities of the size and demographic composition of the City of Palo Alto, to handle and dispose of Hazardous Waste and its compliance with the provisions of this Section 4.12. Contractor shall establish, implement and maintain an employee training program and shall ensure that employees responsible for the identification of Hazardous Waste are fully trained. Contractor shall maintain documentation which describes the training received by its employees.

4.14 Provision of Emergency Services. Contractor shall provide emergency services at the City's request in the event of major accidents, disruptions, or natural calamities. Emergency services may include, but are not limited to: assistance handling, salvaging, processing, composting, or recycling materials; and disposing of Solid Waste. Contractor shall be capable of providing emergency services within twenty-four (24) hours of notification by the City or as soon thereafter as is reasonably practical in light of the circumstances. Emergency services which exceed the Contractor's obligations shall be compensated in accordance with Article 9. If Contractor cannot provide the requested emergency services, the City will have the right to take possession of the Contractor's equipment for the purposes of providing emergency services.

Contractor shall submit to City ninety (90) days prior to commencement of collection services (i.e., on or before April 2, 2009), a written contingency plan demonstrating Contractor's arrangements to provide vehicles and personnel and to maintain uninterrupted service in case of natural disaster or other emergency, including the events described in this Section and Section 11.10.

4.15 Public/Customer Service and Accessibility

A. Office. Contractor shall establish and maintain an office in the City or within two (2) miles from the City boundary if the Geng Road site cannot be made available.
B. **Office Hours.** Contractor's office shall be open to the public from 8 a.m. to 5 p.m. Monday through Friday. On those Saturdays on which collection services are performed, the office shall be open from 8 a.m. until all collection routes have been completed. The office may be closed on Sundays and holidays, as defined.

C. **Staffing.** At least two (2) thoroughly trained and knowledgeable customer service representatives shall be present at the Geng Road office whenever it is open to communicate with the City, and assist members of the public with questions, complaints about service, initiating and terminating service, paying bills, and other similar matters.

D. **Telephone.** Contractor's office shall be equipped with telephone equipment sufficient in number and capacity to allow calls received during office hours to be answered by an employee within five (5) rings. Any caller on hold for more than ninety (90) seconds shall have the option of remaining on hold or being switched to a message center where the caller may leave a message. Callers "on hold" shall be connected to a customer service representative within an additional ninety (90) seconds. All messages left shall be responded to within sixty (60) minutes. If these standards are not consistently met, or if an excessive number of callers are placed on hold, City may require Contractor to install additional telephone lines or provide additional staff coverage.

Calls received when the office is closed shall be recorded and answered before 12 noon on the following workday.

Contractor shall arrange for its telephone number to be listed in all telephone directories generally distributed in the City, on all written materials distributed by Contractor, and on Contractor's web site.

Contractor shall be capable of responding to telephone calls in English, Spanish [and such other languages as City may require].

Contractor shall use its best efforts to secure the same telephone number as the predecessor service provider.
E. **Correspondence.** Contractor shall respond to all written correspondence, including those sent electronically ("email"), from City or Customers within three (3) business Days.

F. **Emergency Contact.** Contractor shall provide the City with an emergency telephone number so that the City can reach a representative of Contractor, authorized to act on Contractor’s behalf outside of office hours. The emergency representative shall respond to any call from City within one (1) hour.

G. **Web Site.** Contractor shall establish and maintain a web site which will provide at least the following services and capabilities: (1) provide answers to frequently asked questions; (2) list the Contractor’s office address, mailing address (if different), telephone and email contact information; (3) a current schedule of collection days and routes; (4) a schedule of the current City-approved rates and charges, (5) lists of materials that may (or should not) be placed in Solid Waste, Recyclable Materials and Yard Trimming containers; (6) allow Customers to schedule services and request changes in service, including cancellation, and to file complaints; and (7) contain a link to the City’s web site. The information posted on Contractor’s web side shall be consistent with City’s web site information, unless otherwise approved by City.

H. **Large Customers.** Contractor shall designate specific employee(s) to be responsible for large customers (the top 50 waste generators) in order to maintain a good working relationship with the Customer and resolve problems in a timely manner. Large customers shall be provided an itemized list of charges by address of each customer’s facilities, within 24 hours of a request.

4.16 **Billing and Collecting For Specific Services.** When Contractor is requested to provide special services (primarily on-call drop box service), it shall determine whether the Customer has a utility account in good standing with City. If so, Contractor will notify City of the service provided and City will bill the Customer. If the Customer does not have a utility account in good standing with the City, Contractor shall require payment prior to delivery of the service (i.e., before or when the drop box is delivered to the site). Payment will be accepted in cash, certified check payable to Contractor, or credit card. Contractor shall notify City of the service provided and the
amount collected and shall remit all funds collected to City as provided in Attachment C.

4.17 **Drop-Off and Recycling Center.** Contractor shall operate the Drop-Off and Recycling Center ("Recycling Center") located at the entrance of the Palo Alto Landfill.

The principal purpose of the Recycling Center is to provide a convenient location for residents of the City and other communities to deliver recyclable materials, household electronic devices, hazardous wastes, large appliances and other materials.

The Recycling Center's hours of operation will be the same as those of the Palo Alto Landfill; currently these are 8 a.m. to 5 p.m., seven days per week, except the three holidays.

Contractor will provide a minimum staff of two full time employees who will be on site at all times the Recycling Center is operating. Employees will be trained in the safe handling of household hazardous wastes and electronic wastes and familiar with the laws and regulations applicable to Certified Appliance Recyclers. They will be able to communicate effectively with members of the public regarding the proper bins/locations in which to deposit materials and shall serve as ambassadors of the City's waste prevention and recycling programs.

Contractor will furnish a forklift which shall be on site and operating in excellent condition at all times.

Contractor shall furnish all containers necessary for the safe and efficient operation of the Recycling Center. Containers shall be clearly marked so that members of the public can readily identify the type of materials that may be placed in each container. Containers shall be painted and maintained on a regular basis, at frequencies no less than those required for other containers in Attachment C.

Contractor shall receive, sort, consolidate, process, store, transport and market recyclable materials delivered to the Recycling Center, all as described in Attachment C, Section 6. Attachment C, Section 6 also contains:
• A list of acceptable materials;
• Procedures required for removal and handling of regulated materials such as mercury and CFCs;
• Additional duties of employees on site.

Contractor shall maintain the Recycling Center in a clean, neat and safe condition at all times and shall collect and dispose of all litter generated during operations on a daily basis and immediately upon request by City.

Contractor shall operate the Recycling Center as a certified appliance recycler in accordance with Health and Safety Code Section 25211 et seq., Public Resources Code Section 42160 et seq., and associated regulations.

When the Palo Alto Landfill ceases operation, the City may, in its sole discretion, terminate operation of the Recycling Center, operate such a center with its own forces or those of another city or private company, or continue its operation by Contractor at a different site. If the Contractor continues to operate the Recycling Center, the parties will meet to consider whether the new location or any changes in the scope of work requires an increase in, or warrants a reduction in, Contractor’s Compensation.
ARTICLE 5. TRANSPORTATION OF MATERIALS

5.01 **General.** Contractor shall transport all Solid Waste, Recyclable Materials, including Construction and Demolition Debris to be Recycled, Yard Trimmings, and Organic Materials collected pursuant to this Agreement to the facilities identified in this Article 5. Contractor will deliver material collected in the City directly to each of the facilities described below and will not commingle any material collected from outside the City in the vehicles used to deliver City materials to these facilities. Contractor shall not deliver Solid Waste, Recyclable Materials, including qualifying loads of Construction and Demolition Debris, Yard Trimmings or Organic Materials to facilities other than those identified in this Article without the prior written approval of City.

5.02 **Transportation of Solid Waste.** Contractor shall transport and deliver all Solid Waste collected pursuant to this Agreement to the Sunnyvale Materials Recovery and Transport Station ("SMART Station") in Sunnyvale or to the Palo Alto Landfill in Palo Alto, as directed by City from time to time. Contractor recognizes that the Palo Alto Landfill is scheduled to close in 2011.

Contractor shall cooperate with the operators of the SMART Station and the Palo Alto Landfill with regard to operations therein including, by way of example, complying with directions from the operator to unload collection vehicles in designated areas, accommodating to maintenance operations and construction of new facilities, and cooperating with the operator’s hazardous waste exclusion program and tonnage tracking system.

5.03 **Transportation of Recyclable Materials.** Contractor shall transport and deliver all Recyclable Materials collected pursuant to this Agreement, including those delivered to the Recycling Center, to the Greenwaste Material Recovery Facility located at 625 Charles Street, San Jose.

5.04 **Transportation of Yard Trimmings.** Contractor shall transport and deliver all Yard Trimmings collected pursuant to this Agreement to the composting facility at the Palo Alto Landfill until that facility ceases operation, if the City directs, Yard Trimmings will be delivered to the SMART Station at no additional cost.
Thereafter, Yard Trimmings shall be transported and delivered to the SMART Station unless otherwise directed in writing by City.

5.05 **Transportation of Construction and Demolition Debris for Recycling.** Contractor shall transport and deliver all Construction and Demolition Debris collected pursuant to this Agreement to the Zanker Road Materials Processing Facility located at 675 Los Esteros Road, San Jose or to the Zanker Road Resource Recovery Operation and Landfill, located at 705 Los Esteros Road, San Jose for Recycling.

5.06 **Transportation of Organic Materials.** Contractor shall transport and deliver Organic Materials collected from Commercial/Industrial Premises and food waste collected at special events to the Greenwaste Material Recovery Facility, from which they will be transported to the Z-Best Composting Facility located at 980 State Highway 25, Gilroy for composting.
ARTICLE 6. PROCESSING OF MATERIALS FOR RECOVERY AND REUSE

6.01 **General.** Contractor recognizes that the City Council has adopted, as a matter of municipal policy, the goal of minimizing the amount of materials that are disposed of in landfills and that the activities described in this Article are essential components of achieving that goal. A major factor in the City's decision to award this Agreement to Contractor has been the Contractor's representations and assurances as to the levels of recovery and reuse that will be achieved by processing at the facilities identified in this Article.

6.02 **Recyclable Material Processing**

A. **Capacity and Priority Assurances.** Contractor shall secure by the Effective Date a written assurance from the owner/operator of the Greenwaste Material Recovery Facility (Greenwaste MRF) that (1) it has the physical capacity to accept and effectively process all Recyclable Materials delivered to the facility from the City in addition to any Recyclable Material which it is currently contractually committed to accept and process; (2) its solid waste facility permit, and all other permits from governmental agencies necessary for it to operate, authorize it to accept and process the Recyclable Materials expected to be delivered from the City in addition to any Recyclable Material which it is currently contractually committed to accept and process; and (3) it has committed, or will commit, to assign Recyclable Materials collected in the City by Contractor and delivered to the facility higher priority in processing and marketing than all similar materials, other than those which are delivered under contracts which the facility owner/operator entered into before the Effective Date of this Agreement.

B. **Processing.** Contractor shall assure that all Recyclable Materials delivered to the Greenwaste MRF are processed (sorted, cleaned and baled) for Recycling and/or reuse in accordance with the Processing Standards set forth in Attachment E.

C. **No Disposal/Residue Limit.** Contractor shall ensure that Recyclable Materials it delivers to the Greenwaste MRF are not incinerated or disposed of at a landfill, except as provided in the following sentence. Unmarketable residue, not
to exceed eight percent (8%) by weight of mixed Recyclable Material delivered from City, measured as provided in Attachment E, may be disposed of at a permitted disposal site.

D. **Marketing.** Contractor shall ensure that no less than ninety two percent (92%) by weight of the Recyclable Materials delivered to the Greenwaste MRF is marketed for Recycling or reuse, such that those materials will qualify as having been diverted under CIWMB regulations.

E. **Weighing.** Contractor shall ensure that the owner/operator of the Greenwaste MRF operates scales at the facility that are registered with the County Department of Weights & Measures. The scales shall be regularly maintained to ensure their reliability and accuracy. Inspection reports and maintenance records shall be made available for review by City on request. All Recyclable Materials delivered to the Greenwaste MRF will be weighed upon initial delivery. Gross, tare and net weights will be recorded, along with vehicle number, date and time of delivery.

F. **Reporting.** Contractor will arrange for accurate, complete and timely reports on Tons of Recyclable Materials delivered to Greenwaste MRF, Tons of Recycled Materials marketed and prices received, and Tons of residue disposed to be produced by the owner/operator of the facility and furnished to City as provided in Attachment E.

G. **Inspection.** Contractor shall arrange for City to have free access to inspect the Greenwaste MRF during business hours.

6.03 **Construction and Demolition Debris Processing**

A. **Capacity and Priority Assurances.** Contractor shall secure by the Effective Date a written assurance from the owner/operator of the Zanker Materials Processing Facility (ZMPF) and the Zanker Road Resource Recovery Operation and Landfill (ZRRROL) that (1) each facility has the physical capacity to accept and effectively process all C&D Debris delivered to the facility from the City in addition to any C&D Debris which they are currently contractually committed to accept and process; (2) the solid waste facility permits, and all other permits from governmental agencies necessary for each facility to operate, authorize them to accept and process the
C&D Debris expected to be delivered from the City in addition to any C&D Debris which they are currently contractually committed to accept and process; and (3) it has committed, or will commit, to assign C&D Debris collected in the City by Contractor and delivered to either facility higher priority in processing and marketing than all similar materials, other than those which are delivered under contracts which the facility owner/operator entered into before the Effective Date of this Agreement.

B. **Processing.** Contractor shall assure that all C&D Debris delivered to the ZMPF or the ZRRROL is processed (sorted, cleaned and baled) for Recycling and/or reuse in accordance with the Processing Standards set forth in Attachment E.

C. **No Disposal/Residue Limit.** Contractor shall ensure that C&D Debris it delivers to the ZMPF or the ZRRROL is not disposed of at a landfill, except as provided in the following sentence. Unmarketable residue, not to exceed twenty five percent (25%) by weight of the total combined mixed and single source separated C&D Debris delivered from City to both facilities, measured as provided in Attachment E, may disposed of at a permitted Landfill.

D. **Marketing.** Contractor shall ensure that no less than seventy five percent (75%) by weight of the total combined mixed and single source separated C&D Debris delivered from City to both facilities is marketed for Recycling or reuse, such that those materials will qualify as having been diverted under CIWMB regulations.

E. **Weighing.** Contractor shall ensure that the owner/operator of the ZMPF and the ZRRROL operates scales at each facility that are registered with the County Department of Weights & Measures. The scales shall be regularly maintained to ensure their reliability and accuracy. Inspection reports and maintenance records shall be made available for review by City on request. All C&D Debris delivered to the ZMPF or the ZRRROL will be weighed upon initial delivery. Gross, tare and net weights will be recorded, along with vehicle number, date and time of delivery.

F. **Reporting.** Contractor will arrange for accurate, complete and timely reports on Tons of C&D Debris delivered to ZMPF or the ZRRROL, Tons of C&D Debris marketed and prices received, and Tons of residue disposed to be produced by
the owner/operator of the ZMPF and the ZRRROL and furnished to City as provided in Attachment E.

G. **Inspection.** Contractor shall arrange for City to have free access to inspect the ZMPF and the ZRRROL during business hours.

6.04 **Organic Materials Processing**

A. **Capacity and Priority Assurances.** Contractor shall secure by the Effective Date a written assurance from the owner/operator of the Z-BEST Composting Facility (Z-BEST) that (1) it has the physical capacity to accept and effectively process all Organic Materials delivered to the facility from the City in addition to any Organic Materials which it is currently contractually committed to accept and process; (2) its solid waste facility permit, and all other permits from governmental agencies necessary for it to operate, authorize it to accept and process the Organic Materials expected to be delivered from the City in addition to any Organic Materials which it is currently contractually committed to accept and process; and (3) it has committed, or will commit, to assign Organic Materials collected in the City by Contractor and delivered to the facility higher priority in processing and marketing than all similar materials, other than those which are delivered under contracts which the facility owner/operator entered into before the Effective Date of this Agreement.

B. **Processing.** Contractor shall assure that all Organic Materials delivered to Z-BEST are processed for use as compost, mulch, or soil amendment in accordance with the Processing Standards set forth in Attachment E.

C. **No Disposal or Use as ADC.** Contractor shall ensure that Organic Materials it delivers to Z-BEST are not disposed of at a landfill or used as alternative daily cover at a landfill. Inorganic contamination, not to exceed ten percent (10%) by weight of Organic Materials delivered from City, measured as provided in Attachment E, may be disposed of at a permitted disposal site.

D. **Marketing.** Contractor shall ensure that no less than ninety percent (90%) by weight of the Organic Materials collected in City and delivered to Z-
BEST is processed for use as compost, mulch, or soil amendment such that those materials will qualify as having been diverted under CIWMB regulations.

E. Weighing. Organic Materials will initially be delivered to the Greenwaste MRF and weighed. Thereafter, they will be loaded into transfer vehicles for transport to Z-BEST. All Organic Materials delivered to the Z-BEST will also be weighed upon initial delivery.

F. Reporting. Contractor will arrange for accurate, complete and timely reports on Tons of Organic Materials delivered to the Greenwaste MRF and to Z-BEST, Tons of Organic Materials marketed and prices received, and Tons of residue disposed to be produced by the owners/operators of the Greenwaste MRF and Z-BEST, and furnished to City as provided in Attachment E.

G. Inspection. Contractor shall arrange for City to have free access to inspect Z-BEST during business hours.
ARTICLE 7. EQUIPMENT, PERSONNEL AND FACILITIES

7.01 General. Contractor shall furnish all equipment necessary to perform safely and efficiently the services required by this Agreement except for the Containers furnished by the City which are listed on Attachment F.

7.02 Vehicles.

A. General. Contractor shall provide collection and auxiliary vehicles of the type, size and configuration, and in the quantities shown on Attachment G. All such vehicles shall be suitable in design and construction for arduous heavy-duty service. All vehicles shall comply with all laws and regulations including but not limited to the California Air Resources Board regulations for solid waste collection vehicles codified at 13 CCR Section 2020 et seq.

B. Purchase of Vehicles

1. Purchase of New Vehicles. All of the vehicles placed in service on July 1, 2009 shall be new and unused, other than those to be purchased from Palo Alto Sanitation Company (PASCO), the current service provider, which are described in subsection 2. Use of newly acquired vehicles for weekend training of drivers to be employed by Contractor and dedicated to service in City shall not disqualify such vehicles from being “new and unused.”

2. Purchase of PASCO Vehicles. Contractor shall purchase six (6) collection vehicles powered by compressed natural gas (CNG) from PASCO, as well as three (3) other ancillary vehicles. All of these vehicles are separately identified in Attachment G, together with their initial purchase prices and depreciation schedules.

City will provide Contractor with CNG at no cost, at its fueling facility located at 3201 East Bayshore Road, Palo Alto. Concurrently with the approval of this Agreement by City, Contractor will be issued a fueling permit by City containing the terms and conditions of Contractor’s use of that facility.

3. Purchase of Replacement Vehicles. Any vehicles purchased during the Term shall be new and unused. If it becomes necessary, a used vehicle may
be placed into service on a temporary basis (i.e., no more than 90 days), provided that it is safe, in good operating condition, equivalent in design and capacity to vehicles in regular service and approved by the City.

C. **Vehicle Identification.** The name of City and Contractor, Contractor's local telephone number, and a unique vehicle identification number for each vehicle shall be prominently displayed on all vehicles. City shall approve all details, including size, color and location of text, I.D. numbers and logo.

D. **Cleaning and Maintenance.**

1. **General.** Contractor shall maintain all of its equipment used in providing service under this Agreement in a safe, neat, clean and operable condition at all times.

2. **Cleaning.** The exterior and interior of vehicles used in the collection of Solid Waste, Recyclable Materials, Organic Materials, and Yard Trimmings shall be thoroughly washed by Contractor a minimum of twice per week and thoroughly steam cleaned at least once every week. City may inspect vehicles at any time to determine compliance with sanitation requirements and aesthetic conditions. Contractor shall make vehicles available to the City, the Santa Clara County Department of Environmental Management and the Local Enforcement Agency for inspection, at any frequency they request.

3. **Painting.** All vehicles used in collection of Solid Waste, Recyclable Materials, Organic Materials, and Yard Trimmings shall be repainted by Contractor at least once every five years, unless the City determines that repainting a specific vehicle at that frequency is not necessary because the vehicle's appearance is satisfactory or unless the City determines that repainting a specific vehicle earlier (due to graffiti damage, etc.) is necessary to ensure that the vehicle gives the appearance of having been repainted within the preceding twenty four (24) months.

4. **Maintenance.** Contractor shall (i) inspect each vehicle daily to ensure that the vehicle and all equipment is operating properly; and (ii) perform or cause to be performed all scheduled maintenance functions in accordance with the
manufacturer's specifications and schedule. Vehicles which are not operating properly shall be taken out of service until they are repaired and do operate properly. Contractor shall keep accurate records of all vehicle maintenance, recorded according to vehicle or part I.D., date, and mileage, and shall make such records available to the City and the California Highway Patrol upon request.

5. Repairs. Contractor shall repair, or arrange for the repair of, all vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all vehicles and equipment in a safe and operable condition. If an item of repair is covered by a warranty, Contractor shall obtain warranty performance. Contractor shall maintain accurate records of repair, which shall include the vehicle or part I.D., date/mileage, nature of repair and the signature of a maintenance supervisor that the repair has been properly performed.

6. Storage. Contractor shall arrange to store all vehicles and other equipment in safe and secure location(s). Vehicles shall be stored at Contractor's corporation yard identified in Section 7.09 or at another location arranged by Contractor and approved, in advance and in writing, by City. Facilities used for storage or maintenance shall comply with all zoning and land use requirements applicable to the facility. City shall have access to the facilities at all times. Vehicles may not be stored (e.g., parked overnight) on City streets.

E. Operation. Vehicles shall be operated in compliance with the California Vehicle Code and all applicable safety regulations and City ordinances. Vehicles shall be operated only by employees of Contractor who are appropriately licensed by the California Department of Motor Vehicles. Contractor shall not load vehicles in excess of the manufacturer's recommendations or limitations, imposed by state or local weight restrictions on vehicles. Contractor shall be solely responsible for paying any fines imposed by the California Highway Patrol, or other regulatory agencies, for violation of these requirements.

F. Sale. If Contractor sells a vehicle or other equipment during the Term, its remaining undepreciated value shall be removed from the calculation of Contractor's Compensation. If the equipment was fully depreciated before its sale, the
revenue received by Contractor from its sale shall be reported to City and deducted from Contractor’s Compensation. If such vehicle or equipment must be replaced by a similar vehicle or equipment, depreciation on the new vehicle and/or equipment, based on an eight-year useful life in the case of vehicles, shall be included in Contractor’s Compensation.

7.03 **Solid Waste, Recycling and Yard Trimming Containers.**

A. **General.** Contractor shall purchase, assemble, and deliver to Customers containers for storage of (i) Solid Waste, (ii) Recyclable Materials, (iii) Organic Materials, (iv) Yard Trimmings, (v) Construction/Demolition Debris, and (vi) “Recycling Buddies” for Multi-Family Premises, the type, size and initial quantities or minimum inventory of which are shown in Attachment H. All such containers shall be new and unused. The type, size and number of containers provided to each Customer shall be sufficient to contain, with the lid closed, all Solid Waste, Recyclable Materials and Yard Trimmings generated between collections.

B. **Repair and Replacement.** Contractor shall repair or replace all containers damaged by collection operations or which do not meet vendors’ warranties. Customers shall be provided with adequate numbers of containers available for use during all times between scheduled collection days.

C. **Cleaning, Painting and Maintenance of Contractor-Furnished Containers.** Contractor shall maintain all Contractor-furnished containers in a functional condition and so as to present a clean and attractive appearance in the opinion of the Director. Such containers shall be painted and repainted as requested by City. Contractor-furnished containers that have been marked with graffiti shall be cleaned, repainted or removed from the Premises by Contractor within twenty-four (24) hours of notification by the Customer or City. At the same time as such containers are removed, they shall be replaced by clean, like-sized containers furnished by Contractor. Contractor shall clean and maintain all Contractor-furnished containers in a safe and sanitary condition and whenever the City, or another agency with jurisdiction as a regulator, determines that cleaning is required to abate a health concern or nuisance condition.
D. **Other.** Additional requirements related to containers are included in Attachment C.

7.04 **City Right to Purchase Equipment, Sales of Equipment.** The City may purchase any or all equipment owned by Contractor at the expiration or earlier termination of this Agreement, at its net book value as shown on Contractor's financial statements, which shall be no greater than the purchase price less the accumulated depreciation allowed for such equipment in payments of Contractor's Compensation pursuant to Article 9. Contractor shall, prior to August 1, 2009, deliver to the City properly signed UCC-1 Financing Statements and all other documents necessary or appropriate for the City to secure its purchase options and shall file, or allow the City to file, such Statements and other documentation as provided in California Commercial Code. As new or replacement equipment is purchased, similar documentation covering it shall be provided by Contractor within thirty (30) days of purchase.

If Contractor wishes to lease (rather than purchase) the equipment which it is to furnish, it shall request City's permission to do so and provide to City, for its approval, complete and accurate copies of all equipment leases which it proposes to enter into. The leases must provide that the lessor will, if requested, consent to their assignment to City without charge upon the expiration or earlier termination of this Contract and must provide adequate mechanisms for the City to acquire title to equipment.

Upon the City's exercise of its option to purchase, Contractor shall sign and deliver bills of sale or other documents reasonably requested by City to evidence the transfer of title to all equipment purchased.

City has no obligation to acquire Contractor's vehicles, or any other Contractor equipment, at the end of the initial Term or as it may be extended, nor to pay the undepreciated value (net book value) of such vehicles or equipment then or upon the earlier termination of this Agreement.

7.05 **Personnel.**

A. **General.** Contractor shall furnish competent and qualified drivers, mechanics, laborers, managerial, supervisory, clerical, and other personnel in sufficient
numbers to provide the services required by this Agreement in a safe and efficient manner. The minimum complement of full time personnel which Contractor will provide for the scope of work described in this Agreement shall be as shown on Attachment I.

Contractor shall maintain a complete roster of employees providing service under this Agreement. The roster shall contain the name, home address, phone number, social security number, job classification, date of hire, driver’s license number, and such other information as City may require. The City may inspect the roster, and make a copy thereof at Contractor’s expense.

B. **Driver Qualifications.** All drivers shall be trained and qualified in the operation of waste collection vehicles and must have in effect a valid license, of the appropriate class, issued by the California Department of Motor Vehicles. Each driver shall carry his/her license during work hours. Drivers must be proficient in the English language.

C. **Uniforms.** Contractor shall require its drivers, and all other employees who come into contact with the public in the City during working hours, to wear standardized uniforms bearing the Contractor’s name, and to carry an identification badge or other means of identifying the employee. The City will have the right to approve the style and color of the uniforms. Such uniforms shall present a freshly cleaned appearance. Employees shall be instructed to present employment identification cards to City staff, customers, security guards and law enforcement officers upon request, during work hours.

D. **Safety Training.** Contractor shall provide, at least annually, comprehensive operational and safety training for all of its employees who utilize or operate vehicles or equipment for collection or processing of Solid Waste, Recyclable Materials and Yard Trimmings, or who are otherwise directly involved in such collection or processing. Contractor shall train its employees involved in collection to identify, and not collect, Hazardous Waste or Infectious Waste and shall make clear that any scavenging of loads is prohibited. Contractor shall provide the name of its safety officer,
the frequency of its training, and a copy of its training policy and safety training program to City upon request.

E. **No Gratuities.** Contractor shall not permit its employees to demand or solicit, directly or indirectly, any additional compensation or gratuity from members of the public for the collection of Solid Waste, Recyclable Materials and Organic Materials.

F. **Employee Conduct and Courtesy.** Contractor shall use its best efforts to assure that all employees present a neat appearance and conduct themselves in a courteous manner. Contractor shall regularly (at least annually) train its employees in customer courtesy, shall prohibit the use of loud or profane language and the removal of any materials from loads, and shall instruct collection crews to perform the work as quietly as possible. If any employee is found not to be courteous or not to be performing services in the manner required by this Agreement, Contractor shall take all necessary corrective measures, including, but not limited to, transfer, discipline or termination. If City has notified Contractor of a complaint related to discourteous behavior, Contractor shall, upon request of City, reassign the employee to duties not entailing contact with the public while the Contractor is pursuing its investigation, disciplinary, and retraining process.

G. **Provision of Recycling/Public Education Specialist.** Contractor shall designate one qualified employee as specialist of recycling and public education activities. The specialist will devote all of his or her time to these activities, some of which are described in Attachment C. Contractor shall notify City, in writing, of the name of the specialist prior to commencing operations and whenever there is a change in the staffing of the position.

H. **Ongoing Training and Testing.** Contractor shall provide safety training on an ongoing basis and shall conduct random drug and alcohol testing of employees in safety-sensitive positions in compliance with regulations issued by the U.S. Department of Transportation. Contractor shall furnish City with a copy of its training manual and schedule of training of employees; City may require Contractor to
include specific topics in such manual and training program. City may attend and observe any safety or operational training classes.

I. **Sober and Drug-Free Workplace.** Contractor shall adopt policies and procedures consistent with State and federal law that ensure a sober and drug-free workplace. This includes strictly prohibiting unlawful manufacture, distribution, possession, or use of any controlled substance in the workplace, regardless of whether the employee is on duty at the time. Further, the policies and procedures shall prohibit an employee from operating either City or Contractor equipment and vehicles (whether on or off duty) while under the influence of alcohol or drugs. The purpose of these policies and procedures is to ensure workplace safety, productivity, efficiency, and the quality of Contractor’s service to Customers.

J. **City Role in Hiring of Key Management Employees.** Before extending an offer of employment for the position of general manager, operations manager, or education/outreach manager, Contractor shall provide the City with proposed position descriptions and an opportunity to review information about the background and experience of the person(s) being considered, as well as an opportunity to meet with those persons. Contractor shall give thoughtful consideration to City’s comments on the job descriptions and to its advice about each candidate, but shall have the ultimate right to make employment decisions in its best business judgment. This provision applies to the initial hiring for these three positions and to subsequent hirings during the Term if and when such position(s) become vacant.

7.06 **Use of Workers Not Employed by Contractor.** All drivers, mechanics, customer service representatives, supervisory and managerial workers shall be direct employees of Contractor. If Contractor engages any workers through an independent contractor, such as an employment agency, it shall ensure that such contractor or agency:

1. Provides all such workers compensation equal to that which Section 7.08 would require Contractor to pay if the workers had been hired as its own employees.
2. Complies with the nondiscrimination requirements imposed on Contractor by Section 12.14;

3. Maintains comprehensive general liability, workers compensation and employer's liability insurance covering such workers in the amount required by Section 10.02 and with policies meeting the other requirements of Section 10.02.

Contractor shall be responsible for providing qualified and competent workers, whether as direct employees or through workers furnished by an independent contractor. Contractor shall also be responsible for providing sufficient training to all workers so that they can perform the work in a safe and competent manner and are thoroughly familiar with the work which Contractor is required to perform and the standards it is required to meet by this Agreement.

If workers provided by a particular independent contractor prove persistently unsatisfactory, City may require that Contractor either secure workers through a different independent contractor or hire qualified and competent employees directly. Contractor shall defend and indemnify City from and against any claim or suit filed by any independent contractor furnishing workers to Contractor.

7.07 Initial Hiring.

A. Contractor shall fill the positions required to perform the work required by this Agreement, in the job classifications listed in subsection C below, by first offering employment to those employees of the predecessor contractor (Palo Alto Sanitation Company) (1) who have been working continuously from January 1, 2009 in one or more of the listed job classifications, (2) who are eligible for employment under federal and state law, (3) who meet the Contractor's minimum employment standards for new employees related to California Vehicle Code violations and driving safety, (4) who have not been convicted of a crime that is related to the job or job performance, and (5) who do not present a demonstrable danger to customers, co-workers or City employees.
B. If Contractor does not have enough positions available in the listed job classifications to offer employment to all of the predecessor contractor’s employees who are eligible for employment under subsection A, Contractor shall maintain a list of the predecessor contractor’s employees who were not offered employment. If any positions become available during the first six (6) months of operation (i.e., from July 1, 2009 through December 31, 2009), Contractor shall offer employment to persons on the list by seniority within each job classification.

C. The job classifications covered by this section are drivers, mechanics, laborers, field supervisors, and customer service representatives. It does not apply to management, or other administrative or clerical employees.

7.08 **Wages and Benefits.**

A. Upon commencement of operations on July 1, 2009, Contractor shall pay employees wages and benefits no less than the total hourly wage shown on Attachment J-1, increased in each case by the same percentage that the Consumer Price Index, All Urban Consumers for the San Francisco-Oakland-San Jose Metropolitan Area ("Index") has increased between April 2008 (i.e., 222.074) and April 2009. The total hourly wage in each job classification shall be increased on July 1, 2010 and on July 1 of each year thereafter by an amount not less than the percentage that the Index has increased between April 2009 and April 2010, in the case of the adjustment to be made on July 1, 2010, and between the corresponding Aprils in succeeding years.

B. Contractor must provide a health benefit program for employees in the job classifications listed in Section 7.07.C, substantially identical to the program described in its Proposal.

C. The hourly cash equivalent of benefits such as sick leave, vacation/holiday, and health insurance will be determined as shown on Attachment J-2. Subject to the requirement in subsection B for a health insurance program, Contractor may provide any combination of wages and benefits so long as the hourly cash equivalent of such combination equals the "total hourly wage" shown on Attachment J-1, as adjusted.
D. Contractor will (1) recognize vacation accrual rates based on seniority earned by employees during their service with the current collector; and (2) allow employees who worked for the current collector and who had previously scheduled vacation during July through September 2009 to take up to ten (10) working days of that vacation as scheduled despite not having accrued sufficient vacation with Contractor, provided such employees agree that subsequent accruals of vacation will first be applied to offsetting the vacation advanced by Contractor.

E. Contractor shall promptly furnish the City information that it requests, including certified payrolls, to verify Contractor’s compliance with this section.

7.09 Facilities. Contractor shall provide all facilities necessary for vehicle parking and maintenance, container storage and maintenance, employee parking, administration and all other activities required to provide the services required by this Agreement. Contractor shall own or lease the facilities; secure all permits needed to conduct operations at the facilities and operate in compliance with such permits; design, finance and construct any site improvements; and maintain the facilities in good condition.

The Contractor’s corporation yard shall be located in Santa Clara County. No later than January 1, 2009, Contractor shall enter into a lease for the corporation yard and provide City a copy of the fully-executed lease. The lease term shall begin no later than July 1, 2009. Contractor shall comply with the terms of the lease for the corporation yard. Contractor shall not move its operations to a different site without prior notice to, and written approval of, City.

Concurrently with City approval of this Agreement, Contractor will enter into a lease with the City for use of an approximately 0.9 acre parcel of City-owned property at 2000 Geng Road, is to be used for administrative purposes (including route supervision and customer service functions) and for limited storage of containers such as wheeled carts and bins to be delivered to customers. The initial monthly rental, commencing July 1, 2009 will be Twelve Thousand One Hundred Fifty Dollars ($12,150). The rental payments have been included in Contractor’s Compensation shown on Attachment N-1.
In subsequent years, rent will be adjusted by reference to a specified index and thereafter modified to reflect market rental rates. Rental payments are included in Contractor's Compensation as a pass through cost, as shown on Attachment N-1 and N-2 and will continue to be reimbursed on a pass through basis as they are adjusted or modified throughout the Term.

If the County imposes a possessory interest tax on Contractor's leasehold interest, those tax payments will also be reimbursed as a pass through cost.

Contractor shall comply with the terms of the lease for the Geng Road site.
ARTICLE 8. RECORD KEEPING, REPORTING AND INSPECTIONS

8.01 General. Contractor recognizes that maintenance of complete, accurate, reliable and verifiable records of its operations and timely submission to City of accurate and complete reports is an essential aspect of the service to be provided by it under this Agreement.

8.02 Record Keeping; Audit. Contractor shall maintain accurate records of its operations in sufficient detail to allow for accurate determinations of all matters that require periodic determination under this Agreement. These records shall cover (i) personnel, (ii) equipment, (iii) collection operations, (iv) customer service (name, address, service level and changes, special collection details, etc.), (v) recycling operations, (vi) financial transactions, (vii) billings by Contractor for services provided and other matters, in such detail and format necessary to compile the reports required by this Agreement, including those identified in Attachment K-1. City may review and make copies (at Contractor’s expense), of all of Contractor’s operational and business records related to this Agreement, including those described in this section.

City may, at any reasonable time during the Term and for three (3) years thereafter, audit Contractor’s records pertaining to matters covered by this Agreement. Contractor shall maintain and retain such records for at least three (3) years after the expiration or earlier termination of this Agreement.

Contractor shall maintain record security sufficient to preserve records from destruction or damage from reasonably foreseeable events including fire, earthquake and theft. Data maintained in an electronic medium shall be protected, and backed up, with a copy stored at a separate site from the original data. Contractor may utilize a record storage service to store at a secure off-site location those records to which immediate access is not needed, so long as those records can reliably be retrieved within 24 hours after a request by Contractor or City.

8.03 Data Management; Billing Support. Contractor shall provide a data management system capable of supporting City’s delivery of accurate and timely bills to Customers. The specific capabilities of this system are described on Attachment K-2.
8.04 **Reporting.** Contractor shall compile and submit complete and accurate reports required by this Agreement, including those identified in Attachment K-1, in the format and at the frequencies specified. Reports identified on Attachment K-1 shall contain a statement, signed by the Contractor’s representative designated pursuant to Section 12.12.B, that the report is complete and accurate to the representative's knowledge, after due inquiry.

8.05 **Right to Inspect Operations.** City will have the right, but not the obligation, to observe and inspect all of the Contractor’s operations involved in providing service under this Agreement. Contractor shall cooperate fully with such inspections. In connection therewith, City will have the right to enter any facilities operated or used by Contractor during operating hours, speak to any of Contractor’s employees (and those of any subcontractor) and receive accurate responses from such employees to any inquiries directed to such employees. In addition, upon reasonable notice and without interference with Contractor’s operations, City may review and copy any of Contractor’s operational and business records related to this Agreement. If City so requests, Contractor shall make specified personnel available to accompany City employees on inspections and shall provide electronic copies of records stored in electronic media.

8.06 **Compliance Reporting.** Contractor shall submit monthly, quarterly and annual reports to the City documenting the disposition of Solid Waste, Recyclable Materials, and Yard Trimings and shall format such reports so that they may be used by the City to demonstrate compliance with the reporting requirements of the Act or any other subsequently enacted federal or state laws or regulations governing integrated waste management.

8.07 **Reports as Public Records.** The reports, records and other information submitted (or required to be submitted) by Contractor to City are public records within the meaning of that term in the California Public Records Act, Government Code Section 6250 et seq. Unless a particular record is exempted from disclosure by the California Public Records Act, it will be disclosed to the public by the City upon request.
ARTICLE 9. COMPENSATION

9.01 General. Contractor's Compensation provided for in this Article shall be the full, entire, and complete compensation due to Contractor pursuant to this Agreement for all labor, equipment, materials and supplies, cost of capital, payments to processors, payments to subcontractors, taxes, insurance, bonds, overhead, profit, and all other things necessary to perform all the services in the manner required by this Agreement. Base Compensation for the first two years of the Agreement (FY 2009/10 and FY 2010/11) is established based on Contractor's Proposal, as refined to reflect the final scope of services, which includes Zero Waste Services as well as Baseline Services. The costs associated with providing the services to be covered by Base Compensation for FY 2009/10 and FY 2010/11 are set out in Attachment N-1. Contractor has carefully reviewed Attachment N-1 immediately before executing this Agreement. Contractor is satisfied that those costs, and the net revenue from sales of Recyclable Materials, are accurate and acknowledges that the Base Compensation set out in Section 9.03, adjusted as provided in Section 9.04 and supplemented as provided in Section 9.05, represents the entire compensation due Contractor. In subsequent years, Base Compensation will be adjusted annually, based on the application of specified indices produced by the U.S. Department of Labor, Bureau of Labor Statistics to specified cost pools and to the profit allowance, which together comprise Base Compensation. Both parties recognize that in some or all years Contractor's actual costs may increase or decrease at rates different from the rates at which the various indices change. If Contractor's actual costs are less than the costs adjusted by the specified indices, Contractor will be entitled to retain the difference. Conversely, if Contractor's costs are greater than the costs as adjusted by the specified indices, Contractor will not be entitled to additional compensation to make up the difference.

A fundamental principle underlying this Agreement is that Contractor is entitled to one hundred percent (100%) of the revenues it receives from the sale of Recyclable Materials and other materials that it collects from within the City, including CRV revenues. Contractor has estimated the amount of those revenues for the initial two years of the Term and they are incorporated into the Base Compensation calculations for Rate Year One and Rate Year Two (Attachment N-1). Similar to the cost pools shown
on Attachment N-1, the revenue from sales of Recyclable Materials shown on Attachment N-1 will be adjusted by the change in a specified index when calculating Contractor's Base Compensation for Rate Period Three and subsequent Rate Periods. As with costs, both Parties recognize that actual revenues from the sale of Recyclable Materials may exceed, or fall short of, the calculated amounts in Rate Period Three and thereafter. As with costs, if such revenues exceed the calculated amount, Contractor is entitled to retain them, while if they fall short, City is not obligated to offset the shortfall.

The cost of providing certain services is difficult to forecast because the extent to which such services will be demanded by customers is uncertain. For that reason, they are excluded from Base Compensation and will be compensated on a unit price and/or allowance basis as provided in Section 9.05.

9.02 **Total Compensation.** The Contractor's Total Annual Compensation shall equal the sum of the following:

- Base Compensation (Sections 9.03 and 9.04), including calculated net revenues from the sale of Recyclable Materials (including CRV Revenues), Yard Trimmings, Construction and Demolition Materials, and any other materials Collected pursuant to this Agreement;

- Additional compensation for extra services provided which are compensated on a unit-price basis pursuant to Section 9.05 (Extra Service Compensation); and,

- Adjustment (reduction) for any Solid Waste or Yard Trimmings delivered to the City Landfill pursuant to Section 9.06 (City Landfill Adjustment).

9.03 **Compensation for Rate Periods One and Two.**

A. **Rate Period One.** Contractor's Base Compensation for Rate Period One, which is the 12-month period commencing July 1, 2009 and ending on June 30, 2010, shall be Ten Million Three Hundred Sixty Seven Thousand Two Hundred Seventy Nine Dollars ($10,367,279.00) as detailed in Attachment N-1.

Contractor's Total Annual Compensation for Rate Period One shall equal the sum of (i) Base Compensation for Rate Period One, (ii) Extra Service Compensation, and (iii) City Landfill Adjustment, if any.
B. **Rate Period Two.** Contractor's Base Compensation for Rate Period Two, which is the 12-month period following Rate Period One (i.e., from July 1, 2010 to June 30, 2011) shall be Ten Million Four Hundred Fifty Thousand Six Hundred Seventy Four Dollars ($10,450,674.00), as detailed in Attachment N-1.

Contractor's Total Annual Compensation for Rate Period Two shall equal the sum of (i) Base Compensation for Rate Period Two, (ii) Extra Service Compensation; and, (iii) City Landfill Adjustment, if any.

9.04 **Compensation for Subsequent Rate Periods.** Contractor's Base Compensation for all Rate Periods following Rate Period Two shall be determined using the index-based adjustment method presented in Attachment N-2. The method involves use of specified cost adjustment factors (the percentage change in various consumer price indices) to calculate changes in the Contractor's Base Compensation. The percentage change in the applicable indices is applied to the calculated cost pools and calculated net revenues from sale of materials collected that comprise the Contractor's Base Compensation for the then-current Rate Period to determine the Contractor's Base Compensation for the coming Rate Period. For example, in January 2012 when calculating Contractor's Base Compensation for Rate Period Four (FY 2012/2013), the percentage change in cost indices will be applied to the calculated Rate Period Three cost pools to calculate Rate Period Four costs.

The Contractor's Total Annual Compensation for all Rate Periods following Rate Period Two shall equal the sum of the following:

- Base Compensation calculated using the formula presented in Attachment N-2;
- Extra Service Compensation for extra services performed during the Rate Period; and,
- City Landfill Adjustment for Solid Waste and/or Yard Trimmings delivered to the City Landfill during the Rate Period, if any.

9.05 **Compensation for Extra Services.** Contractor's Extra Service Compensation shall be the compensation provided to Contractor for services that are not included in the Base Compensation. These services include:
A. Backyard/Sideyard Collection of Solid Waste from Single-Family Premises.

B. Collection of Solid Waste, Recyclable Materials and Yard Trimnings from hard-to-service areas identified in Attachment C.

C. Drop box service (scheduled and on-call).

D. Cart Purchases.

E. Special Events in excess of 16 per year.

The Contractor shall be compensated on a unit-price basis for each of the extra services performed. Following completion of each calendar quarter, the Extra Service Compensation shall be calculated by the City based on its billing records and billing reports submitted by the Contractor. The Extra Services Compensation shall equal the sum of each unit-price fee multiplied by the number of extra services performed by Contractor during each month in the most-recently completed calendar quarter. The City will pay the Contractor on a quarterly basis in arrears for all extra service performed.

The Contractor's unit-prices for Rate Periods One and Two are based on the Contractor's Proposal and are presented in Attachment N-1. These unit prices shall be adjusted annually to reflect changes in a specified cost index in accordance with the procedures described in Attachment N-2.

Contractor shall not be compensated for extra services other than those specified in this Section. The City may charge Customers additional fees for services such as collection of extra Bulky Items, but Contractor shall not receive extra compensation for these services.

Contractor shall keep accurate and complete records of services billed by Contractor to allow City to verify the accuracy of Contractor's billing reports and to calculate compensation for extra services.
9.06 **City Landfill Adjustment.** If the City exercises its right under Section 5.01 to direct Contractor to deliver Solid Waste to the City Landfill rather than to the SMaRT Station, Contractor's Compensation shall be reduced to reflect the cost savings associated with transporting the Solid Waste a shorter distance. The City Landfill Adjustment shall equal the per-ton City Landfill Credit multiplied by the number of tons of Solid Waste delivered to the City Landfill. Based on the Contractor's Proposal, the per-ton City Landfill Credit for Solid Waste in Rate Period One is Two Dollars ($2.00) per Ton and in Rate Period Two is Two Dollars ($2.00) per Ton. This per-ton credit shall be adjusted annually for the Rate Periods after Rate Period Two to reflect changes in the cost index identified in Attachment N-2. The Contractor shall pay the City the City Landfill Adjustment on a monthly basis in arrears and such payment shall be reflected as a deduction to the monthly payment of Contractor's Compensation pursuant to Section 9.08.

9.07 **Compensation Adjustment Process**

A. **Adjustment Calculations.** On or before January 31 of each year commencing with January 2011, the Director will calculate the annual percentage change in the indices specified in Attachment N-2; Contractor's Base Compensation for the coming Rate Period; adjusted unit prices for extra services and the per-ton City Landfill Credit. The Director will submit three copies of the City's calculated compensation adjustment and supporting documentation for the coming Rate Period to Contractor on or before January 31. For example, on or before January 31, 2011, the Director will submit to the Contractor three copies of the City's calculated compensation adjustment to be effective for Rate Period Three (July 1, 2011 through June 30, 2012).

B. **Contractor Review of Adjustments.** The Contractor shall promptly review the City's calculated Base Compensation and unit price adjustments and will provide written notice to the Director on or before February 28 of its acceptance of such calculations or of any objections. The Director and Contractor shall discuss Contractor's objections and may agree on changes to the City's calculations.

C. **City Manager Action.** The City Manager will provide Contractor an opportunity to meet to present any objections to the adjustment calculated by the
Director. The City Manager will take formal action to adjust Contractor’s Base Compensation, unit prices for extra services, and City’s Landfill Credits before July 1 of each year commencing with July 2011. The decision of the City Manager will be final, subject to Contractor’s rights referred to in subsection D.

D. **Resolution of Disputes.** If Contractor believes the City has made an error in calculating any of the adjustments, it may seek review of the City’s action through arbitration initiated in the manner and within the time prescribed in Attachment Q.

9.08 **Monthly Payment of Contractor’s Compensation.** On or before the fifteenth day of each month, commencing in August 2009, the City will remit to the Contractor a payment for Contractor’s Compensation. The monthly payment will be calculated as follows.

A. **Monthly Base Compensation.** Monthly Base Compensation will equal 1/12 of the Contractor’s Base Compensation for the then-current Rate Period; plus

B. **Extra Service Compensation.** Extra Service Compensation for extra services performed in the most-recently completed quarter will be calculated pursuant to Section 9.05 and will be included in the monthly compensation determined in January, April, July, and October; less

C. **City Landfill Adjustment.** City Landfill Adjustment for all Solid Waste delivered to the City Landfill in the most-recently completed month.

D. **Total Monthly Payment.** The total monthly payment to Contractor will equal the sum of the monthly Base Compensation plus Extra Services Compensation (if applicable), minus the monthly City Landfill Adjustment.

9.09 **Special Compensation Review**

A. **Eligible Items.** The Contractor may apply to the City for consideration of a special review of Contractor’s Compensation, and the City may initiate such a review, if one or more of the following events occur:
1. Provision of emergency services pursuant to Section 4.14.

2. Flood, earthquake, other acts of nature or other similar catastrophic events which are beyond the control of and not the fault of the Contractor.

3. Change in Law occurring after the Effective Date.

In addition, City may initiate a special compensation review prior to any extension of the Term and may consider the results of such a review in its determination of whether to extend the Term and, if so, for what period.

B. Ineligible Items. A special review of Contractor's Compensation may not be initiated for any of the following reasons:

1. Increases or decreases in the cost of Solid Waste, Recyclable Materials, Organic Materials, or Construction and Demolition Materials Collection, transportation, or Processing in excess of the increases or decreases provided through the annual adjustment mechanism described in Attachment N-1, unless such cost increases or decreases are caused by eligible items listed in subsection A above.

2. Increases or decreases in the cost of Solid Waste, Recyclable Materials, Organic Materials or Construction and Demolition Materials Collection, transportation, or Processing caused by change in the Recyclable Materials Processing Site, Composting Site, or Construction and Demolition Materials Processing Site or by changes in operating conditions at these sites, unless such change is initiated by or at the direction of the City.

3. Increases or decreases in revenues from the sale of Recyclable Materials (including CRV revenues), Organic Materials, or Construction and Demolition Materials.

4. Increases or decreases in the number of Customers or their subscription levels, including any changes resulting from City's implementation of a mandatory customer recycling/diversion ordinance.

6. Inability of Contractor to secure the right to use the property described in Section 7.09 for its corporation yard.

C. **Submittal of Request.** If the Contractor is requesting a special review of Contractor's Compensation, the Contractor must submit its request for a special review, and supporting cost and operational data, in a form and manner specified by the City. The financial and operational data that City is likely to require include, but are not limited to, audited financial statements, detailed customer account information, route data, tonnage reports, and other transactional data.

If City is requesting a special compensation review, the City will notify the Contractor and the Contractor shall, within thirty (30) days, submit cost and operational data as requested by the City, in a form and manner specified by the City.

D. **Review of Costs.** If the Contractor or the City requests a special review of Contractor's Compensation, the City will have the right to review any and all financial and operating records of Contractor and its Affiliates the City considers necessary to determine the cost impacts to Contractor's operations. Contractor shall ensure that such records are accurate, reliable and verifiable.

E. **Burden of Justification.** Contractor shall bear the burden of justifying to the City by substantial evidence its entitlement to continuation of current, as well as any increases in, Contractor's Compensation. If the Director determines that the Contractor has not met its burden, he/she will notify the Contractor that he/she is prepared to deny Contractor's request for additional compensation or to proceed with a reduction in compensation. If the Contractor requests, the City will provide Contractor a hearing before the Director at which it may produce additional evidence.

F. **Decision.** Based on the evidence, including but not limited to that submitted by the Contractor, the Director may grant some, all, or none of the requested increase. The City Manager will provide Contractor an opportunity to meet to present
any objections to the Director's decision. The City Manager's decision will be final; subject to Contractor's rights referred to in subsection G.

G. Review. If Contractor is dissatisfied with the City Manager's decision, it may initiate arbitration as provided in Attachment Q.

9.10 Compensation Adjustments for Changes in Service. Within thirty (30) days of a request by City to initiate a change in service, Contractor shall submit a report containing projected operational and financial data sufficient for City to evaluate the cost-effectiveness of such a change and to calculate the adjustment to Contractor's Compensation associated with implementation of the change. The report shall contain the following types of information, to the extent applicable:

1. Collection and/or processing methodology to be employed.

2. Equipment to be utilized (number of vehicles, types, capacity, etc.).

3. Labor requirements (number of employees by classification).

4. Number and capacity of containers to be used.

5. Public education/outreach materials to be developed to implement program change.

6. Estimate of additional tonnage to be diverted, together with methodology used for estimating diversion.

7. End uses of diverted materials and revenues expected to be received by Contractor.

8. Projection of financial impact of changes (i.e., increase or decrease in Contractor's Compensation).

9. Other information requested by City.
If City directs a change as provided in Section 12.16, an equitable adjustment in Contractor's Compensation will be made, effective with the commencement of the change, to reflect increases or decreases in Contractor's costs and other revenues. For purposes of adjusting the profit allowance, an operating ratio of eighty eight percent (88%) shall be applied to the increase or decrease in necessary and reasonable costs (exclusive of interest expense and direct and allocated lease costs) of the change.

The data compiled in Attachment N-3 represent the Contractor's detailed cost and operational estimates underlying its compensation for the first two years of the Term. Those data may be consulted in determining an equitable adjustment in Contractor's Compensation for specific changes in service directed by City.

9.11 Rate-Setting Process

A. General. The City will be solely responsible for establishing rates charged to Customers for services provided by Contractor and for billing Customers and collecting rate revenues, with the exception that Contractor shall bill Customers that do not have utility accounts with the City, as described in Section 4.16.

B. Rate Structure. The City will have the sole and exclusive right to change the relationship of individual rates in comparison with other rates, as City deems appropriate.

C. Rate Categories. If the Contractor determines the need for a rate category that does not appear on the City-approved rate schedule, Contractor shall notify the City and request establishment of such a rate category. For example, if a Customer requires Collection of a 15-cubic-yard Compactor 5 times per week and the City-approved rate schedule does not include this level of service, the Contractor shall notify the City that a rate category for this level of service would be appropriate.

9.12 City Payment of Fees for Solid Waste Disposal. The City will not charge Contractor for delivery of Solid Waste or Yard Trimmings collected in the City that are delivered to the Palo Alto Landfill. The City will pay charges assessed by Sunnyvale for delivery of Solid Waste and Yard Trimmings to the SMART Station.
This section does not apply to Residue from processing of Recyclable Materials, including Construction and Demolition Debris, or food waste from special events.

9.13 **Compensation During Extended Term.** If City elects to extend the Term pursuant to Section 2.03, the Contractor’s Compensation will continue to be determined as provided in this Article, with the exception that, as provided in Attachment N-2, no depreciation on vehicles or equipment fully depreciated during the initial Term will be included in the calculation. If vehicles or other equipment must be replaced during the initial Term or at the end of the initial Term, depreciation on the vehicles (based on an eight-year useful life) and/or equipment shall be included in Contractor’s Compensation for the remainder of the Term as extended.

9.14 **Additional Financial Incentives for Zero Waste Program Implementation**

A. **General.** City has relied on Contractor’s representations about its experience in, and commitment to, recycling and composting in awarding this Agreement to it. City will incur significant costs to implement the Zero Waste programs, primarily in payments to Contractor. If expected amounts of materials are not collected and subsequently diverted from landfill disposal through these programs, City will incur additional costs for those materials to be processed at the SMART Station and transferred to the Kirby Canyon landfill.

In light of these considerations, the parties have agreed to the following financial arrangements to provide additional incentives for Contractor to exert its full efforts in implementing two elements of the Zero Waste programs.

B. **Mixed Recycling.** The minimum amounts of mixed Recyclable Materials which Contractor will collect, process and recycle during the first three years of the Term are:

<table>
<thead>
<tr>
<th>Minimum Amount to be Collected, Processed and Recycled</th>
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<tbody>
<tr>
<td>Year One</td>
</tr>
<tr>
<td>FY 2009-10</td>
</tr>
<tr>
<td>16,250 Tons</td>
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</tbody>
</table>
The minimum amount which Contractor will collect, process and recycle for the remainder of the Term shall be 18,780 Tons per year.

The number of Tons which Contractor has collected, processed and recycled will be determined by multiplying the Tons of mixed Recyclable Materials collected in the City and delivered to the Greenwaste Materials Recovery Facility (net weight at gate scale) by the percentage that reflects the average facility recovery rate during the year in question, based on the annual audit required by Attachment E, Section A.2.c. For example, the percentage to be used for Year Two will be based on the facility recovery rate achieved during FY 2010-11, as shown by the audit conducted during FY 2010-11. The percentage to be used for Year One (FY 2009-10) will be ninety two percent (92%).

If the minimum amount is not achieved in Year One, Contractor shall pay City $65.00 per Ton, multiplied by the difference between 16,250 Tons and the number of Tons actually collected, processed and recycled.

If the minimum amount is not achieved in Year Two, Contractor shall pay City $70.00 per Ton, multiplied by the difference between 17,480 Tons and the number of Tons actually collected, processed and recycled.

If the minimum amount is not achieved in Year Three, Contractor shall pay City $75.00 per Ton, multiplied by the difference between 18,780 Tons and the number of Tons actually collected, processed and recycled.

In Year Four, the per Ton payment will be established by multiplying the per Ton payment in Year Three ($75.00) by the same percentage that the labor-related cost component of Contractor’s Compensation is adjusted for that year per Attachment N-2. The per Ton payment will be adjusted annually thereafter by the same percentage applicable in each year.

If Contractor fails to achieve the minimum amount (18,780) in Year Three or thereafter and believes that its failure is due to changes in the wastestream tonnage
and/or composition, it may within ninety (90) days after the end of the contract year in question (i.e., by September 30) request the City to adjust the minimum amount. Such a request must be accompanied by data and analysis developed by Contractor. If City agrees, the Director may adjust the minimum amount for a specified period of time. If City does not agree, the parties will meet and confer. If no resolution is forthcoming, Contractor may request that a waste composition study be performed by an independent waste management consulting/engineering firm selected by City. The City will then commission such a study, the cost of which will be shared equally by the City and Contractor. Contractor must deposit its share of the cost with the City before the City is required to award the contract for the study.

When the study is completed, the parties will meet to consider whether, in light of consultant's report, an adjustment in the minimum amount is warranted and, if so, the amount and duration of the adjustment. Any adjustment will apply commencing with the year immediately preceding Contractor's request.

If parties cannot agree, Contractor may submit the dispute to arbitration in the manner and within the time prescribed in Attachment Q.

C. **Commercial Organics.** The minimum amount of Organic Materials to be collected from commercial customers and processed into compost is 9,000 Tons per year.

If Contractor does not collect and process into compost 9,000 Tons in Year One, it will pay City $70 per Ton, multiplied by the difference between 9,000 Tons and the number of Tons actually collected and composted. If Contractor collects and composts more than 9,000 Tons in Year One, City will pay Contractor $70 per Ton, multiplied by the difference between the number of Tons actually collected and composted and 9,000 Tons.

The number of Tons which Contractor has collected and processed into compost will be determined by multiplying the Tons of Organic Materials collected in the City and delivered to the Greenwaste Materials Recovery Facility (net weight at gate scale) prior to transfer to the Z Best composting facility by the percentage that reflects the City-specific composting rate achieved at the Z Best composting facility based on
the audits required by Attachment E, Section B.2.c. For example, the percentage to be used for Year Two will be based on the City-specific composting rate achieved during FY 2010-11, as shown by the audits conducted during FY 2010-11. The percentage to be used for Year One (FY 2009-10) will be ninety percent (90%).

The $70 per Ton payment will be adjusted in Year Two and thereafter by the same percentage that the labor-related cost component of Contractor's Compensation is adjusted per Attachment N-2.

The maximum payment to Contractor pursuant to this subsection C is $140,000 per year in Year One. This maximum payment amount will also be adjusted annually by the same percentage that the $70 per Ton payment is adjusted.

D. Procedure. The calculations required by this section will be done on a fiscal year basis (July 1 - June 30). The City will calculate the amounts due, based on Contractor's reports for the preceding fiscal year on or before September 30 of each year, and will notify Contractor of the amount. Sums due will be paid within thirty (30) days from the date that notice is delivered.
ARTICLE 10. INDEMNITY, INSURANCE, PERFORMANCE BOND, GUARANTY

10.01 Indemnification. Contractor shall indemnify, defend and hold harmless City, its councilmembers, officers, employees and agents, (collectively the “Indemnitees”) from and against any and all loss, liability, penalty, forfeiture, claim, demand, action, proceeding or suit, of any and every kind and description, whether judicial, quasi-judicial or administrative in nature 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 (collectively, the “Claims”), arising out of or occasioned in any way by, directly or indirectly, Contractor’s performance of, or its failure to perform, its obligations under this Agreement. Attorneys’ fees, expert witness fees, court costs and disbursements incurred by City, or for which City may be liable, are included within the scope of the Contractor’s indemnity obligation. The foregoing indemnity shall not apply to the extent that the Claim is caused solely by the negligence or intentional misconduct of the Indemnitees, but shall apply if the Claim is caused by the joint negligence of Contractor or other persons, including any of the Indemnitees. Upon the occurrence of any Claim, Contractor, at Contractor’s sole cost and expense, shall defend (with attorneys reasonably acceptable to City) City, its officers, employees, and agents. Contractor’s duty to indemnify and defend shall survive the expiration or earlier termination of this Agreement.

10.02 Insurance.

A. Types and Amounts of Coverage. Contractor shall procure from an insurance company or companies licensed to do business in the State of California and shall maintain in force at all times during the Term the following types and amounts of insurance:

1. Workers’ Compensation and Employer’s Liability. Contractor shall maintain workers’ compensation insurance covering its employees in statutory amounts and otherwise in compliance with the laws of the State of California. Contractor shall maintain employer’s liability insurance in an amount not less than One Million Dollars ($1,000,000) per accident or disease. Contractor shall not be obligated to carry workers compensation insurance if (i) it qualifies under California law and continuously complies with all statutory obligations to self-insure against such
risks; (ii) furnishes a certificate of Permission to Self Insure issued by the Department of Industrial Relations; and (iii) furnishes updated certificates of Permission to Self Insure periodically to evidence continuous self insurance, at least ten (10) days before the expiration of the previous certificate.

2. **General Liability (and Automobile Liability).** Contractor shall maintain comprehensive general liability insurance with a combined single limit of not less than Two Million Dollars ($2,000,000) per occurrence and Five Million Dollars ($5,000,000) annual aggregate covering all claims and all legal liability for personal injury, bodily injury, death, and property damage, including the loss of use thereof, arising out of, or occasioned in any way by, directly or indirectly, Contractor’s performance of, or its failure to perform, services under this Agreement.

The insurance required by this subsection shall include:

(i) Premises Operations (including use of owned and non-owned equipment);

(ii) Products and Completed Operations (including protection against liability resulting from use of Recyclable Materials by another person);

(iii) Personal Injury Liability with employment exclusion deleted;

(iv) Broad Form Blanket Contractual with no exclusions for bodily injury, personal injury or property damage (including coverage for the indemnity obligations contained herein);

(v) Owned, Non-Owned, and Hired Motor Vehicles;

(vi) Broad Form Property Damage.

The comprehensive general liability insurance shall be written on an “occurrence” basis (rather than a “claims made” basis) in a form at least as broad as the most current version of the Insurance Service Office commercial general liability occurrence policy form (CG0001). If occurrence coverage is not obtainable, Contractor must arrange for “tail coverage” on a claims made policy to protect City from claims filed within four years after the expiration or termination of this Agreement relating to incidents that occurred prior to such expiration or termination. Any excess or umbrella policies shall be on a “following form” basis.
3. **Pollution Liability.** Contractor shall maintain pollution liability insurance with limits in an amount of not less than Five Million Dollars ($5,000,000) per occurrence and annual aggregate covering claims for on-site, under-site, or off-site bodily injury and property damage as a result of pollution conditions arising out of its operations under this Agreement.

4. **Hazardous Materials Storage and Transport.** Contractor shall maintain insurance coverage of not less than Two Million Dollars ($2,000,000) for personal injury, bodily injury and property damage arising out of the sudden and accidental release of any hazardous materials or wastes during storage at facilities operated by Contractor or transport of such materials by vehicles owned, operated or controlled by Contractor in the performance of the services required under this Agreement.

5. **Physical Damage.** Contractor shall maintain comprehensive (fire, theft and collision) physical damage insurance covering the vehicles and equipment used in providing service to City under this Agreement, with a deductible or self-insured retention not greater than Fifty Thousand Dollars ($50,000). Notwithstanding the foregoing, Contractor shall be allowed to self-insure for physical damage to its vehicles provided Contractor provides adequate audited financial information to City and City is reasonably satisfied that Contractor has the financial net worth to cover any losses.

**B. Acceptability of Insureds.** The insurance policies required by this section shall be issued by an insurance company or companies admitted to do business in the State of California, subject to the jurisdiction of the California Insurance Commissioner, and with a rating in the most recent edition of Best’s Insurance Reports of size category VII or larger and a rating classification of A-1 or better.

**C. Required Endorsements.** Without limiting the generality of Sections 10.02.A and B, the policies shall contain endorsements in substantially the following form:
1. **Workers' Compensation and Employers' Liability Policy.**

"Thirty (30) days prior written notice shall be given to the City of Palo Alto in the event of cancellation or non-renewal of this policy. Such notice shall be sent to:

City of Palo Alto  
Administrative Services Department  
P.O. Box 10250  
Palo Alto, CA 94303  
Attention: Purchasing Manager

"Insurer waives all right of subrogation against City and its officers and employees for injuries or illnesses arising from work performed for City."

2. **General Liability Policy; Pollution Liability Policy; Hazardous Materials Policy.**

(i) "Thirty (30) days' prior written notice shall be given to the City of Palo Alto in the event of cancellation, reduction of coverage, or non-renewal of this policy. Such notice shall be sent to:

City of Palo Alto  
Administrative Services Department  
P.O. Box 10250  
Palo Alto, CA 94303  
Attention: Purchasing Manager

(ii) "The City of Palo Alto, its officers, employees, and agents, are additional insureds on this policy."

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

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

3. Physical Damage Policy.

(i) Notice of cancellation, reduction in coverage or non-renewal, as provided in Subsection C.2(a).

(ii) Cross liability endorsement, as provided in Subsection C.2(d).

(iii) Waiver of subrogation against City.

D. Delivery of Proof of Coverage. No later than sixty (60) days before the commencement of operations (i.e., on or before May 1, 2009), Contractor shall furnish City one or more certificates of insurance on a standard ACORD form substantiating that each of the coverages required hereunder are in force, in form and substance satisfactory to City. Such certificates shall show the type and amount of coverage, effective dates and dates of expiration of policies and shall be accompanied by all required endorsements. If City requests, copies of each policy, together with all endorsements, shall also be promptly delivered to City.

Contractor shall furnish renewal certificates to City prior to July 1 of each year to demonstrate maintenance of the required coverages continuously throughout the Term.

E. Other Insurance Requirements

1. In the event performance of any services is delegated to a subcontractor, Contractor shall require such subcontractor to provide statutory workers’ compensation insurance and employer’s liability insurance for all of the subcontractor’s employees engaged in the work. The liability insurance required by Subsection 10.02.A.2 shall cover all subcontractors or the subcontractor must furnish evidence of insurance provided by it meeting all of the requirements of this Section 10.02.

2. Contractor shall comply with all requirements of the insurers issuing policies. The carrying of insurance shall not relieve Contractor from any
obligation under this Agreement, including those imposed by Sections 10.01, 10.05, and 10.06. If any claim is made by any third person against Contractor or any subcontractor on account of any occurrence related to this Agreement, Contractor shall promptly report the facts in writing to the insurance carrier and to the City.

3. If Contractor fails to procure and maintain any insurance required by this Agreement, City may take out and maintain, at Contractor's expense, such insurance as it may deem proper and deduct the cost thereof from any monies due Contractor. Alternatively, the City may treat the failure as a Contractor Default under Section 11.01.

4. City is not responsible for payment of premiums for or deductibles under any required insurance coverages.

10.03 **Faithful Performance Bond.** Not later than ten (10) days before the Effective Date (i.e., on or before October 31, 2008), Contractor shall deliver to City a bond securing the Contractor's faithful performance of its obligations under this Agreement. The principal sum of the bond shall be Five Million Dollars ($5,000,000). The form of the bond shall be as set out in Attachment L-1. The bond shall be executed as surety by a corporation admitted to issue surety bonds in the State of California, regulated by the California Insurance Commissioner and with a financial condition and record of service satisfactory to City.

The term of the bond shall be not less than twenty-four (24) months, or until June 30, 2010, whichever occurs first. The bond shall be extended, or replaced by a new bond in the same principal sum, for the same term (i.e., twenty-four (24) months) and in the same form, bi-annually thereafter, subject to the last paragraph of this section. Not less than ninety (90) days before the expiration of the initial bond, the Contractor shall furnish either a replacement bond or a continuation certificate substantially in the form attached as Attachment L-2, executed by the surety.

It is the intention of this Section that there be in full force and effect at all times a bond securing the Contractor's faithful performance of the Agreement, throughout its Term, provided, however, that the surety shall not be liable to City for its non-renewal of the bond or for Contractor's failure or inability to secure a replacement bond.
After Year Two, Contractor may request that the principal amount of the bond be reduced, together with a corresponding reduction in the premium for the bond. City will consider such a request in good faith, taking into account whether Contractor has performed to the satisfaction of City, but has no obligation to agree to a reduction in the bond amount. The principal amount of the bond may not be reduced below Two Million Dollars ($2,000,000) without approval of the City Council.

**10.04 Alternative Security.** City may, in its sole discretion, allow Contractor to provide alternative security in the amount set forth in Section 10.03, in the form of (a) a prepaid irrevocable standby letter of credit in form and substance satisfactory to City and approved by the City Attorney and City's Administrative Services Director and issued by a financial institution acceptable to City, or (b) a certificate of deposit in the name of the City with a term satisfactory to City and with a financial institution acceptable to City.

**10.05 Hazardous Waste Indemnification.** Contractor shall indemnify, defend with Counsel approved by the City, protect and hold harmless the Indemnitees against all claims, of any kind whatsoever paid, incurred or suffered by, or asserted against Indemnitees arising from or attributable to any repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure or other plan (regardless of whether undertaken due to governmental action) concerning any Hazardous Wastes at any place where Contractor stores or disposes of Hazardous Wastes pursuant to this Agreement. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of the Comprehensive Environmental Response, Compensation and Liability Act, ("CERCLA"), 42 U.S.C. Section 9607(e), and California Health and Safety Code Section 25364, to defend, protect, hold harmless and indemnify Indemnitees from liability.

**10.06 Integrated Waste Management Act Indemnification.** Contractor agrees to indemnify and hold harmless the Indemnitees against all fines and/or penalties imposed by the California Integrated Waste Management Board (CIWMB) or the Local Enforcement Agency (LEA): a) based on Contractor’s failure to comply with laws, regulations or permits issued or enforced by the CIWMB or the LEA; b) caused or contributed to by the Contractor’s failure to perform obligations under this Agreement.
This indemnity obligation is subject to the limitations and conditions in Public Resource Code Section 40059.1 but is enforceable to the maximum extent allowable by that Section.

10.07 Guaranty. Not later than ten (10) days before the Effective Date (i.e., on or before October 31, 2008), Contractor shall deliver to City a Guaranty in the form attached as Attachment M, properly executed by the Guarantor(s).
ARTICLE 11. DEFAULT AND REMEDIES

11.01 Contractor Default. Each of the following shall constitute an event of default ("Contractor Default"):  

A. Contractor fails to perform any of its obligations under Article 4, 5 or 6 of this Agreement and its failure to perform is not cured within ten (10) days after written notice from City, provided that neither notice nor opportunity to cure applies to events described in subsection C.

B. Contractor fails to perform any of its obligations under any other Article of this Agreement and its failure to perform is not cured within thirty (30) days after written notice from City, provided that if the nature of the breach is such that it will reasonably require more than thirty (30) days to cure, Contractor shall not be in default so long as it promptly commences the cure and diligently proceeds to completion of the cure within ninety (90) days after notice, and provided further that neither notice nor opportunity to cure applies to events described in subsections D through H.

C. Contractor ceases to collect Solid Waste, Recyclable Materials, or Yard Trimmings for a period of five (5) consecutive days (or on a total of five (5) days during any calendar year) on which collections are to be provided for any reason within the Contractor's control, including labor unrest such as strike, work stoppage or slowdown, sickout, picketing, or other concerted job action by Contractor's employees.

D. Contractor files a voluntary petition for relief under any bankruptcy, insolvency or similar law.

E. An involuntary petition is brought against Contractor under any bankruptcy, insolvency or similar law which remains undischussed or unstayed for ninety (90) days.

F. Contractor fails to furnish a replacement bond or a continuation certificate of the existing bond not less than ninety (90) days before expiration of the performance bond, as required by Section 10.03 or fails to maintain all required insurance coverages in force.
G. Contractor fails to provide reasonable assurance of performance within ten (10) days of a request by City under Section 11.12.

H. A representation or warranty contained in Article 3 proves to be false or misleading in a material respect as of the date such representation or warranty was made.

I. A report submitted by Contractor under this Agreement proves to contain a material misstatement of fact, omission, or other inaccuracy.

On the occurrence of a default by Contractor, City will have the right to any one or more of the remedies described in this Article, in addition to any remedies now or later available to City at law or in equity.

11.02 Right to Suspend or Terminate Upon Default.

A. Upon any Contractor Default, City may terminate this Agreement or suspend it, in whole or in part. Such suspension or termination shall be effective thirty (30) days after City has given notice of suspension or termination to Contractor, except that such notice may be effective in a shorter period of time, or immediately, if the Contractor Default is one which in the opinion of the City endangers the health, welfare or safety of the public, such as the failure to collect Solid Waste or Recyclable Materials and arrange for their prompt disposal or recycling. Contractor shall continue to perform the portions of the Agreement, if any, not suspended, in full conformity with its terms.

B. City may also suspend or terminate this Agreement, upon the same notice provisions, if Contractor's ability to perform is prevented or materially interfered with by a cause which excuses nonperformance under Section 11.10, despite the fact that nonperformance in such a case is neither a breach nor a Contractor Default.

11.03 Specific Performance. By virtue of the nature of this Agreement, the urgency of timely, continuous and high-quality service and the lead time required to effect alternative service, the remedy of damages for a breach hereof by Contractor is inadequate and City shall be entitled to injunctive and other equitable relief.
11.04 **City's Right to Cure.** In the event that Contractor fails to perform any of its obligations under Articles 4, 5, or 6 and does not cure such failure within ten (10) days after notice from City, City may (but will not be obligated to) perform the required work, or engage a third party to do so. Contractor shall upon demand reimburse City for all costs thereof, including any payments to a third party, with interest after thirty (30) days at prime rate (as established by the Bank of America “reference rate”) plus two percent (2%) but not in excess of the maximum interest rate allowed by law. If Contractor fails to make such reimbursement, City may deduct the amounts due from subsequent payments to Contractor under Article 9.

11.05 **City's Right to Perform.** If this Agreement is suspended or terminated due to a Contractor Default, City will have the right to perform and complete, by agreement or otherwise, the work herein or such part thereof as it may deem necessary and to procure labor, equipment, and materials and incur all other expenses necessary for completion of the work. If such expenses exceed the amounts which would have been payable to Contractor under this Agreement if it had been fully performed by Contractor, then Contractor shall pay the amount of such excess to City.

11.06 **City's Use of Property Upon Default.** In the event of Contractor's Default, the City will have the right to use any of Contractor’s equipment, facilities and other property reasonably necessary for the provision of services hereunder and the billing and collection of fees for those services. The City may continue use of such property until other suitable arrangements can be made for the provision of such services, which may include the award of an agreement to another service provider. If the City continues use thereof after the period of time for which Contractor has already been paid, Contractor will be entitled to the reasonable rental value of such property, which shall be offset against the damages due the City as a result of Contractor's Default. Contractor shall fully cooperate with the City to effect the City's use of such property. The City may immediately engage all or any personnel necessary for the provision of services, including, if the City so desires, employees previously employed by Contractor. Contractor further agrees, if the City so requests, to assist the City in securing the services of any or all management or office personnel employed by Contractor whose skills are reasonably necessary for the continuation of services. The City agrees that it assumes responsibility for the proper, normal use of such equipment.
and facilities while in its possession. Contractor agrees that the City’s exercise of its rights under this section: (i) does not constitute a taking of private property for which compensation must be paid; (ii) will not create any liability on the part of the City to Contractor other than the payment of reasonable rental value as provided for in this subsection; (iii) does not exempt Contractor from the indemnity provisions of Article 10 which are meant to extend to circumstances arising under this Section.

11.07 **Damages.** Contractor shall be liable to City for all direct, indirect, special and consequential damages arising out of Contractor’s Default. This section is intended to be declarative of existing California law. The City may offset such damages against such which would otherwise be due to Contractor.

11.08 **City’s Remedies Cumulative.** City’s rights to suspend or terminate the Agreement under Section 11.02, to obtain specific performance under Section 11.03, to cure under Section 11.04, and to perform under Section 11.05 are not exclusive, and City’s exercise of one such right shall not constitute an election of remedies. Instead, they shall be in addition to any and all other legal and equitable rights and remedies that City may have, including a legal action for damages under Section 11.07 or imposition of liquidated damages under Section 11.09.

11.09 **Liquidated Damages.** The Parties acknowledge that efficient, consistent, and courteous collection of Solid Waste, Recyclable Materials, and Yard Trimmings is of utmost importance and City has considered and relied on Contractor’s representations as to its quality of service commitment in entering into this Agreement. The Parties further recognize that quantified standards of performance are necessary and appropriate to ensure consistent and reliable service. The Parties further recognize that if Contractor fails to achieve the performance standards, City will suffer damages and that it is and will be impracticable and extremely difficult to ascertain and determine the exact amount of those damages that City will suffer. Therefore, the Parties agree that the liquidated damage amounts listed on Attachment O represent a reasonable estimate of the amount of such damages considering all of the circumstances existing on the date of this Agreement, including the relationship of the sums to the range of harm to City that reasonably could be anticipated and anticipation that proof of actual damages would be costly or inconvenient. 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 had ample opportunity to consult with legal
counsel and obtain an explanation of this liquidated damage provision at the time that
this Agreement was made.

Contractor Initial Here: ______ City Initial Here: ______

Contractor agrees to pay (as liquidated damages and not as a penalty) the
amounts set forth on Attachment O and further agrees that these amounts may be
deducted by City from payments to Contractor otherwise due.

City may determine the occurrence of events giving rise to liquidated damages
through the observation of its own employees, agents or representatives or through
investigation of reports by third parties. Prior to assessing liquidated damages, City
shall give Contractor notice of its intention to do so. The notice will include a brief
description of the incident(s)/non-performance. Contractor may review (and make
copies at its own expense) all non-confidential information in the possession of City
relating to incident(s)/non-performance. Contractor may, within ten (10) days after
receiving the notice, request a meeting with the Director or his or her designee.
Contractor may present evidence in writing and through testimony of its employees and
others relevant to the incident(s)/non-performance. The Director or his or her designee
will provide Contractor with a written explanation of his or her determination on each
incident(s)/non-performance prior to authorizing the assessment of liquidated damages.
The decision of the Director or his or her designee shall be final.

City may assess liquidated damages for each calendar day or event, as
appropriate, that Contractor is determined to be liable in accordance with this
Agreement. Contractor shall pay any liquidated damages assessed by City within ten
(10) days after they are assessed. If payment is not received by that date, City may
deduct the amount of liquidated damages from the next monthly payment of
Contractor’s Compensation.

City’s right to recover liquidated damages for Contractor’s failure to meet the
service performance standards shall not preclude City from obtaining equitable relief for
persistent failures to meet such standards nor from terminating the Agreement for such
persistent failures.
11.10 **Force Majeure.**

A. **Excuse from Performance.** Neither party shall be in default of its obligations under this Agreement in the event, and for so long as, it is impossible or extremely impracticable for it to perform its obligations due to an “act of God” (including, but not limited to, flood, earthquake or other catastrophic events); civil disturbance, labor unrest of other than the party’s employees (including strike, work stoppage, slowdown, sick out, picketing, or other concerted job action), or other similar cause affecting Santa Clara County, not the fault of, and beyond the reasonable control of, the party claiming excuse. A party claiming excuse under this Section must (1) have taken reasonable precautions, if possible, to avoid being affected by the cause and (2) notify the other party as required by subsection C.

B. **Obligation to Restore Ability to Perform.** Any suspension of performance by a party pursuant to this Section shall be only to the extent, and for a period of no longer duration than, required by the nature of the event, and the party claiming excuse from obligation shall use its best efforts in an expeditious manner to remedy its inability to perform, and mitigate damages that may occur as result of the event.

C. **Notice.** The party claiming excuse shall deliver to the other party a written notice of intent to claim excuse from performance under this Agreement by reason of an event of Force Majeure. Notice required by this Section shall be given promptly in light of the circumstances, but in any event not later than five (5) days after the occurrence of the event of Force Majeure. Such notice shall describe in detail the event of Force Majeure claimed, the services impacted by the claimed event of Force Majeure, the expected length of time that the party expects to be prevented from performing, the steps which the party intends to take to restore its ability to perform, and such other information as the other party reasonably requests.

D. **City's Rights in the Event of Force Majeure.** The partial or complete interruption or discontinuance of Contractor's services caused by an event of Force Majeure shall not constitute an event of default under this Agreement. Notwithstanding the foregoing, in the event of non-performance excused by Force Majeure: (i) the City shall have the right to make use of Contractor's facilities and
equipment in the same manner as described in Section 11.06 of this Agreement; (ii) if Contractor's excuse from performance by reason of Force Majeure continues for a period of thirty (30) days or more, the City shall have the right to terminate this Agreement; (iii) if Contractor's inability to collect Solid Waste, Recyclable Materials, and Yard Trimmings continues for ten (10) days or more from the date by which Contractor gave or should have given notice under Subsection C, the City may terminate this Agreement.

11.11 **City Default.** City shall be in default under this Agreement ("City Default") in the event City commits a material breach of the Agreement and fails to cure such breach within thirty (30) days after receiving notice from the Contractor specifying the breach, provided that if the nature of the breach is such that it will reasonably require more than thirty (30) days to cure, City shall not be in default so long as City promptly commences the cure and diligently proceeds to completion of the cure.

In the event of an asserted City Default, Contractor shall continue to perform all of its obligations hereunder until a court of competent jurisdiction has issued a final judgment declaring that City is in Default.

11.12 **Assurance of Performance.** If Contractor (1) persistently suffers the imposition of liquidated damages under Section 11.09; (2) is the subject of any labor unrest including work stoppage or slowdown, sickout; picketing or other concerted job action; (3) appears in the reasonable judgment of City to be unable to regularly pay its bills as they become due; (4) is the subject of a civil or criminal proceeding brought by a federal, state, regional or local agency for violation of laws (including the Environmental Laws), regulations or permits in the performance of this Agreement, or (5) performs in a manner that causes City to be uncertain about Contractor's ability and intention to comply with this Agreement, City may, at its option and in addition to all other remedies it may have, demand from Contractor reasonable assurances of timely and proper performance of this Agreement, in such form and substance as City may require. Contractor shall provide such assurances within ten (10) days of the City's request.
ARTICLE 12. OTHER AGREEMENTS OF THE PARTIES

12.01 Relationship of Parties. The parties intend that Contractor shall perform the services required by this Agreement as an independent contractor engaged by City and not as an officer or employee of City nor as a partner of or joint venturer with City. No employee or agent of Contractor shall be deemed to be an employee of City, nor an agent of City. Except as expressly provided herein, Contractor shall have the exclusive control over the manner and means of conducting the services performed under this Agreement, and all persons performing such services. Contractor shall be solely responsible for the acts and omissions of its officers, employees, subcontractors and agents. Neither Contractor nor its officers, employees, subcontractors and agents shall obtain any rights to retirement benefits, workers’ compensation benefits, or any other benefits which accrue to City employees by virtue of their employment with City.

12.02 Compliance with Law. In providing the services required under this Agreement, Contractor shall at all times comply with all applicable laws of the United States, the State of California and City, and with all applicable regulations promulgated by federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended during the Term and all permits affecting the services to be provided. Contractor shall procure all permits and licenses, pay all charges and fees, and give all notices required by law.

12.03 Property Damage. Normal wear and tear from general vehicular traffic excepted, Contractor shall be responsible for damage to all public and private property in the City, including but not limited to streets, roads and ways (whether or not paved), and trees resulting from the operation of Contractor’s vehicles or the actions of Contractor’s employees in providing collection services within City. Any physical damage caused by the intentionally wrongful or negligent acts or omissions of employees or agents of Contractor to public or private property in the City shall be immediately repaired or replaced by Contractor.

12.04 Grants. Contractor shall, upon request, assist City in the preparation of applications to federal, state, regional and other governmental agencies and private sector organizations for grants and loans associated with recycling and reuse programs and projects. Contractor shall compile accurate and complete data, information and
documents as requested by City to apply for such grants and loans, and shall comply with any requirements to which the City is required to adhere as a condition of receiving such grants and loans. Contractor shall not apply for grants directly, in its own name, without prior notice to and written approval by City.

12.05 Assignment. Contractor acknowledges that this Agreement involves rendering a vital service to the City’s residents and businesses, and that the City has selected Contractor to perform the services specified herein based on (i) Contractor’s experience, skill and reputation for conducting its operations in a safe, effective and responsible fashion, and (ii) Contractor’s financial resources to maintain the required equipment and to support its indemnity obligations to the City under this Agreement. The City has relied on each of these factors, among others, in choosing Contractor to perform the services to be provided by Contractor under this Agreement.

A. City Consent Required. Contractor shall not assign all or any of its rights or delegate or otherwise transfer all or any of its obligations under this Agreement to any other Person without the prior express written consent of City. City may refuse to consent to a proposed assignment unless it is satisfied that the proposed assignee is ready, willing and able to provide services in a manner equal to or better than the Contractor. Any such assignment, delegation or transfer made without the prior express written consent of City shall be void and the attempted assignment shall constitute a material breach of this Agreement.

B. Assignment Defined. For the purpose of this Section, “assignment” shall include, but not be limited to, (1) a documentary assignment of Contractor’s interest in and obligations under this Agreement; (2) a sale, exchange or other transfer to a third party of substantially all of Contractor’s assets dedicated to service under this Agreement or of any processing facilities identified in Article VI currently owned by Contractor’s partners; (3) any reorganization, consolidation, merger, or other transaction to which Contractor or either of its partners are a party which results in a change of Control of Contractor (e.g., the inclusion of a new partner); (4) any combination of the foregoing, whether or not in related or contemporaneous transactions which results in a change of Control of Contractor. A merger of Greenwaste Recovery, Inc. and Zanker Road Resource Management, Ltd., shall not constitute an “assignment” requiring the City’s approval. However, Contractor shall
provide City at least 90 days notice of such a proposed merger and the consolidated entity shall provide City a new Guaranty substantially in the form of Attachment M within two business days after the merger or consolidation.

C. **City Review of Requests to Consent to a Proposed Assignment**

1. City need not consider a request to consent to an assignment made while Contractor is in default of its obligations under this Agreement;

2. Contractor shall be required to pay the City's reasonable expenses, including attorneys' fees and consultants' costs, necessary to investigate the suitability of any proposed assignee and to review and finalize any documentation required as a condition of approving any such assignment;

3. Contractor shall furnish City with audited financial statements of the proposed assignee's operations for the three (3) immediately preceding operating years;

4. Contractor shall furnish City with satisfactory proof: (i) that the proposed assignee has at least ten (10) years of municipal solid waste/recycling management experience on a scale equal to or exceeding the scale of operations conducted by Contractor for the City; (ii) that in the last five (5) years, the proposed assignee has not been subject to any administrative or judicial proceedings initiated by any federal, state or local agency having jurisdiction over its municipal solid waste/recycling operations due to any significant failure to comply with state, federal or local laws and that the Contractor has provided City with a complete list of such proceedings and their status; (iii) that the proposed assignee has at all times conducted its operations in an environmentally safe and conscientious fashion; (iv) that the proposed assignee conducts its municipal solid waste management operations in accordance with sound waste management practices in full compliance with all federal, state and local laws regulating the collection and disposal of waste, including all Environmental Laws; (v) of any other information required by City to ensure the proposed assignee can fulfill the terms of this Agreement in a timely, safe and effective manner;
5. Any permitted assignee must assume Contractor’s responsibilities under this Agreement.

12.06 **Subcontracting.** Contractor shall not engage any subcontractors, other than Orloff-Williams, for development of public information materials as described in Attachment C without the prior express written consent of City. Contractor shall notify the City at least thirty (30) days prior to the date on which it proposes to enter into a subcontract. City may approve or deny any such request in its sole discretion and may require the submission of the information described in Section 10.05.C and the payment of the City’s expenses in evaluating the acceptability of the proposed subcontractor.

Contractor may, in cases of emergency, engage subcontractors for up to seven (7) consecutive days. Contractor shall give prompt notice to City of any such emergency subcontracting and any such engagement must be approved by City in writing if it is to extend beyond seven (7) days. Contractor shall be responsible for directing the work of any subcontractors and for any compensation due to subcontractors. City assumes no responsibility whatsoever concerning compensation. Contractor shall be fully responsible to City for all acts and omissions of a subcontractor.

12.07 **Binding on Successors.** The provisions of this Agreement shall inure to the benefit of and be binding on the successors and permitted assigns of the parties.

12.08 **Parties in Interest.** Nothing in this Agreement, whether express or implied, is intended to confer any rights on any Persons other than the parties to it and their representatives, successors and permitted assigns. There are no third party beneficiaries of this Agreement.

12.09 **Waiver.** The waiver by either party of any breach or violation of any provisions of this Agreement shall not be deemed to be a waiver of any breach or violation of any other provision nor of any subsequent breach of violation of the same or any other provision.

12.10 **Contractor’s Investigation; No Warranties by City.** Contractor has made an independent investigation (satisfactory to it) of the conditions and circumstances surrounding the Agreement and the work to be performed by it,
including the nature and amount of the Solid Waste and Recyclable Materials generated within the City, the recycling and source reduction programs now in effect in or planned by the City, the City's landfill, and the SMART Station. The Agreement accurately and fairly represents the intentions of Contractor, and Contractor enters into the Agreement on the basis of that independent investigation and analysis.

Contractor has carefully reviewed the information in the Request for Proposals and Addenda, if any. While City believes that the information contained in the Request for Proposals is substantially correct, City makes no warranties in connection with this Agreement, including but not limited to the information contained in the Request for Proposals. The City expressly disclaims any warranties, either express or implied, as to the merchantability or fitness for any particular purpose of Recyclable Materials made available for collection by Contractor.

12.11 Condemnation. City reserves the rights to acquire the Contractor's property utilized in the performance of this Agreement through the exercise of the right of eminent domain.

12.12 Representatives of the Parties.

A. Representative of City. Subject to the authority conferred on the City Manager by Section 5.20.080 of the Palo Alto Municipal Code, the representative of the City who is primarily responsible for the administration of this Agreement and to whom notices, demands and other formal communications shall be given is the Director of Public Works.

B. Representative of Contractor. The representative of the Contractor who is primarily responsible for the administration of this Agreement, and to whom notices, demands and other formal communications shall be given is Frank Weigel, Chief Operating Officer. City may rely upon actions taken and decisions made by the Contractor's designated representative as actions and decisions of the Contractor unless they are outside the scope of the authority delegated to such representative, which limitations on authority have been previously communicated to City in writing.

12.13 Notice. Notices, demands and other formal communications shall be in writing and shall either be personally delivered to the designated representative of
the party or deposited in the United States mail, first class postage prepaid and sent
certified mail return receipt requested, addressed as follows:

If to City:  
By Personal Delivery
Director of Public Works
City Hall
250 Hamilton Avenue
Palo Alto, CA 94301

By U.S. Mail
Director of Public Works
P.O. Box 10250
Palo Alto, CA 94303

With a copy to:  
City Manager
City of Palo Alto
250 Hamilton Avenue
Palo Alto, CA 94301

If to Contractor:  
By Personal Delivery
Mr. Frank Weigel, Chief Operating Officer
Greenwaste of Palo Alto
1500 Berger Drive
San Jose, CA 95112

By U.S. Mail
Greenwaste of Palo Alto
1500 Berger Drive
San Jose, CA 95112
Attention: Mr. Frank Weigel, Chief Operating Officer

Routine, day-to-day communications between the parties may be exchanged in a
manner and between subordinate employees as the designated representatives of each
party may agree.

Notices, demands and other formal communications shall be deemed to have
been given upon personal delivery or upon attempted delivery as shown on the U.S.
Postal Service certified mail return receipt.

If the name of the principal representative or others designated to receive the
notices, demands and other formal communications or the address of such person
changes, written notice shall be given to the other party by means of a notice given in
accordance with this section.
12.14 **Duty of Contractor Not to Discriminate.** Contractor shall not discriminate, nor permit any subcontractor to discriminate, in the employment of persons engaged in the performance of this Agreement or in the provision of service to customers on account of race, skin color, national origin, ancestry, sex, age, height, weight, disability, medical condition, sexual orientation, religion, marital status, familial status, or housing status in violation of any applicable federal or state law. Contractor acknowledges that it has read and understands the provisions of Section 2.30.510 of the Municipal Code relating to non-discrimination requirements and the penalties for violation thereof and shall comply with all such requirements, including those contained in Attachment R.

12.15 **City Environmental Policies.** Contractor and any subcontractors shall comply with City's Environmental Purchasing Policies, as may be amended from time to time.

12.16 **Right of City to Make Changes.** City may, without amending this Agreement, direct Contractor to cease performing one or more types of service described in Articles 4, 5 and 6, may direct Contractor to modify the scope of one or more such services, may direct Contractor to add new services and initiate pilot programs, or may otherwise direct Contractor to modify its performance under any other section of this Agreement. All such directions shall be in writing, signed by the Director or City Manager. Contractor shall promptly and cooperatively comply with such direction.

If such changes cause an increase or decrease in the cost of performing the services, an equitable adjustment in the Contractor's compensation shall be made. Contractor will continue to perform the new or changed service while the appropriate adjustment in the Contractor's compensation is being determined.

If City has directed a change in the scope of work under this Section and either party believes that such change will increase or decrease the costs of providing service, the party which believes the Contractor's compensation should be adjusted shall within thirty (30) calendar days submit to the other party a proposed adjustment and the parties shall thereafter meet and discuss the matter. Contractor shall promptly provide all relevant schedules, supporting documentation and other financial information requested by City to evaluate the necessity for an adjustment and the amount thereof.
City’s Director of Public Works will participate in key meetings regarding those adjustments. Within ninety (90) days of the submission of the proposed adjustment, City will determine the amount of the adjustment, if any, and will thereafter adjust the Contractor’s compensation accordingly. Any adjustments will be made effective as of the date the change in service is implemented.

If the Contractor is dissatisfied with the decision of the City, any dispute shall be referred to and resolved by arbitration conducted pursuant to the procedures set forth in Attachment Q.

12.17 Cooperation During Transition. At the expiration of the Term or earlier termination of the Agreement, or upon City’s approval of a proposed assignment, Contractor shall cooperate fully with City to ensure an orderly transition to any and all new service providers. Contractor shall provide, within ten (10) days of a written request by City, then-current route lists, which identify each Customer on the route, its service level and history (number of containers, container sizes, frequency of collection, scheduled collection day), any special collection details, and detailed then-current Customer account and billing information. Contractor shall, upon request by City, sell collection vehicles and containers to the next service provider at their net book value.

Contractor shall, commencing one hundred eighty (180) days prior to the transition of services, attend meetings with the next service provider and with City staff and consultants to plan the recovery of Contractor’s containers and placement of new containers. Contractor shall perform in accordance with such plan and direct route supervisors to provide “ride-alongs” so that the new service provider’s employees may ride with drivers in Collection vehicles during collection operations. Contractor shall direct its drivers and other employees to provide accurate information to the new provider about routing and Customers.

12.18 Protection of Customer Privacy. Contractor shall strictly observe and protect the rights of privacy of Customers and shall not market or otherwise distribute mailing lists with the names and addresses of residential customers.
12.19 **Use of Recycled Materials.**

A. **Recycled Paper.** Contractor shall purchase and use recycled paper products with a minimum of thirty percent (30%) post-consumer recycled content for uncoated paper and ten percent (10%) post-consumer recycled content for coated paper for all services provided under this Agreement, including office administration, reports, and communications with customers. All materials prepared by Contractor for distribution to Customers shall state “Printed on Recycled Paper.”

B. **Re-Refined Motor Oil.** Contractor shall use its best effort to use re-refined motor oil for its vehicles.

C. **Recycled Plastic.** Contractor shall purchase carts that contain the minimum post-consumer recycled content specified in Attachment H.

Upon City’s request, Contractor shall document its on-going compliance with these requirements.

12.20 **Municipal Code.** Contractor shall comply with all applicable provisions of the Palo Alto Municipal Code, including Chapter 5.20 and Chapter 9.10, and with all rules and regulations adopted by the City Manager pursuant to Section 5.20.280 of the Municipal Code. Contractor acknowledges having received a copy of Chapters 5.20 and 9.10 of the Municipal Code.

12.21 **No Damages for Invalidation of Agreement.** If a final judgment of a court of competent jurisdiction determines that this Agreement is illegal or was unlawfully entered into by City, neither party shall have any claim against the other for damages of any kind (including but not limited to loss of profits) on any theory.

12.22 **Indemnity Regarding Challenge to Award of Contract.** Contractor shall indemnify, defend and hold harmless City and its officers, employees and agents (collectively, the “Indemnitees”) from and against any and all liability, claim, demand, action, proceeding or suit of any and every kind and description brought by a third person challenging the process by which proposals were solicited and evaluated, or this Agreement was negotiated or awarded, including City’s compliance with the California Environmental Quality Act in connection with the award of this Agreement, but only to
the extent that such liability, claim, demand, action, proceeding or suit was caused by Contractor's failure to comply with applicable law or with the written instructions of any of the Indemnitees with respect to such matters.

**12.23 Fiscal Provisions.** This Agreement is subject to the fiscal provisions of the Charter of the City of Palo Alto and the Palo Alto Municipal Code. This Agreement will terminate without any penalty (a) at the end of any fiscal year in the event that funds are not appropriated for the following fiscal year, or (b) at any time within a fiscal year in the event that funds are only appropriated for a portion of the fiscal year and funds for this Agreement are no longer available. This section shall take precedence in the event of a conflict with any other term, condition, or provision of this Agreement.

**12.24 Affiliated Entity.** Contractor will not form or use any Affiliate to perform any of the services or activities which Contractor is required or allowed to perform under this Agreement, other than as a subcontractor approved by the City under Section 12.06.

If Contractor enters into any financial transactions with an Affiliate for the provision of labor, equipment, supplies, services, or capital related to the furnishing of service under this Agreement, or for the purchase of Recyclable Materials, that relationship shall be disclosed to the City, and in the financial reports submitted to the City. In such event, the City's rights to inspect records and obtain financial data shall extent to such Affiliate.
ARTICLE 13. MISCELLANEOUS AGREEMENTS

13.01 **Attachments.** Each of the Attachments, identified as Attachments “A” through “R,” is attached hereto and incorporated herein and made a part hereof by this reference. Any additional attachments, appendices, addenda and schedules which are attached to any duly executed amendment to this Agreement are similarly to be incorporated herein as a part of this Agreement.

13.02 **Entire Agreement.** This Agreement, including the Attachments, represents the full and entire Agreement between the parties with respect to the matters covered herein and supersedes all prior negotiations and agreements, either written or oral.

13.03 **Section Headings.** The article headings and section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

13.04 **Interpretation.** Each party has participated in the preparation of this Agreement with the assistance of legal counsel to the extent desired. Accordingly, this Agreement shall be interpreted and construed reasonably and neither for nor against either party.

13.05 **Amendment.** This Agreement may not be modified or amended in any respect except by a writing signed by the parties.

13.06 **Severability.** If any non-material provision of this Agreement is for any reason deemed to be invalid and unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Agreement, which shall be enforced as if such invalid or unenforceable provision had not been contained herein.

13.07 **Governing Law.** This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California.

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

13.09  **No Attorneys’ Fees.** The prevailing party in any action brought to enforce the terms of this Agreement or arising out of this Agreement may recover its reasonable costs expended in connection with such an action from the other party. Each party shall bear its own attorneys’ fees.

13.10  **References to Laws.** All references in this Agreement to laws and regulations shall be understood to include such laws and regulations as they may be subsequently amended or recodified. In addition, references to specific governmental agencies shall be understood to include agencies that succeed to or assume the functions the named agencies are currently performing.

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IN WITNESS WHEREOF, City and Contractor have executed this Agreement as of the day and year first above written.

GREENWASTE OF PALO ALTO,
a California joint venture

By: Greenwaste Recovery, Inc.,
a California corporation

By: __________________________
Name: Richard A. Cristina
Title: President

By: __________________________
Name: Jesse Weigel
Title: Secretary

By: Zanker Road Resource Management,
Ltd., a California limited partnership

By: Zanker Road Resource Recovery,
Inc., a California corporation,
its General Partner

By: __________________________
Name: Richard A. Cristina
Title: President

By: __________________________
Name: Murray B. Hall
Title: Secretary

CITY OF PALO ALTO

By: __________________________
City Manager

ATTEST:

___________________________
City Clerk

APPROVED AS TO FORM

___________________________
City Attorney

APPROVED:

___________________________
Director, Administrative Services

APPROVED:

___________________________
Director, Public Works
SUPPLEMENTARY ASSURANCES
BY ZANKER ROAD RESOURCE MANAGEMENT, LTD
AND GREENWASTE RECOVERY, INC.

Zanker Road Resource Management, Ltd, and Greenwaste Recovery, Inc., partners in Contractor, in order to induce City to enter into this Agreement with Contractor, hereby ratify the commitments made in Contractor’s Proposal regarding processing at the facilities which they own, and agree to process materials collected in Palo Alto and delivered to those facilities as necessary for Contractor to fulfill its agreements in Article 6 of this Agreement.

By: Zanker Road Resource Management, Ltd., a California limited partnership

By: Zanker Road Resource Recovery, Inc., a California corporation, its General Partner

By: __________________________
Name: Richard A. Cristina
Title: President

By: __________________________
Name: Murray B. Hall
Title: Secretary

By: Greenwaste Recovery, Inc., a California corporation

By: __________________________
Name: Richard A. Cristina
Title: President

By: __________________________
Name: Jesse Weigel
Title: Secretary

Date: 10/15/68
Date: 10/31/68
Date: 10/15/68
Date: 10/15/68
ATTACHMENT B

TRANSITION AND IMPLEMENTATION PLAN

1. ADMINISTRATION

Office and Storage Yard Lease(s):
GWR must secure facilities for a local administrative office, our Palo Alto Customer Service Center and a yard large enough to store, maintain and wash vehicles and containers. GWR and the City anticipate GWR taking over the Geng Road site from PASCO/Waste Management to support the establishment of a local administrative office and provide enough local storage area for some containers for quick turnover of requests. The Geng Road site does not, however, include sufficient room to store, maintain and wash all the trucks and containers for the City.

We are currently seeking alternative sites in Santa Clara that can accommodate the balance of our needs for Palo Alto operations. If the Geng Road site is available and a lease has been signed on or before December 31, 2008, GWR will use the Geng Road site to accommodate our administrative office space needs and the storage of limited containers. If the Geng Road site is not available and a lease has not been signed on or before December 31, 2008, GWR will make arrangements for an alternative site within the City or within two (2) miles of the City boundary to provide for a local administrative office.

Regardless of the location(s) of our facilities, the process of setting up the office remains virtually the same. Office facilities will be set-up prior to or concurrent with the hire and training of the new Customer Service Representative team. Office furniture, supplies and additional resources needed to support staff will be ordered to accommodate the space and ensure the comfort and productivity of staff. The phone and computer systems will be set-up by our experienced IT Manager and tested for any inconsistencies in performance and use. It is the goal of GWR to retain the same customer service phone number as is currently being used by PASCO. The GWR office in San Jose will be used as a back-up location for customer service support and the Charles Street location will serve as a back-up and overflow location for the storage of trucks and containers.

Customer Service and Call Center Activities:
Three (3) Customer Service Representatives and one Supervisor will be hired. New CSRs will be trained by the existing CSR staff and each CSR’s electronic operations will be set-up will be in coordination with our IT Manager. New CSR staff will be required to participate in a training course using proven techniques to support a smooth transition. We will be making offers of employment to displaced employees and remain hopeful that they will accept. Utilizing customer service staff from the previous hauler provides an additional advantage of reducing start-up costs associated with training staff; they are already familiar with the area, the routes and the customer service process for this sector. New customer service staff will need to be trained on the RAMS system and GWR customer service expectations.
The orientation and training process for Customer Service Representatives will be overseen by our Customer Service Manager and coordinated with our IT Manager. All CSRs new to GWR will be trained on the RAMS systems and its integration with the On-Route system in all the collection trucks. It will be imperative that CSRs are well versed in the use and troubleshooting of the RAMS system and the generation and tracking of work orders.

We anticipate and are prepared to manage a high call volume during this transition. We will utilize our existing Customer Service Manager and Customer Service Supervisor to provide support to and take calls at the new call center. If call volume proves to be higher than anticipated or customer service requests are more complicated than we expect, we will pull from existing staff to answer calls, in order to relieve the new CSRs and utilize existing Management and Supervisory staff to handle the more complicated service requests.

**Billing System Coordination with the City & PASCO**

It is critical that GWR and the City coordinate tracking and implementation processes and integrate the operational aspects of customer billing. The City utilizes a refuse module of the SAP system for tracking of services and billing customers. GWR utilizes a RAMS system to maintain customer data and track work orders. It is imperative that these two systems are compatible in order to provide seamless customer service, accurate and timely billing and prompt delivery of services. System integration and data synchronization will ensure that all services and items provided to Customers that are charged and for which GWR is compensated on a per unit basis, will be accurately tracked for the City to bill Customers and for GWR to submit requests to the City for payment.

GWR has experience in the integration of our RAMS system with a SAP system, as demonstrated by the successful development, testing and implementation of our contract with the City of San Jose. GWR staff has been working internally to coordinate services and needs (technology, customer service, finances, operations) in anticipation of providing data in a format that allow the City to integrate service charges into the City billing system. The GWR Office Manager, IT Manager, Controller and Community Relations Manager are working with the City Utilities Billing SAP Team and the SAP Consultant Team from Axon to identify the parameters for integrating a system interface that is updated at frequent intervals throughout the day. This goal of a frequently-updated interface is to allow GWR to generate and complete customer work orders, export that data from RAMS, transmit an encrypted flat-file to the City via secure means and allow the City to convert the RAMS data into a format that is accepted by the City Refuse Module of the SAP system. This team has begun coordinating efforts and identifying a strategy for integration and will continue to work together to design, test and implement an integrated system. The City does not have a call center so all customer service calls will be routed directly to the GWR Customer Service Center. Accordingly, there will be no City-generated work orders, which make the system integration much easier. Data first needs to be transferred in one direction, from GWR to the City. It is likely that a second data transfer needs to occur from the City to GWR for updated information, such as changes to account information and updated rates.

The exact methods, schedule and costs associated with integrating the RAMS system and the SAP system have not been finalized. GWR will be responsible for developing an application that
will allow GWR to collect specific information on Palo Alto Customers and provide the information in a fixed flat-file length and transmit that flat-file to the City’s system via secure means. The system may be designed for unidirectional or bidirectional data transmission. There are limited needs for bidirectional data specific to the addition of new premises and billing related inquiries. The portal currently under development by Axon will provide GWR with information on the addition of new premises. Sufficient access to customer billing information will need to be provided to GWR so CSRs have the ability to answer specific billing questions from customers and issue credits to customers. GWR CSRs may also perform some limited and infrequent manual entering of data into the City’s SAP system.

Beginning in October 2008, GWR staff will identify the specific data types to be transmitted to the City for tracking of contractual requirements. GWR will rely on the City’s input throughout this process to confirm that the data needs are accurate and to add additional data types based on the integration needs with the SAP system. GWR staff will be available to the SAP Team throughout this process of defining and refining the data needs and parameters of the system interface.

GWR has provided the City with details regarding the process of RAMS-SAP integration and the different components involved in the interface solution. The target date for the City’s SAP implementation is February 2009. It is likely the City will not invest significant resources in the Refuse module and integration with a GWR application until after that date. GWR will need the assistance of the City SAP Team prior to February 2009 in order to sufficiently and accurately outline the parameters of the application that will be written to pull specific data from RAMS and to accept billing related data from SAP.

It is also critical that GWR, the City and the current hauler (PASCO/Waste Management) coordinate to ensure the records and data of existing customers and services are accurate and complete when transferred to GWR to enable routes to be developed and finalized prior to the transition. The City is currently working with PASCO/Waste Management to reconcile the existing data set and ensure the highest degree of accuracy obtainable.

**Potential Obstacles & Contingencies: Administration**

- Depending on the ability of the City and GWR to sign a lease for the Geng Road site on or before December 31, 2008, GWR may need to identify and secure an alternative site for our local administrative office. Securing a local administrative office is a critical path for success. The potential downside of utilizing a different site for the GWR local administrative office is the comfort of customers familiar with the location of the Geng Road site, which would be addressed by integrating a change in facility location announcement into existing public education materials.

- Ensuring our Customer Service Center has a facility that is up and running on the date of the transition is a critical path to our ability to provide exemplary customer service in this time of transition. The Geng Road site is currently occupied by the PASCO/Waste Management Customer Service Center. If this site is secured for the Customer Service Center, it is unreasonable to expect they could transition out and GWR could set-up our operations in a single day without significant service disruption. Depending on the
location of the facility, there are a few appropriate and feasible mitigation measures to address this potential obstacle.

- If the Geng Road site is available and secured, the GWR Customer Service Center may be set-up at the Geng Road site while it is being operated by PASCO. This would prove complicated, however would allow for the GWR Customer Service Center to be fully operational prior to the transition date. The second is to initially set-up in the San Jose office and then transition into the office at the Geng Road site.

- If the Geng Road site is not available and an alternative site must be secured, GWR will have adequate time to set-up the administrative office and Customer Service Center prior to the date of transition.

- Customer Service Representatives with PASCO/Waste Management will be offered employment and their acceptance is a critical path to a smooth transition. If existing employees accept the Customer Service Representative positions, their training needs will be significantly reduced; if they do not, GWR will need to hire new employees and provide additional training in Customer Service methodology specific to GWR and the industry. An appropriate and feasible mitigation measure to address this potential obstacle is to conduct outreach and recruitment early enough to secure commitments and/or hire new employees and begin additional training.

- Obtaining accurate and complete data from PASCO/Waste Management on routes, customers, services and employees is a critical path to a seamless transition. Based on past experience, incomplete and/or incorrect data can be the greatest threat to a seamless transition.

  - There are two feasible and appropriate mitigation measures we can employ to address the route/customer/services data portion of this potential obstacle. The first is to conduct route surveys and field audits as early as possible, to allow time to ground-truth the accuracy of the route maps and services provided. The second is to have Customer Service Representatives on hand and prepared to receive increased customer calls and expeditiously deploy work orders to the operations team.

  - There are two feasible and appropriate mitigation measures we can employ to address the employee data and recruitment portion of this potential obstacle. The first is to obtain information on existing employees as soon as it is made available to us and the second is to begin outreach efforts to employees at the storage yard as quickly as possible.

2. PERSONNEL (Hiring & Training)

Management Team - Roles and Responsibilities
GWR has assembled an experienced and hands-on Management Team unparalleled in the industry. The Management Team has extensive experience in all administrative, financial and operational aspects of collection, hauling, processing and disposal. In order to ensure a successful and smooth transition, the GWR Management Team recognizes the importance
dedicating resources to the transition and is committed to providing the resources needed and expertise necessary for the transition. Following the successful transition of GWR into Palo Alto, the Management Team will also provide continued support to staff and will manage the contract through completion.

The Management Team includes:
Richard Cristina, President
Murray Hall, Vice-President
Jesse Weigel, Secretary/Treasurer
Frank Weigel, Chief Operating Officer
Don Dean, Chief Financial Officer

Transition Team – Roles and Responsibilities
GWR has assembled an incredibly dynamic and experienced Transition Team that will train and provide ongoing support to new employees in their respective area of expertise. The Transition Team will be supported by the Management Team to ensure time dedicated to the transition does not negatively affect their ability to continue providing the high level of service and performance expected of GWR employees.

The Transition Team will play a prominent role in orientation, training and support of new employees and is committed to and has the resources available to dedicate the time, energy and expertise necessary to ensure a successful transition. We anticipate the Transition Team will dedicate 50%-100% of their time to the transition including intermittent direct support after collection service begins and the Zero Waste phased implementation is complete. Following the successful transition, the Transition Team will reduce their time dedicated to the Palo Alto contract and support the new employees hired.

Tracy Adams, Controller
Mr. Adams worked extensively on the Santa Cruz County transition and will provide assistance with the conversion of files and set-up of new customer accounts.

Colin Beall, San Jose Operations Manager
Mr. Beall has managed transitions in Tehama County, Red Bluff and San Jose Yardwaste and has provided assistance and support to many more. Mr. Beall will be responsible for training the Palo Alto General Manager and Operations Manager on GWR systems and procedures. He will also lead the driver training program and provide assistance during bin distribution

Barry Christina, Human Resource Manager
Mr. Cristina has been involved in all phases of GWR’s transitions from Petaluma to Santa Cruz County and contract compliance. Mr. Cristina will be responsible for coordinating the job offers to the current PASCO/Waste Management employees working on the Palo Alto contract. He will also provide support and assistance to Frank Weigel in other transition phases.
Jeff Cristina, Outreach Coordinator, Zanker
Mr. Cristina will be responsible for the outreach for commercial recycling and the expanded organics/food waste as part of the “Zero Waste” program. He has been involved in marketing Zanker’s recycling products to all types of commercial customers.

Burton Crosby, IT Manager
Mr. Crosby manages all aspects of the GWR Information Technology systems. He has been intimately involved in the contract turn-ups and system integrations in the past for GWR including transitions in the County of Santa Cruz and City of San Jose.

Valarie Enyart, Office Manager
Ms. Enyart leads GWR’s Customer Service team and management of the San Jose office. Ms. Enyart has been a key asset in successful transitions, including the transfer of databases from prior haulers. Ms. Enyart will provide the necessary support for the Customer Service Representatives. Ms. Enyart will provide internal and outside resources and training opportunities to the new CSR’s in GWR’s exceptional approach to Customer Service and comprehensive use of the RAMS system. She will also coordinate with the IT Manager and Controller to ensure a smooth transition of data from the previous hauler.

Emily Hanson, Community Relations Manager
Ms. Hanson is the newest member of GWR team and has extensive experience in contract management, community and government relations and managing the development and implementation of successful public education and outreach programs. Ms. Hanson will provide support and assistance to Frank Weigel in other phases of the transition.

Jose Ortiz, Operations Supervisor
Mr. Ortiz is experienced in routing and the efficient delivery and pick-up of residential carts, has been involved in all operational phases of GWR’s collection business and as back up for our operation managers and supervisors. Mr. Ortiz has managed cart distribution and route auditing and been involved in driver training and field customer service and has worked on transitions for San Jose Yardwaste, Petaluma, Burbank Sanitary District, Portola Valley, Santa Cruz County, Capitola, Scotts Valley and Lexington Hills. Mr. Ortiz will be in charge of cart and bin distribution and exchange for the City of Palo Alto Contract.

Hiring and Training of Staff
GWR is committed to giving priority hiring to displaced PASCO employees. It is the goal of GWR to hire outside the existing pool of displaced employees only if GWR has more positions to fill then the total number of interested people qualified for the position to which they are applying or if a displaced employee chooses to stay with Waste Management. GWR Management has already met with the drivers to provide employment assurances and answer questions current employees have. While some discussions have already begun with other
positions, the formal and coordinated discussions will begin with the remainder of the positions (managers, supervisors, coordinators, CSRs, recycle center employees, etc…) over the next few months. Additional outreach will continue through the formal employment offer phase.

GWR will obtain a list of current employees from PASCO and begin conducting outreach to provide assurances that employment opportunities will be offered to displaced employees. Approximately four (4) months before the transition date, GWR will offer employment to displaced employees for the jobs which they are qualified and will require acceptance on or before April 1, 2009. This timeline will allow GWR to hire and train new employees without interfering with our ability to affect a smooth and seamless transition.

Approximately two (2) months before the transition date, we will begin our “off-truck” and “on-truck training” for route personnel, including drivers and mechanics. Training will also commence for the use of the CNG fueling station by City staff. It is imperative that all displaced employees who have accepted positions with GWR are oriented on the GWR Drug & Alcohol Policy, Sexual Harassment Policy, Injury and Illness Prevention Program, Emergency Action Plan, Safety Rules and Discipline Program and Accident and Injury Reporting Program. Employees are also required to participate in and complete an intensive training program covering topics including, but not limited to commercial driver safe work practices, PPE, hazard communication, seat belt requirements, confined spaces, and lockout/tag out requirements and procedures. Prospective employees must pass this series with management approval to achieve permanent employment. To accommodate schedules, trainings will be held each Saturday leading up to the transition date and participants will be paid for their time spent participating in these trainings at their regular hourly rate.

- Route Personnel - Dispatchers, Drivers & Mechanics

In addition to the route personnel positions (drivers and mechanics) the following positions will also need to be filled. Priority will be given to displaced employees who meet the qualifications of the position being applied for, however if none of the positions are applied for or the applicants are not qualified, GWR will seek outside applicants.

- Management:
  - General Manager (1)
  - Operations Manager (1)
  - Environmental Outreach Manager (1)

- Supervisors:
  - Route Supervisors (3)
  - Maintenance Supervisor (1)
  - Customer Service Supervisor (1)

- Customer Service Representatives (3)

- Environmental Outreach Coordinators
• Recycle Center Employees (2)

• Container Distribution (1)

**Potential Obstacles & Contingencies: Personnel**

• The only obstacle anticipated is an unforeseen delay in hiring from outside the pool of displaced employees. The most appropriate mitigations measure is to impose an acceptance date for displaced employees to provide GWR some level of assurance that we do not need to seek applicants for positions that have been accepted.

3. **OPERATIONS (Equipment & Routes)**

**Truck and Container Ordering and Delivery**

It is imperative that new trucks and additional vehicles needed for operations are available for use prior to the date of transition. Accordingly, GWR has already placed the order for vehicles that will be used for residential, multi-family and commercial Solid Waste, Recyclable Materials, Yard Trimmings and Organics collection. Prior to October 31, 2008 body color and additional trim details will be discussed with the City, finalized and submitted to the factory. Prior to November 30, 2008 the remaining details for the vehicles (logos, colors, placement, vehicle identification numbers and additional text) will be discussed with the City and finalized. The factory will begin building the chassis for all trucks (including the Recycle Center forklift – to be ordered in October 2008) and will phase the delivery for the body construction between the December 1, 2008 and January 31, 2009. The construction of the bodies will occur as the chassis are received. All trucks will be completed and delivered between May 1, 2009 and May 31, 2009, with complete delivery on or before June 1, 2009. GWR has also agreed to purchase trucks from PASCO at the net book value as per the City’s agreement with PASCO. The trucks must be provided to GWR in good condition and ready for service on or before July 1, 2009. All drivers utilizing CNG vehicles will be trained on the use of the City fueling facility before operating the vehicles.

GWR will be utilizing the existing carts for residential and some multi-family Solid Waste, Recyclable Materials, Yard Trimmings and Organics collection. The colors, sizes, logos, text and text placement and container identification numbers for residential carts will be discussed with the City and finalized on or before December 31, 2008. GWR will maintain an adequate inventory of extra containers to replace residential carts. On an as-needed basis, GWR will deliver additional or replacement carts to existing customers within seven (7) days of their request for a different cart capacity, additional cart(s) or replacement carts. Replacement carts will be delivered to customers within five (5) days of notification to GWR. When carts are delivered GWR will remove all carts that have been damaged or are no longer in use, as appropriate. As new premises are added or service levels change, GWR will provide customers with carts to reflect their level of requested service.

GWR will be ordering new containers (bins & drop boxes) for commercial and multi-family Solid Waste and Recyclable Materials collection (including “recycling buddies”) for Organics collection and also for the Recycle Center. The colors, sizes, logos, text and text placement and container identification numbers for containers will be discussed with the City and finalized on
or before December 31, 2008. On or before July 1, 2009, GWR will begin to remove existing containers for solid waste collection and replace them with new containers as per the specifications of each Customer. Delivery of “recycling buddies” to multi-family customers will occur with the delivery of solid waste collection containers. On or before July 1, 2009, GWR will begin delivery of new carts and bins to commercial Customers for expanded single stream recyclables and organics in support of the new Zero Waste program. Delivery routes will be planned to minimize vehicle travel and expedite the replacement of carts to customers. Drop boxes will be purchased to replace existing drop-boxes and delivery will occur as orders for services are placed.

Discussions have already occurred with the manufacturer and following our receipt of data on existing commercial containers and anticipated needs, GWR will finalize the count and firm up the order the new containers, including colors and signage. GWR will maintain an inventory of extra commercial containers with varying capacities in the event initial demand is greater than anticipated. Excess inventory will be stored at our storage yard. The new carts and containers will be purchased before July 1, 2009 and will meet the requirements in Attachment C. Payment from the City for these per-unit costs will occur after July 1, 2009. All carts and containers will have logos indicating exclusive use in Palo Alto. Accompanying the payment request, GWR will provide the City with the purchase order and proof of receipt.

**Route Planning and Development**

GWR utilizes On-Route system technology on all trucks. On-Route is fully integrated and maintains a virtual real-time connection with RAMS software to ensure customer service requests and work orders generated through RAMS are provided to the drivers via On-Route. Full integration of these two systems also enables drivers to enter any additional services or alterations in service into On-Route, causing additional charges on their account as appropriate.

GWR will request and arrange for the transfer of route maps and sequential route sheets from the City and PASCO/Waste Management for input into the RAMS system. GWR will then conduct route surveys and field audits to ground-truth the data obtained. Routes will be developed utilizing this data and dry runs will be conducted prior to finalizing the routes. Once the data has been proven accurate, routes will be finalized in the two (2) months preceding the transition. Minor calibration of the routes will be ongoing. Notification will be given to the City and Customers if more significant changes are made, including, but not limited to holiday schedules, regular service days or the addition of new premises.

**Potential Obstacles & Contingencies: Operations**

- Obtaining accurate data for existing route maps and sequential route sheets is a critical path to a smooth transition. See mitigation measure in Administration section above.

**4. OUTREACH & EDUCATION**

GWR staff will begin developing a Public Education and Outreach Plan beginning October 2008. The Plan will identify the target audience for services provided, program objectives, individual tasks, public educational materials to be developed and timelines for Plan implementation. Input will be solicited from City and Plan implementation success will be measured by deadlines and
products developed. GWR staff will modify existing public educations to target and promote the use of services provided to residential, multi-family and commercial customers. Educational materials will include, but are not limited to notification of GWR as the new hauler, service verification requests, expanded and/or modified services, and notification and promotion of the expanded services provided under the City’s zero waste program.

**Potential Obstacles & Contingencies: Outreach & Education**

- *GWR does not anticipate any potential obstacles that would hinder GWR’s progress.*

As described in Attachment C, during the transition Contractor will place advertisements in local newspapers and use direct mailings to inform residents and businesses about the new solid waste, recyclable materials and organics collection programs. The introductory mailer will also include a return mail postcard requesting Customers to select their solid waste, recycling and organics cart/bin sizes (if necessary). Shortly thereafter, as a follow-up, Contractor will send a direct mail piece to each Customer which will: verify billing information and collection day and provide information on the holiday collection schedule, holiday tree collection, and Clean-Up Program (where applicable).

In the few months prior to start-up and in accordance with the City’s schedule, the Environmental Outreach Manager will attend community workshops and community events to educate Customers on the new collection programs and answer questions.

The following public education and outreach materials will be produced for the start-up of collection services:

- Newspaper advertisement explaining new programs – Mercury News and local paper (2 advertisements each)
- Press Releases about the new program (3)
- Press Release about the start of the program (1)
- Press Release after first week of program (1)
- Press Release after first month of program (1)
- Initial (one time) direct mailing to inform Customers of the new program (approximately 26,000 pieces)
- Second (one time) direct mailing informing Customers about holiday/clean up schedule (approximately 26,000 pieces)
- Residential – Solid Waste, Recycling and Yard Trimmings “How To” Guide one time to all residents at beginning of start-up (approximately 35,000 pieces)
- Commercial – Solid Waste, Recycling and Organics “How To” Guide one time to all businesses at beginning of start-up (approximately 1,500 pieces)
- Clean Organics Program. Commercial (approximately 500 pieces)
- Commercial & MFD – Laminated Recycling Posters (approximately 2,000 pieces)
- Residential – Solid Waste, Recycling and Yard Trimmings “How To” Guide annually by request, at community events, presentations and other community activities (approximately 5,000 pieces)

In addition, a training packet for commercial and industrial Customers will include how-to information for direct distribution to their employees, outreach materials suitable for bulletin-
board posting in common areas, and signage for internal collection points. EOCs will conduct on-site workshops upon request by a Customer or City.

The following public education and outreach materials will be produced with City approval for the start-up of collection services, and will be repeated periodically, as needed or upon City request during the Term:

- Description of annual Clean-Up Program, including options for reuse and recycling. Contractor shall provide separate outreach materials for single family and commercial customers.
- Zanker 10% off coupon
- Press Releases
- Company newsletter, Quarterly
- Door hangers, Annually
- Corrective Action Notice
- Recyclable Materials Resource Guide

4. ZERO WASTE SERVICE (Phase-in)

Expanded Organics Collection & Processing
The expanded organics collection and processing for commercial customers will be phased in over a 90-day period beginning July 1, 2009 and concluding September 30, 2009.

Expanding Single-Stream Materials
Expanded single-stream materials collection for residential customers will commence July 1, 2009.

Expanded single stream materials collection for commercial customers will be phased in over a 90-day period beginning July 1, 2009 and concluding September 30, 2009.

Expanding Clean-up Day Collection
This service will commence July 1, 2009. Outreach and educational materials will explain this expanded service to customers and will highlight this once per year service provided to customers including notification that the request must be received by the CSRs at the call center at least one week in advance. This advance notice allows the CSRs to input the request into the RAMS system and dispatch the appropriate vehicle on the day of the customer’s regularly scheduled pick-up.

Following the hire of Environmental Outreach Coordinators and as part of GWRs reuse and recycle program, corporate partnerships will be explored and developed with non-profit entities, such as Goodwill and the Salvation Army, that support and promote the reuse of materials in the areas served by GWR. EOCs will work with these entities to develop a process that is conducive to the highest level of reuse. GWR will only store items that have a high potential for reuse. Prior to July 1, 2009, a specific area at the MRF will be set-aside for the collection of bulky items by type. Any items collected through the Expanded Clean-up Day Collection that may be desirable to reuse will be collected and brought to the Zanker Materials Recovery Facility before the close
of business on the day they are collected for regional non-profit entities and the general public to examine and take any items for reuse at no charge.

Implementation of Mandatory Participation

The Contractor shall implement a mandatory participation program that requires single family, multi-family, and commercial/industrial Customers to place Recyclable Materials, Yard Trimmings and Organics in the appropriate collection containers.

- In the first year, commencing July 1, 2009, Contractor shall educate customers on how to comply with the new mandatory participation and phase-in schedule requirements; Phasing approach:
  1. Development of Mandatory Ordinance
     Upon request by the City, the Contractor shall provide assistance in the development and implementation of the ordinance as needed.
  2. First Year
     Contractor shall conduct an extensive outreach and educational program to educate customers on how to comply with the new mandatory participation program and phase-in schedule requirements. This phase shall include the following minimum requirements:
     a. Customers serviced in carts or cans for Solid Waste:
        - Outreach material attached to each Solid Waste cart or can in July 2009, January 2010 and June 2010.
        - Information included in the first mailings
        - Information shared at public events
        - Additional Outreach materials as needed (newspaper ads, brochures, newsletters, utility bills, posters, etc.).
     b. Customers serviced in bins for solid waste:
        - Outreach material attached to each Solid Waste container in July 2009, January 2010 and June 2010.
        - Site visits or contact to each customer for the purpose of informing customers of the new mandatory participation requirements.
        - Information included in pre-transition mailings.
        - Additional outreach materials as needed (newspaper ads, brochures, newsletters, utility bills, posters, etc.).

Increasing C&D Debris Diversion

C&D Debris Diversion will begin July 1, 2009. All roll-off boxes containing C&D debris, mixed debris, clean-up debris from homeowners and compactors that contain no putrescible organics will be transported to the Zanker MRF or the Zanker Landfill for processing and recycling.

Enhancing Commercial Recycling
Enhancing Commercial Recycling will be phased in over a 90-day period beginning July 1, 2009 and concluding September 30, 2009. These expanded services will be provided for commercial, school and multi-family customers beginning with public outreach and education and waste audits beginning in May 2009.
## ATTACHMENT B-1

### TRANSITION TIMELINE

<table>
<thead>
<tr>
<th>Administrative</th>
<th>2008</th>
<th>2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>Execute Contract</td>
<td>x</td>
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<tr>
<td>Management-Level Meetings with City (Monthly)</td>
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<tr>
<td>Meetings with City Staff (Semi-monthly)</td>
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<tr>
<td>Implement Team Kick-off Meeting</td>
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<tr>
<td>Implement Team Meetings</td>
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<tr>
<td>Management Team Meeting</td>
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<tr>
<td>Transition Team Meeting</td>
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<td>Coordination of Billing Set-up with City Staff</td>
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<td>Trouble-shooting Billing with City Staff</td>
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<tr>
<td>Set-up Office Space &amp; Customer Service Center</td>
<td>x</td>
<td>x</td>
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<tr>
<td>Populate Storage Yard</td>
<td>x</td>
<td>x</td>
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<tr>
<td>Personnel</td>
<td>2008</td>
<td>2009</td>
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<tr>
<td>Hire &amp; Train (if applicable) Supervisors</td>
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<tr>
<td>Hire &amp; Train Dispatchers</td>
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<tr>
<td>Hire &amp; Train Customer Service &amp; Accounting Staff</td>
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<tr>
<td>Hire &amp; Train Environmental Outreach Coordinators</td>
<td></td>
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<tr>
<td>Conduct Outreach to Displaced Personnel</td>
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<td></td>
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<tr>
<td>Hire &amp; Train Office Space &amp; Customer Service Center</td>
<td></td>
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<tr>
<td>Personnel</td>
<td>2008</td>
<td>2009</td>
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<tr>
<td>Make Employment Offers to Displaced Personnel</td>
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<tr>
<td><em>Office</em> Training for Drivers/Mechanics</td>
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<td><em>On-Duty</em> Training for Drivers/Mechanics</td>
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<tr>
<td>Equipment</td>
<td>2008</td>
<td>2009</td>
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<tr>
<td>Order Collection &amp; Support Vehicles</td>
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<tr>
<td>Order Residential Carts</td>
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<tr>
<td>Order Commercial Containers</td>
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<tr>
<td>Order Multi-family <em>Recycling Buddies</em> Containers</td>
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<td>Modify Residential Cart Order (if necessary)</td>
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<tr>
<td>Modify Commercial Container Order (if necessary)</td>
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<tr>
<td>Modify Multi-family <em>Recycling Buddies</em> Containers (if necessary)</td>
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<tr>
<td>Receive, Inspect &amp; Test New Vehicles</td>
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<tr>
<td>Deliver/Replace Commercial Carts</td>
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<td></td>
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<tr>
<td>Deliver/Replace Residential Carts (as necessary)</td>
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<td>Routes</td>
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<td>2009</td>
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<td>Obtain Route Maps &amp; Sequential Route Sheets</td>
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<td>Conduct Route Surveys and Field Audits</td>
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<tr>
<td>Develop Routes</td>
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<td>Finalize Routing</td>
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<td>Outreach &amp; Education</td>
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<td>Develop Transition Public Education &amp; Outreach Plan</td>
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<td>Develop Introductory Mail Piece</td>
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<tr>
<td>Develop Introductory Newspaper Advertisement</td>
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<td>Develop Collection Day Verification &amp; Schedule Piece</td>
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<tr>
<td>Develop &quot;How-to&quot; Guides</td>
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<td>Develop Corrective Action Notice</td>
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<td>Develop Company Newsletter</td>
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<td>Develop Annual Clean-up Event Direct Mail (as appropriate)</td>
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<td>Mail Introductory Mail Piece</td>
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<tr>
<td>Post Advertisement(s) in Newspaper</td>
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<td>Mail Collection Day Verification &amp; Schedule Piece</td>
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<tr>
<td>Distribute &quot;How-to&quot; Guides to:</td>
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<td>Single Family Residents</td>
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<td>Multi-plexes and Multi-family Residents (Managers &amp; Door-to-door)</td>
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<td>Commercial Customers (Individual Meetings)</td>
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<td>Non-Profit Community Meetings</td>
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<tr>
<td>Attend at least four (4) Community Workshops</td>
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<tr>
<td>Meet with Business Managers Individually</td>
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<tr>
<td>Hold at least eight (8) Training Meetings (2 for each business type)</td>
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<tr>
<td>Attend at least six (6) Business Meetings</td>
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<tr>
<td>Begin Collection Services</td>
<td>2008</td>
<td>2009</td>
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<tr>
<td>Expanded Organics: Coordination with City on Outreach/Marketing</td>
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<tr>
<td>Expanded Organics: Begin Targeting Anchor Customers</td>
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<td>Expanded Organics: Migration of Commercial Garbage Routes</td>
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<td>Expanded Organics: Container Changes for Commercial</td>
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<td>Single-Stream Materials: Residential</td>
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<td>Single-Stream Materials: Commercial</td>
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<td>Clean-up Day Collection: Notice to Customers of Expanded Services</td>
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<td>Mandatory Participation: Development of Educational Materials</td>
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<td>Mandatory Participation: Distribution of Materials to Customers</td>
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<td>Increasing C&amp;D Debris Diversion</td>
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<td>Enhanced Commercial Recycling: Public Education</td>
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<td>Enhanced Commercial Recycling: Commercial Waste Audits</td>
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<tr>
<td>Enhanced Commercial Recycling: Collection Services Begin</td>
<td></td>
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</tbody>
</table>
ATTACHMENT C

COLLECTION SCOPE OF WORK

1. SOLID WASTE

A. Single Family Residential Premises. Contractor shall collect Solid Waste from Single Family Residential Premises at least once per week on the same day each week. Standard service is one 32-gallon capacity cart or a 32-gallon Customer provided can. Customers may also subscribe for minimum service (one 20-gallon capacity mini-can or a 20-gallon capacity cart) or for additional capacity such as larger carts (64 and 96 gallon capacity) or multiple cans. Solid Waste will not be collected on Saturday or Sundays without the prior permission of the Director.

Standard collection location is curbside. Backyard service is provided to (i) Customers who subscribe to backyard service (and pay an additional charge if required by the City), and (ii) to Customers with physical limitations who qualify for backyard service at standard rates (as described in Section 5F). In both cases, Contractor shall collect Solid Waste in carts (or 32-gallon Customer-provided cans) from an alternative service location (sidewalk or backyard within 25 feet from the curb) as requested by the Customer, and which is accessible via a safe pathway. Contractor is not required to enter private garages or other buildings to collect containers.

B. Multi-Family Residential Premises. Contractor shall collect Solid Waste from Multi-Family Residential Premises a minimum of once per week and up to a maximum of five (5) days per week for cart Customers. Standard service is two 32-gallon capacity cans or a 64-gallon cart.

Contractor shall also collect Solid Waste from Multi-Family Residential Premises in bins a minimum of once per week and a maximum of six (6) days per week on the same day(s) of each week. Solid Waste will not be collected on Sundays without the prior permission of the Director.

Customers may subscribe for minimum service (one 32-gallon can or cart) or for additional capacity such as multiple cans or a variety of carts (32, 64 and 96 gallon capacities) and bins (1, 1.5, 2, 3, 4, 5, 6 and 8 cubic yard capacities) provided that no less than thirty two (32) gallons of capacity are provided for every occupied dwelling unit in the Multi-Family Residential complex.

1. Scheduled Service Drop Boxes and Compactors. Contractor shall allow Customer to use a Drop Box or Compactor for Solid Waste Collection to meet the Customer's disposal needs. In such case, Contractor shall provide Customer with a choice of container capacities ranging from seven (7) to forty (40) cubic yards. Contractor shall offer Customers the option to purchase or lease compactors through either the Contractor or an outside vendor. Regular maintenance of Compactors shall be provided by Customer (or outside vendor) as frequently as needed to keep the
Compactors in good working order and functioning at high compaction levels.

C. **Commercial/Industrial Premises.** Contractor shall collect Solid Waste from Commercial and Industrial Customers a minimum of once per week and up to a maximum of six (6) days per week, on the same day(s) of each week. Solid Waste will not be collected on Sundays without the prior permission of the Director.

Standard service is two 32-gallon capacity cans or a 64 gallon cart. Minimum service is one 32-gallon capacity can or cart. For Commercial Customers with space constraints, Contractor shall provide an alternative collection container that is non-breakable, reusable, and weather resistant. Contractor shall work closely with each Customer to determine the best collection service solution that could include multiple pickups per day and in extreme cases going on premises, such as in a closet or back door to retrieve the materials.

Contractor shall also offer Commercial and Industrial Customers the following service options:

1. **Individual Cart or Bin Service.** Contractor shall provide each Customer with a choice of one or more carts or bins in the same capacities specified in Section 1.B. above.

2. **Centralized Cart or Bin Service.** Contractor shall allow each Commercial Premises to use carts or bins (in the same capacities as specified in Section 1.B. above) that are shared by the occupants of two or more adjacent Commercial/Industrial Premises. In such case, Contractor shall provide one or more carts or bins as requested by the Customer, provided that no less than one thirty two (32) gallons of container capacity are provided for each Commercial/Industrial Premises.

3. **Scheduled Service Drop Boxes and Compactors.** Contractor shall allow a Customer to use a Drop Box or Compactor for Solid Waste Collection to meet the Customer’s disposal needs. In such case, Contractor shall provide Customer with a choice of container capacities ranging from seven (7) to forty (40) cubic yards. Contractor shall offer Customers the option to purchase or lease compactors through either the Contractor or an outside vendor. Regular maintenance of Compactors shall be provided by Customer (or outside vendor) as frequently as needed to keep the Compactors in good working order and functioning at high compaction levels.

Contractor shall proactively and continually work to “right size” Solid Waste service for Commercial and Industrial Customers. As individual Customers increase recycling and/or add Organics collection, Contractor shall seek opportunities to decrease the container size and/or frequency of Customer’s Solid
Waste service in a manner that best meets Customer’s needs and at the least cost to Customer.

D. **City Facilities and City-Furnished Public Receptacles.** Contractor shall collect Solid Waste from City Facilities a minimum of once per week and up to a maximum of six (6) days per week, on the same day(s) of each week. The location of City Facilities to be serviced; the type, number and capacity of Containers at each location; and the frequency of collection are listed on Attachment D-1.

Contractor shall collect Solid Waste from City-furnished public receptacles a minimum of once per week and up to a maximum of six (6) days per week, on the same day(s) of each week between 4 a.m. and 11:30 a.m. If a receptacle is filled to overflowing, it must be collected more frequently or as requested by Director. Public receptacles to be serviced are listed on Attachment D-2.

Contractor shall maintain the area around each public receptacle by cleaning up and/or collecting any litter or overflowing materials around each receptacle. Contractor shall report any damaged receptacles to the Director immediately and shall identify any receptacle locations that were not serviced (and the reason) to the Director in Contractor’s monthly report. Director will notify Contractor when receptacles are added, relocated or removed from service. Contractor shall complete a list of additions, relocations and removals and submit to the Director once every twelve (12) months to verify the current list of receptacles and their locations.

2. **RECYCLABLE MATERIALS**

Contractor at a minimum shall collect the following Recyclable Materials:
- Corrugated cardboard
- Newsprint
- Mixed paper (including magazines, catalogues, envelopes, junk mail, paperboard, shredded paper, non-metallic wrapping paper, Kraft brown bags and paper, paper egg cartons, office ledger paper, self stick notes, and telephone books)
- Hard cover books
- Glass containers
- Aluminum beverage containers
- Small scrap and cast aluminum (not exceeding forty (40) pounds in weight nor two feet in any dimension for any single item)
- Steel including “tin” cans and small scrap (not exceeding forty (40) pounds in weight nor (2) two feet in any dimension for any single item)
- Bimetal containers
- Mixed plastics (including plastic bags, plastic film, plastic containers (#1-7) and bottles including containers made of HDPE, LDPE, PET, or PVC)
- Milk and juice containers
- Rigid plastics (kids toys, buckets, etc),
- Electronic waste peripherals (including printers, key boards, lap tops and printer cartridges)

In addition to Recyclable Materials placed in carts, Contractor shall also collect the following materials when they are set out adjacent to the recycling cart:
- Used motor oil placed in a clear, one-gallon plastic container with a tight-fitting lid,
- Used motor oil filters placed in tear-resistant bags,
- Household batteries placed in a bag,
- Scrap metal (toaster-size or smaller) placed in a box; and
- Cell phones

A. Single Family Residential Premises. Contractor shall collect Recyclable Materials from all Single Family Residential Premises once per week, on the same day that Solid Waste is collected. Standard service is one 64-gallon capacity cart. Standard collection location is curbside. Customers may request carts in other sizes including 32 gallon or 96 gallon cart capacities. Backyard service is provided to (i) Customers who subscribe to backyard service (and pay an additional charge if required by the City), and (ii) to Customers with physical limitations who qualify for backyard service at standard rates (as described in Section 5F).

Contractor shall collect additional Recyclable Materials placed by Customers in biodegradable containers (e.g., Kraft paper bag or cardboard box) next to the cart, provided such containers do not weigh more than 60 pounds each.

B. Multi-Family Residential Premises. Contractor shall collect Recyclable Materials from Multi-Family Residential Premises a minimum of once per week and up to a maximum of five (5) days per week for cart Customers on the same day of the week as Solid Waste is collected.

Contractor shall also collect all Recyclable Materials and may collect source separated cardboard (as appropriate) from Multi-Family Residential Premises in bins a minimum of once per week and a maximum of six (6) days per week on the same day(s) of each week. Recyclable Materials and source separated cardboard will not be collected on Sundays without the prior permission of the Director.

Standard service is one 96-gallon capacity cart. Customers may request a 64-gallon or 32-gallon capacity cart. Customers may also request additional carts or bins (1, 2, 3, 4, 5, 6 cubic yard capacities).

Contractor shall purchase and distribute one 6-gallon “recycling buddy” container to each residential unit in Multi-Family Residential Premises by October 1, 2009. The purpose of the “recycling buddy” is to facilitate residents’ storing of Recyclable Materials and transporting them to the centralized carts or bins for
each building. The recycling buddy program is subject to City approval including type of container, how it will be distributed and to whom, replacement requirements, and education material to be distributed with container.

C. Commercial/Industrial Premises. Contractor shall collect all Recyclable Material (including wooden pallets) and may collect source separated cardboard (as appropriate) from Commercial/Industrial Premises a minimum of once per week and up to a maximum of six (6) days per week. Recyclable Materials and source separated cardboard will not be collected on Sundays without the prior permission of the Director.

Standard service for Recyclable Materials is one 96-gallon capacity cart. Customers may request up to five (5) carts (96 gallon capacity) or one four (4) cubic yard bin for no additional rate. The standard service for cardboard is a 4 cubic yard bin. Additional carts or bins (1, 2, 3, 4, 5, 6 cubic yard capacities) may be requested. For Commercial Customers with space constraints, Contractor shall provide an alternative collection container that is non-breakable, reusable, and weather resistant. Contractor shall work closely with each Customer to determine the best collection service solution that could include multiple collections per day and in extreme cases going on premises, such as in a closet or back door to retrieve the materials.

For Commercial Customers that have a significant amount of cardboard and the space for an additional bin, Contractor will provide Customers with a bin for Recyclable Materials and a bin for source separated cardboard. Contractor will provide Customers recycling source separated cardboard with slotted bins in 4 cubic yard capacity with a Contractor provided auto-bar-lock system.

Contractor shall also collect Recyclable Materials and cardboard from shared, slotted and locked bins used by multiple Commercial Customers.

Pallets will be collected at least once per week Monday through Friday. The pallets will be loaded onto the truck and secured for delivery to the City approved processing facilities.

D. City Facilities, City-Furnished Recycling Containers, and Parks. Contractor shall collect Recyclable Materials from City Facilities a minimum of once per week and up to a maximum of six (6) days per week. The location of City Facilities to be serviced, the type, number and capacity of Containers at each location, and the frequency of collection are listed on Attachment D-1.

Contractor shall collect Recyclable Materials from public receptacles a minimum of once per week and up to five times per week Monday through Friday from all downtown locations as listed in Attachment D-3.

Contractor shall provide on-call collection and ensure recycling of plastic bags containing polystyrene and plastic film at City Hall and shall clean up the area
surrounding their storage location so that it is clean and free of any overflowing material. Film plastics are collected in a rack holding 32 gallon bag. Polystyrene is collected from Contractor provided bags, approximately 52”x 48”x88” in size and a minimum thickness of 3 mil. Contractor shall supply and replace the bags when needed.

Contractor shall collect Recyclable Materials at City parks a minimum of once per week and up to five days per week, Monday through Friday. The location of City parks and current service is listed in Attachment D-1.

3. YARD TRIMMINGS & ORGANIC MATERIALS

Contractor at a minimum shall collect the following materials as Yard Trimmings:
- Grass clippings
- Plant trimmings
- Tree trimmings
- Leaves
- Shrubs
- Ivy
- Succulents/ice plant
- Flowers
- Branches and stumps

The following materials shall not be accepted as Yard Trimmings:
- Plastic bags
- Trash, rubbish, metal
- Dirt, sod, rock, tan bark
- Construction lumber
- Branches over 6 inches diameter or 4 feet in length
- Bamboo, pampas grass
- Palm, yucca, flax
- Cactus, poison oak
- Food scraps, fruit and vegetables
- Manure

Contractor at a minimum shall collect the following materials as Organics:
- Yard Trimmings
- Food scraps (meat, poultry, fish, shellfish, bones, eggs, dairy products, fruits, vegetables, bread, dough, pasta, grains, coffee grounds, filters, tea bags),
- Compostable paper (kitchen paper towels, paper napkins, uncoated paper take-out containers, pizza delivery boxes, waxed cardboard and paper, uncoated used paper cups and plates, tissues, and other food contaminated paper such as ice cream cartons and frozen food boxes),
• Compostable plastics,
• Compostable plastic bags,
• Plants, grass, leaves, plant trimmings, flowers, crates, landscape vegetation, sod,
• Untreated wood, wood chips, wood wastes, sawdust, and

The following materials will not be accepted as Organics:
• Dirt, rocks, soil
• Painted and treated wood
• Plastic plates and utensils
• Plastic bottles
• Plastic wrap
• Plastic bags
• Coated containers
• Glass bottles
• Metal
• Burlap
• Corks
• Wire
• Rubber bands
• Styrofoam
• Latex gloves
• Grease
• Soda cans
• Foil
• Hazardous waste
• Pet waste

A. Single Family Residential Premises. Contractor shall collect Yard Trimings from all Single Family Residential Premises once per week on the same day of the week that Solid Waste and Recyclable Materials are collected. Standard service is one 96-gallon capacity cart. Customers may request up to two (2) additional 96-gallon carts at no additional rate for a total of three carts. Customers with space constraints may request carts in other sizes (32 gallon or 64 gallon). Contractor shall supply and service additional carts, beyond the standard three carts, and shall notify Director of such requests. City may bill the Customer for additional carts.

Contractor shall collect additional Yard Trimings placed by Customers in cans, a tied bundle or biodegradable container (e.g., Kraft paper bag or cardboard box) next to the cart, provided such bundles/containers do not weigh more than 60 pounds each and do not exceed 2 feet by 4 feet by 4 feet (or equivalent).
Contractor shall also collect Holiday trees that are placed curbside in or next to yard trimmings cart up to four weeks after Christmas Day.

Standard collection location is curbside. Backyard service is provided to (i) Customers who subscribe to backyard service (and pay an additional charge if required by the City), and (ii) to Customers with physical limitations who qualify for backyard service at standard rates (as described in Section 5F).

B. Multi-Family Residential Premises. Contractor shall collect Yard Trimmings and Organics from Multi-Family Residential Premises a minimum of once per week on the same day that Solid Waste and Recyclable Materials are collected up to a maximum of six (6) days per week. Standard service is one 96-gallon capacity cart. Organics are collected curbside, or near the Recyclable Materials carts, depending on the configuration of the Multi-Family Residential complex. Contractor shall provide carts or bins in the same capacities specified in Section 1.B. above. Customers with space constraints may request carts in other sizes (32 gallon or 64 gallon), up to a total of three carts. Contractor shall also collect Holiday trees placed for collection up to four weeks after Christmas Day.

C. Commercial/Industrial Premises. Contractor shall collect Yard Trimmings and Organics from Commercial/Industrial Premises a minimum of once per week up to a maximum of six (6) days per week. Standard service is one 96-gallon capacity cart. Contractor shall provide carts or bins in the same capacities specified in Section 1.B. above. Customers may request carts in other sizes (32 gallon or 64 gallon), up to a total of three carts for no additional fee. For Commercial Customers with space constraints, Contractor shall provide alternative collection containers that are non-breakable, reusable, and weather resistant.

D. City Facilities. Contractor shall collect Yard Trimmings and Organics from all City facilities a minimum of once per week up to a maximum of six (6) days per week. The facilities are identified in Attachment D-1. The Director may adjust, by adding or deleting, the number of City facilities receiving services and the level and frequency of service.

4. DROP BOX SERVICE

A. Unless otherwise directed by the Director, Contractor shall deliver all drop boxes within 24 hours of Customer’s order, or on the same day if Customer calls before 11:30 AM, and shall remove drop boxes within 24 hours of Customer’s request for removal or on the same day if Customer calls before 11:30 AM. If Customer calls in after 11:30 AM on Saturday, then the box will be delivered by 11:30 AM the following Monday.

B. On-Call Solid Waste Drop Box Service. Contractor shall provide drop boxes on an on-call basis to Customers within the City in the following sizes: 7, 15, 20, 30 & 40 cubic yards.
C. **Scheduled Solid Waste Drop Box Service.** Scheduled weekly service shall be one, two or three times per week in the following sizes: 15, 20 & 30 cubic yards.

D. **Single-Source Separated Recyclable Drop Box Service.** Contractor shall provide drop boxes on a scheduled and on-call basis to Customers within the City in the following sizes: 7, 15, 20, 30 & 40 cubic yards. Single-source separated materials are Recyclable Materials that can be directly taken to a processing facility for the purpose of recycling or composting.

E. **Yard Trimmings Drop Box Service.** Contractor shall provide drop boxes on a scheduled weekly service one, two or three times per week in the following sizes: 15, 20 & 30 cubic yards.

F. **Construction and Demolition Debris Recycling.** Contractor shall provide drop boxes on an on-call basis to customers within the City in the following sizes: 7, 15, 20, 30 and 40 cubic yards for the purpose of recycling C&D materials. The 7 cubic yard container will be available for the collection of inert materials only. The Contractor shall differentiate the C&D Recycling drop boxes from the Solid Waste drop boxes with unique signage installed on the container identifying it as a C&D Recycling drop box. This unique signage shall be approved by the Director prior to being used by the Contractor.

Contractor shall deliver all C&D boxes to the processing facility identified in Articles 5 and 6. Both facilities have exclusions for putrescible, hazardous and liquid wastes. Loads accepted by either facility shall be diverted to the Sunnyvale SMaRT Station for Disposal if the box contains more than twenty-five percent (25%) putrescible waste or materials that are not recovered at these facilities, including pressure treated lumber, construction insulation or Styrofoam.

Contractor shall assist the City with the issuance of charges related to Customer requested C&D recycling in drop boxes. The price of the C&D drop box service will be $125, or as determined by Council, more than a regular refuse drop box; however, if the C&D debris placed in the box does not exceed twenty-five (25%) contamination (determined by the processing facility), the customer shall receive a “rebate” of $125, thus causing no increase in cost to the customer to recycle C&D debris. Contractor shall issue, or inform the City to issue, a “rebate” to customers for C&D loads received if the debris placed in the box does not exceed twenty-five percent (25%) putrescible waste or materials that are not recovered at these facilities, including pressure treated lumber, construction insulation or Styrofoam.

For Customers with a City refuse account Contractor shall notify the City within 24 hours to issue the rebate to Customers.
For Customers without a City refuse account who will pay Contractor, Contractor shall return the rebate to the Customers within 7 days after the box has been delivered to and accepted by the processing facility. Contractor shall generate work orders for each drop box provided to Customers and provide to the City a monthly credit for all monies retained. Contractor shall submit to the City monthly reconciliations of proceeding month’s rebates and actual monies retained.

Contractor shall provide all customers who order C&D recycling boxes and whose boxes are accepted by the processing facility, whether or not they have refuse accounts with City, with a receipt showing the date the box was serviced, the size of the box, its weight, the address from which it was collected and verifying the box was accepted by the C&D processing facility. If the box was rejected by the C&D processing facility, no receipt is to be issued.

G. **C&D Discount Coupons.** Contractor shall offer a discount coupon to City residential customers for disposal of materials at the Zanker Material Processing Facility (ZMPF) or at the Zanker Road Resource Recovery Operations and Landfill (ZRRROL). The Director approved coupon shall be mailed annually to each City residential customer, providing a ten percent discount from the posted gate rate on all incoming materials. Yearly, both ZMPF and ZRRROL shall provide a report to the Director on the number of coupons redeemed by customers from the City.

H. **C&D Diversion Documentation.** Contractor shall support building contractor’s pursuit of Leadership in Energy and Environmental Design (LEED) certification. Upon request, Contractor will provide building contractors with documentation of the total diversion rate for ZMPF/ZRRROL mixed and source separated C&D drop boxes. As requested and as is feasible, Contractor will also provide supporting documentation to support the diversion rate by work order.

5. **SPECIAL SERVICES**

A. **Hard to Service Areas.** Some Single-Family Residential Premises and Multiple-Family Residential Premises cannot be serviced by standard collection vehicles. A premise may be considered a “Hard to Service Area” if one or more of the following conditions occur on a routine basis: a) Limited access on private streets or alleys; b) Physical conditions such as narrow roadways make use of standard collection vehicles unsafe or create the potential for damage to property and equipment and/or c) Containers to be collected are located more than 25 feet from the face of the curb or alley way. The following challenges shall not be considered a hard to service area: a) Temporary street closure or b) Any public street or alley. As of October 2008 there are 29 existing Hard to Service Areas, shown in Section 10.

B. **Household Hazardous Waste Events.** Contractor shall provide a Solid Waste 30-cubic yard capacity drop box for up to 12 HHW events per year. Typically these
events are scheduled for the first Saturday of each month and are held in a City-designated location. Contractor shall deliver the box to the designated location no sooner than the afternoon of the day preceding the event and no later than 6 a.m. on the day of the event. The box will be picked up no later than 10 a.m. on the first business day following the event and delivered to an appropriately permitted disposal facility.

In addition, Contractor shall provide two recycling bins (4-cubic yard capacity) for cardboard to each event. These bins will be delivered and picked up within the time limits specified in the preceding paragraph. Bins will be delivered to the Designated Recycling Facility.

C. **On-Call Recycling Cleanout Service.** Contractor shall provide Commercial/Industrial Premises and public and private schools collection of excess Recyclable Materials on a scheduled on-call basis Monday through Saturday. Only Recyclable Materials are to be placed into the recycling bins. Contractor shall notify Customer if non-Recyclable Material in a bin exceeds ten percent (10%) by volume and may assess a City-established rate to Customer for contamination.

Contractor shall supply a minimum of two recycling bins (2 cubic yard capacity each) for this program. Bins will be made available on a first-come, first-serve basis or as requested by the City. Commercial businesses and school officials may call to reserve a date for the bins to be delivered and collected. Bins may be reserved for up to five (5) business days per calendar year, per Customer. Contractor shall empty the bins up to once per day, within 24 hours of notification that the bin is full. Bins are required to be delivered, serviced, and removed only on business days.

Contractor shall provide locks on these bins and shall provide the Customer with a key.

D. **Annual On-Call Community Clean-Up Program**
The following types of materials will be accepted for collection:

- Up to four (4) Bulky Items per collection for reuse or recycling, Additional Bulky Items may be collected at City-established rates.

- Large amounts of Recyclable Materials, Yard Trimmings, cardboard, furniture (such as a sofa, chair, desk, table, mattress, box springs, patio furniture); appliances (such as a stove, dishwasher, washer or dryer, water heater, microwave oven); toilets, sinks, other porcelain products, shipping crates, containers, bicycles, suitcases, barbeques, swing sets, tools, toys, bundled branches, Electronic Waste and other items the size or weight of which precludes collection during regularly scheduled collection services.
• Tree trimmings and branches cannot exceed 4 inches in diameter, or be longer than 6 feet. No single item can weigh more than 200 pounds. Hazardous waste will not be accepted.

• Excess Solid Waste from only the Single Family Residential Premises.

Contractor shall collect all recyclable and reusable items set out by Customers and transport the materials to the designated processing facility identified in Attachment E. Reusable materials will be maintained separately and clean. Contractor shall develop a community reuse and recycling area at the designated processing facility that will allow regional non-profit entities and the general public to take any items for reuse at no charge. Items will be stored for a period not to exceed 48 hours.

Contractor will make every effort to promote the reuse of bulky items. Items that are not selected for reuse will be recycled as applicable. Items that cannot be recycled will be disposed. Contractor shall maintain records of materials collected, reused, donated, recycled or disposed and report to the Director on a monthly basis.

1. **Single Family Residential Premises.** Contractor shall provide each Single Family Residential Premise customer collection of excess Solid Waste, Recyclable Materials and Yard Trimmings one time each calendar year upon request. These materials will be collected on a pre-scheduled basis on the same day that regular Solid Waste Collection is provided. All materials listed above in section 5D will be accepted for reuse or recycling in addition to excess Solid Waste.

Customers must contact the Contractor’s Customer Service Representative (CSR) at least one week in advance to schedule a collection. The CSR will ask the Customer a series of questions to determine the type and size of items to be placed out for collection. The appropriate collection vehicle will be scheduled to collect the materials.

2. **Multi Family Residential Premises.** Contractor shall provide each Multi Family Residential Premises collection of excess Recyclable Materials and Yard Trimmings one time each calendar year upon request. These materials will be collected on a pre-scheduled basis. Customers must contact the Contractor’s CSR a least one week in advance to schedule a collection.

All materials listed above in section 5D will be accepted for reuse or recycling with the exception that excess Solid Waste shall not be collected as part of this program.
3. **Commercial Premises.** Contractor shall provide each Commercial Premise collection of excess Recyclable Materials and Yard Trimmings one time each calendar year upon request. These materials will be collected on a pre-scheduled basis. Customers must contact the Contractor's CSR a least one week in advance to schedule a collection.

All materials listed above in section 5D will be accepted for reuse or recycling with the exception that excess Solid Waste shall not be collected as part of this program.

Contractor shall utilize outreach efforts as described in Section 9 below, to educate Customers about the Annual On-Call Community Clean-Up Day Program.

E. **Special Events.** Contractor shall provide Solid Waste, Recyclable Materials, and Organics collection, including delivery and removal of containers, carts, bins and drop boxes, for 16 special events per calendar year for no additional compensation. Contractor shall provide collection to additional special events (above 16) for the compensation shown in Attachment N-1. The number and size of containers shall be sufficient to allow convenient collection of Solid Waste, Organics, and Recyclable Materials for event participants. If the City's Event Coordinator determines that additional containers are necessary, Contractor shall promptly deliver the requested additional containers. Carts shall be consistent in appearance with curbside carts, and shall have special lids with drop in slots that minimize contamination. Contents of containers from special events shall be delivered to the Designated Processing Facility. The carts, bins and boxes shall be delivered the morning of the event, placed with direction from City's Event Coordinator, and removed by the end of the day of the event.

F. **Physical Limitations Program.** Contractor shall provide weekly backyard/side yard collection of Solid Waste, Recyclable Materials and Yard Trimmings from Single Family Residential Premises whose occupants are physically limited. Contractor shall administer and coordinate the application and approval process.

Participation in this program requires completion and approval of an application and submission of proof of physical incapacity by a physician or other licensed medical professional. Contractor shall issue (through mail, electronic mail or fax) City-approved application to Customers requesting to participate in the Physical Limitations Program. Contractor shall, if necessary, schedule an appointment for a Customer Service Representative (CSR) to meet with Customer to determine the appropriate size containers for Customer, the specific service location for the containers, and confirm Customer does not have assistance in moving containers to curbside for collection. City may review all applications that have been denied and the City may reverse Contractor's decision.

Customers in the Physical Limitations Program will receive the standard size carts for both Recyclable Materials and Yard Trimmings. Customers that have narrow
gates or space limitation may have smaller sized carts. Service will be limited to one container each for Recyclable Materials and Yard Trimmings. Solid Waste will be collected in Customer provided cans. Contractor may renew the application process on an annual basis, by sending the renewal application to existing Physical Limitations Program Customers with a letter explaining the renewal process.

G. Other Collection Related Services

1. Performance Audits. City may annually conduct performance audits to review Contractor's compliance with standards. Contractor shall assist and cooperate during this two-week audit period and shall provide City with requested records.

2. Route Audits. City will have the right to perform route audits. Contractor shall ensure service records are correctly billed and reported to City. Contractor shall cooperate as needed with the City during route audits and correct all errors found within two (2) workdays.

3. Waste Generation/Characterization on Single Stream Recycling Materials with the breakdown of materials listed in the first paragraph of Section 2. Contractor shall annually conduct two waste characterization studies of City's single stream recycling materials being delivered to the processing facility from multiple routes and/or vehicles. The City will approve methods used, materials types studied, routes, vehicles, dates, and times of studies. Contractor shall allow City staff to observe studies, on request.

4. Waste audits for Green Business Certifications. Contractor shall conduct a minimum of 12 waste audits each calendar year to survey Commercial, Multi-Family Customers, City Facilities and/or schools when requested by the City. Contractor shall conduct or assist City with Customer's on-site waste assessments consisting of basic waste characterization and evaluation (sorting waste by category) of Customer's Solid Waste, Recyclable Materials, Yard Trimmings and Organics (as applicable) at Customer sites or City-designated facilities. Assessment consists of visually observing and documenting (photos, written summary and classification of materials)

The audit consists of sending a Contractor’s empty truck to collect the Solid Waste Container(s) from the selected business and delivering the Solid Waste to a location designated by the City. If the business has Solid Waste service 5 times per week, then Contractor shall provide the survey service daily for 5 days.

5. Program evaluation audits. Contractor shall periodically conduct audits of the Single-Family Residential, Multi-Family Residential, City Facilities, and Commercial sectors to provide a breakdown of Solid Waste,
Recyclable Materials, Yard Trimmings and Organics Collection programs by each Customer sector. Contractor shall perform up to five days of route auditing each calendar year.

6. Customer Public Opinion Surveys. The City may conduct public opinion surveys to assess Customers’ satisfaction level with collection services being provided by Contractor. Contractor shall assist the City in developing such surveys. The Contractor shall respond to any Customer inquiries or complaints that arise from the survey.

H. General Collection Requirements

1. Holidays. Regular collection schedules need not be maintained on the following holidays: January 1, the fourth Thursday of November, December 25, and any other holidays mutually agreed by the parties. In years when these holidays fall on a regular collection day, the collection schedule for subsequent days of the week shall be moved to the following day that is not a Sunday. Contractor shall notify Customers of holiday schedule changes by written notice two (2) weeks prior to the holidays and by placing public announcements in a newspaper of general circulation in the City one (1) week prior to holidays.

2. Change of Collection Days. Contractor shall obtain approval from Director prior to any change of collection day(s). Such approval shall not be unreasonably withheld by City provided; however, that collection day may be changed no more than once per year. In the event that Contractor requires a change in collection day(s), Contractor shall notify Customers affected by such change through a City-approved written notice and public announcement in a newspaper of general circulation in City. Contractor shall notify each affected Customer not less than thirty (30) days before Contractor changes any regularly scheduled collection day. Contractor shall send written notice of any such proposed change to the Director thirty (30) days before the day on which the Customer is notified. In the event that City requires a change in collection day(s), City shall notify Customers in the same manner listed above.

3. Contractor shall work with the City to create an opt-out process and form for Customers unable to participate in the recycling programs under special circumstances such as space limitations.

4. Contractor shall direct its employees to collect Solid Waste placed for collection in amounts that exceed the Customer’s subscription level up to two (2) times per calendar year. Contractor shall notify Customer each time that it has collected excess Solid Waste and shall provide the Director a copy of these notices. Customers who place excess Solid Waste for collection three (3) or more times in a calendar year may be billed an extra charge or required to subscribe for additional collection service.
Contractor shall notify City of the third and subsequent incidents and retain (and provide upon request) documentation in the form of a photograph in order that City may issue the bill or require the Customer to change its subscription level.

5. If, within seven (7) days of notice from City that an unoccupied Multi-Family Residential, Commercial or Industrial Premises has been occupied, or that a change of ownership of an occupied premise has occurred, the Contractor has not received a request to initiate or continue Solid Waste collection service, Contractor shall provide written notice to the owner of the Premises that weekly collection of Solid Waste is required by City ordinance. Contractor shall, at the same time, send a copy of such notice to the City.

6. Non-collection Tags. If Contractor does not collect Solid Waste, Recyclable Materials, Organics or Yard Trimmings containers that are placed for collection, Contractor shall leave a waterproof tag(s) attached to the container or the uncollected item(s), clearly specifying the reason(s) for non-collection, e.g., Hazardous Waste, contamination (in Recyclable Materials and Yard Trimmings containers), excessive weight, etc. The tag shall be securely affixed to the container in a prominent location. Contractor shall also notify Commercial Customers of non-collection via telephone.

The driver shall send the data electronically to Contractor’s office by using the on-route GPS system attached to the vehicle. Contractor shall maintain a record of all incidents of non-collection to be submitted monthly to the Director. The record shall include: date, address, reason for non-collection, and disposition of uncollected material. The records shall be maintained for the Term and shall be made available for inspection by the Director on request.

Tags are to be at least 3” x 6,” printed on weather resistant plasticized paper with a cut out which allows them to be hung on the handle of the cart, or can. Each tag specifies the reason service was disallowed, or provides information for proper storage of carts and cans as well as providing a contact phone number. The design, information, size, and color of tags must be authorized by the Director prior to Contractor ordering or purchasing.

7. If the Contractor encounters drop boxes from other private companies collecting Solid Waste within the City, Contractor shall take a picture of the box and its contents and shall post on the box a City-approved violation notice informing the owner of the box, and the company delivering it, of the Palo Alto Municipal Code’s prohibition. Contractor shall also attempt to contact the violator by telephone to inform it that notice has been posted and that the box must be removed. Contractor shall
report violations to Director within 24 hours after notice is posted on the box. Upon City request, the Contractor shall remove and impound violator’s box.

If Contractor is sued by the owner of a box which the City has directed Contractor to impound, the City will reimburse Contractor for its attorneys fees and other out-of-pocket costs reasonably incurred in defending that suit. Contractor will be responsible for physical damage to a box or to third parties which occurs while Contractor is moving box.

6. RECYCLING CENTER OPERATION

A. Operation
Contractor shall receive, sort, consolidate, process, transport and market Recyclable Materials accepted at this location. Contractor shall keep and maintain the Recycling Center in clean, neat, and safe conditions at its sole cost and expense.

1. Accepted Materials shall include, but not be limited to, the following:
   • Single stream curbside recycling materials as identified in the first paragraph of Section 2
   • Blueprints
   • Scrap metal
   • Cooking oil
   • Mattresses
   • Large appliances
   • Plastic bags
   • Books for reuse
   • Reuse materials for collection by the Goodwill Industries trailer
   • Electronic waste (such as computers, computer monitors, televisions and other video display devices) for collection by the Goodwill Industries trailer
   • Aseptic packaging such as milk cartons or juice boxes

Household hazardous waste including:
   • Used motor oil
   • Anti-freeze
   • Oil filters
   • Automobile and household batteries
   • Fluorescent light tubes (in a contractor supplied shed)

Contractor shall handle major appliances such as:
   • Washer or dryer
   • Refrigerator or freezer
   • Water and space heaters
   • Furnace or boiler
• Air-conditioner or dehumidifier
• Trash compactor
• Oven, stove, or microwave

2. Removal of Regulated Materials. Contractor shall remove or subcontract to remove the following regulated materials from the appliance wastes:
• Mercury, found in switches and temperature control devices
• Used oil, from compressors and transmissions
• Chlorofluorocarbons (CFCs)
• Hydrochlorofluorocarbons,
• (Huffs), and other non-CFC replacement refrigerants injected in air-conditioning/refrigerant units
• All metal-encased capacitors
• Any parts that contain encapsulated polychlorinated biphenyls (PCBs) or Di-
  ethylhexylphthalate (DEHP)
• Any other material that is a regulated hazardous waste.

3. Certificate of End Use. Collector shall obtain a certification of end use from the purchaser establishing that the materials have been properly reused, recycled or properly disposed.

B. Employees at the Facility. Employees’ responsibilities shall include, but not be limited to the following:
• Daily cleaning of motor oil container and surrounding area,
• Loading of composting bins, CRTs and tires upon request by Customers or City,
• Maintaining all surrounding areas clean and organized
• Shrink wrapping pallets with CRTs

C. Marketing Reuse and Recycling Materials. Contractor shall ensure all materials received at this operation are either reused or recycled. No material shall be disposed at any landfill without prior written approval from the Director. Contractor shall store all materials to protect against theft, deterioration, contamination or other damage

D. Right to Enter and Inspect Recycling Center. City shall have the right, but not the obligation, to observe and inspect all of the Contractor’s operations related to the Recycling Center. City may enter the Recycling Center during operating hours, speak to any of Contractor’s employees, response to inquiries, and receive cooperation from such employees. In addition, upon reasonable notice and without interference with Contractor’s operations, City may review any of Contractor’s operational and business records related to the Recycling Center. Upon request by the City, Contractor shall make specified personnel available to accompany City employees on inspections.
E. **Permits/Regulations/Laws**. Contractor shall maintain and operate the Recycling Center in accordance with all laws and regulations relating to hazardous, universal and appliance wastes including but not limited to:

- Contractor shall develop and implement a hazardous waste business plan in accordance with Palo Alto Fire Department requirements;
- Contractor shall perform weekly inspections of these hazardous and universal waste storage areas and document leaks, spills or unsafe conditions;
- Contractor shall consolidate oil filters with a compressor into 55 gallon steel drums for shipment;
- Contractor shall consolidate household batteries in drums until the City coordinates the collection of the drums on a monthly basis;
- Contractor shall consolidate fluorescent lights until the City coordinates the collection of the lights on a monthly basis;
- Contractor shall coordinate the collection with the City’s oil, oil filter, antifreeze and vehicle battery disposal contractors before the Recycling Center’s storage capacity for those wastes is exceeded;
- Contractor shall operate the Recycling Center as a Certified Appliance Recycler in accordance with Public Resources Code (PRC), chapter 3.5, section 42160 et seq. and in the California Health and Safety Code (HSC), chapter 6.5, section 25211 et seq.

7. **CONTAINER REQUIREMENTS**

A. Contractor shall provide all carts, bins, Compactors, and drop boxes with the following exceptions:

1. The City purchased carts as needed to supply services prior to July 1, 2009 as quantified in Attachment F. Those carts shall remain in service. The Contractor shall provide replacements for carts that need to be replaced during the Term, additional carts needed to meet Customer requests, or new or expanded programs requiring additional carts.

2. Customers will be allowed to purchase bins and Compactors as requested as long as they meet the requirements of the Contractor. Customers will be allowed to purchase carts from the Contractor at City-designated rates.

3. Contractor-provided Containers shall be designed and constructed to be watertight and prevent the leakage of liquids. All Containers shall be maintained in a safe, serviceable, and functional condition.

B. **Receiving and Delivery**

1. Contractor shall be responsible for the complete assembly of all carts.
2. Contractor shall be responsible for all labor related to cart deliveries from the cart manufacturer, unloading, storing, cleaning and repairing carts as needed.

3. Contractor shall provide the Director with proof of delivery indicating the vendor, date, sizes and quantity of carts.

C. Exchange Policy
1. Contractor shall prevent damage to carts by unnecessary rough treatment. Any cart damaged by Contractor shall be replaced by Contractor, within five (5) Business Days.

2. Each Customer shall be entitled to the replacement of one (1) lost, destroyed, or stolen cart per calendar year at no cost to the Customer or City. Upon notification to Contractor by the City or a Customer that the Customer’s cart has been stolen or that it has been damaged beyond repair through no fault of Contractor, Contractor shall deliver a replacement cart to such Customer within five (5) Business Days of the date of notification.

3. Within seven (7) Business Days of notification to Contractor by the City or a Customer that a change in the size of a cart is required, Contractor shall deliver such cart to the Customer, and remove the cart that is being replaced. Each Customer shall be entitled to receive one (1) free cart exchange each calendar year. Contractor shall provide additional cart exchanges upon request of Customer for an additional fee at rates established by City.

D. Cart Return Placement Requirement
1. Carts are to be positioned curbside while keeping the sidewalks clear. A minimum of 36-inches of sidewalk clearance is required by law for safe pedestrian passage.

2. On rolled curbs, carts are to be placed on the back portion of the sidewalk leaving a 36-inch minimum clearance on the sidewalk.

3. On regular curbs and in areas with planting strips, carts are to be placed on the curb.

4. Carts shall not be placed on the gutter or on the street.

5. Contractor shall be consistent in the placement of the carts on each route (i.e., always place containers either on the curb or on the back section of the sidewalk so that pedestrians do not have an obstacle course to walk through).

6. ADA clearance supersedes anything else (i.e., when there is a wall, sidewalk and a planting strip with plants and there is no place for the carts except the gutter/street, then place on the street.).

7. Requests for exceptions to these placement requirements may be presented to the City for approval.

E. Drop Box Placement Requirements
Placement of drop boxes in the City right-of-way can cause negative impacts to the neighborhood, including visibility and safety hazards to the public. The preferred placement location is on private property, such as the driveway. If the placement of drop boxes must be in the City right-of-way (in the street next to the curb), Contractor shall notify the City prior to such placement with placement and removal dates.

Placement Guidelines:
1. The drop box must be located in front of Customer’s property. If the drop box cannot be located directly in front of Customer’s property and needs to be located in front of another property, a signed consent must be provided from the occupant of that property. A standard consent form is available from the City.
2. The placement of the drop box must maintain access for City for any work required to maintain public facilities located within or adjacent to the Customer’s property. This includes, but is not limited to, utility facilities and City street trees.
3. In areas where no curb exists, the drop box must be placed completely off of the paved portion of the street.
4. The drop box shall not be placed in the following areas:
   a. In a no-parking, handicap space, loading or other time-limited zone
   b. Within 6 feet from any driveway (including Customer’s)
   c. In a location where visibility is impaired for either vehicular, bicycle or pedestrian traffic
   d. In a location that blocks a bike lane
   e. In a location that blocks a bus stop
   f. Within 15 feet from a crosswalk or crossing area, marked or unmarked
   g. Within 15 feet from a fire hydrant
   h. Where it obstructs regulatory signage
   i. In a location where it may cause damage to city street trees
   j. In any location that interferes with an adjacent property owner’s ability to full and safe access to the public right-of-way
   k. On streets with two-way traffic and parking on both sides that are less than 36 feet wide, measured from curb face to curb face.

This list is not all-inclusive and other factors or situations may be considered in denying a location for placement of the container.

5. The drop box may be placed on the street for up to two months.

F. Locks
1. Contractor shall provide locks for carts, bins and/or drop boxes as requested by City or Customer, at a rental rate established by City. Contractor shall keep an adequate supply of locks available at all times.
2. Contractor shall purchase all new locks that have been approved by Director prior to July 1, 2009.
3. Contractor shall provide auto-bar-lock systems for bins, when requested by Customer.

G. Cleaning Requirements.
1. Contractor shall be responsible for steam cleaning all Containers before delivery to Customers, when appropriate or when requested by City to present a clean and an aesthetically pleasing appearance.
2. Contractor shall offer additional cleaning of Containers upon request by Customers in accordance with City-approved Rates.
3. Contractor shall be responsible for cleaning containers to ensure that nuisance or public health concerns associated with vectors are addressed within two (2) Business Days after receipt of notification of said condition. Customers to be charged at City-approved rates.
4. If any container is marked by graffiti, Contractor shall clean or repaint the affected areas within two (2) Business Days of being notified.
5. Public refuse and recycling containers in the business areas shall be thoroughly washed a minimum of twice per year. The vehicle operators will be required to collect any materials that have accumulated within or around the receptacles, wipe the exteriors and lids of all the receptacles with water and detergent a minimum of once every two weeks, and to assess odor concerns and report if a thorough cleaning is required. Vehicle operators will have cleanser available to them at all times and will clean the exterior and lids more frequently if necessary.

Contractor shall present a schedule to the City for thorough washing of City receptacles. Upon approval of the schedule, Contractor shall commence power-washing of the public receptacles. A truck equipped with a water holding tank and power-washing equipment will follow the collection vehicle to ensure that the receptacle is completely empty prior to washing.

H. Container Maintenance
1. Contractor shall repair or replace all Containers damaged by Collection operations (e.g., vehicle apparatus interface) within three (3) Business Days of being notified by Customer or observing the damaged Container. If the repair or replacement cannot be completed within three (3) Business Days, the Contractor shall notify Customer and provide a Container of the same size or larger until the damaged Container can be replaced.
2. Contractor shall be responsible for the general repair and upkeep of all Containers.
3. Bins, drop boxes and Compactors shall be repainted a minimum of once every two years or as needed to remain attractive and clean and kept in a serviceable condition at all times.
4. Contractor shall be responsible for all repairs of carts including, but not be limited to, hinged lids, lifting bars, wheels and axles. Within five (5) Business Days of notification by the City or a Customer of the need for
such repairs, Contractor shall repair the cart or, if necessary, remove the
cart for repairs and deliver a replacement cart to the Customer.
5. All returned carts shall be thoroughly cleaned, repaired if possible and
distributed in the cart exchange program. Contractor shall ensure that all
carts are thoroughly washed, cleaned and in good appearance before
delivery to Customers.

I. Container Inventory
1. Contractor shall be responsible for ensuring that an adequate supply of
Containers is maintained for distribution. “Adequate Supply” means that
the Contractor has enough of the Containers, bags, or other items on hand
to ensure delivery in a timely manner. This includes maintaining an up to
date inventory of all Containers per Attachment H.
2. Contractor shall also store a few used cans for Customers wanting to have
their old cans replaced due to damage to their cans during collection
service.
3. Contractor shall be responsible to store all Containers not in use.

J. Ownership
1. All carts, bins, Compactors, and drop boxes acquired by Contractor and
put into service at Customers’ Premises before July 1, 2010 shall become
the property of the City upon expiration or earlier termination of this
Agreement. All carts, bins, Compactors, and drop boxes purchased and
put into service at Customers’ Premises on or after July 1, 2010 that have
not been fully depreciated shall be available to the City, at the City’s
option, at net book value.

2. At its sole discretion, the City may elect not to exercise its rights with
regards to this Section J. In such case, the Containers shall remain the
property of the Contractor upon the expiration or earlier termination of
this Agreement and Contractor shall be responsible for removing all
Containers in service from premises within ten (10) Business Days.

K. Container Specifications.

When the Contractor purchases Containers, the following minimum standards
shall be maintained:

1. Carts
   a. Cart sizes shall be 20, 32, 64 and 96 gallon.
   b. All carts shall be manufactured by injection or rotational molding
      methods and contain a minimum of 20% post-consumer content.
   c. Carts provided to Customers shall have a useful life of ten (10) years
      as evidenced by a manufacturer’s warranty or other documentation
      acceptable to the City.
d. The carts will have a minimum wall thickness of .150 inches for rotationally molded containers and .165 inches for injection molded containers.

e. Dimensions shall not exceed:
   - 32 gallon cart with a 20-gallon insert
     Height: 39.5”
     Length: 24.5”
     Width: 23”
   - 32 gallon cart
     Height: 39.5”
     Length: 24.5
     Width: 23”
   - 64 gallon cart
     Height: 42.5”
     Length: 32.5”
     Width: 27.5”
   - 96 gallon cart
     Height: 47”
     Length: 35”
     Width: 30”

f. Handle conformity
   Each cart must be equipped with handles and handle mounts that are an integrally molded part of the container, located on the backside of cart. The handles must not have the ability to rotate on their own axis at any time. Handles that are molded as part of the lid are unacceptable. Bolted-on handle mounts or bolted-on handles are unacceptable.

g. Lid conformity
   The lid must be crowned in shape and designed to prevent entry of rain when in the closed position. The lid must open from a closed position, a to minimum 110-degree arc.

h. Bottom conformity
   The bottom of the cart must have molded-in wear strips to protect against dragging. Screw-on, bolt-on, or pop-on wear guards are unacceptable.

i. Wheels conformity
   Each wheel shall be equipped with an axle and two (2) wheels with a locking device or attachment to secure them to the cart axle. Minimum wheel diameters: 10 inches for a 96 and 64 gallon carts, 8 inches for a 32 gallon cart. Minimum wheel width 1.5 inches.

j. Axle conformity
   The axle must have a minimum 5/8” diameter, fabricated of zinc chromate plated solid high-strength steel, and be fully supported by cart body. Axle must slide through two molded plastic journals in cart bottom and must not be exposed to contents inside the container.
Snap-on axles or axles attached by means of bolts or rivets are unacceptable.

k. Body – leakage test
   Containers that exhibit any leakage are unacceptable.

l. Lockable lid latches conformity
   The lockable lid latches must be sturdy, constructed to prevent vandalism and withstand local conditions.

m. Colors of the carts shall be as follows:
   - Custom Palo Alto blue (Pantene 645C) body and lid for recycling.
   - Palo Alto green body and lid for yard trimmings.
   - Palo Alto black body and lid for garbage.
   Colors shall be non-fading throughout the ten year warranty. The color and shade of carts shall be consistent and without noticeable variation from one to another. Final colors to be determined by the Director from samples furnished by the Contractor.

n. All markings used on containers must be reviewed and approved by Director prior to use. Each cart must be permanently hot stamped in white with letters, logos and numbers as follows:
   - Serial numbers – Each cart must have a serial number on the front of its body. The serial number shall be preceded by a letter or number code to designate the year of manufacture.
   - The City’s name and logo shall be on both sides of the container body.
   - Each lid must be marked with the acceptable material type. E.g., “Recyclables Only” or “Yard Trimms Only” or “Garbage Only” in the same style and location as existing carts.
   - Cart lid must be marked by the Contractor’s contact telephone number. E.g. “For service call 493-4894”. Contractor shall use its best efforts to secure the prior collector’s telephone to match with markings of carts already being used by Customers.
   - Instructions for the safe use of the container must be molded into each lid. Instructions shall be in English and Spanish.

o. Contractor shall be responsible for ensuring that an adequate supply of all cart sizes and colors are maintained for distribution. An inventory of five (5) percent or equivalent shall be maintained for each cart color and cart size.

2. Carts for Special Events
   Contractor shall provide carts for Special Events for the collection of Solid Waste, Organics, and Recyclable Materials as approved by the City. Contractor shall have all specifications for carts approved by the Director prior to ordering or purchasing. Carts shall be consistent in appearance with curbside carts including special lids with drop-in slots that minimize contamination.
   a. All new bins shall be purchased by the Contractor at the beginning of the Term of the Agreement. Colors, signs and specifications must be approved by the Director prior to purchase and use.
   b. Contractor shall provide bins for the purpose of collecting Solid Waste and Organics in the following sizes 1, 1.5, 2, 3, 4, 5, 6 and 8 cubic yard capacities. Colors, signs and specifications must be approved by the Director prior to purchase and use.
   c. Contractor shall provide bins for the purpose of collecting single stream Recyclable Materials at the request of Customer. The bins shall be available in the following sizes 2, 3, 4, 5, 6 cubic yard capacities. Colors, signs and specifications must be approved by the Director prior to purchase and use.
   d. Contractor shall provide slotted bins for the purpose of shared recycling at the request of City. The bins shall be available in the following sizes 4, 5, 6 cubic yard capacities. Contractor shall customize each bin to include a slot four inches high by five feet wide or equivalent, made in such a way to eliminate sharp edges. Contractor shall place an auto-bar lock system or equivalent in each shared bin as requested by City. Colors, signs and specifications must be approved by the Director prior to purchase and use.

4. Drop boxes.
   a. All new drop boxes shall be purchased by the Contractor at the beginning of the Term of the Agreement. Colors, signs and specifications must be approved by the Director prior to purchase and use.
   b. Contractor shall provide drop boxes for the purpose of collecting Solid Waste in the following sizes: 7, 15, 20, 30 and 40 cubic yard capacities.
   c. Contractor shall provide drop boxes for the purpose of collecting C&D materials in the following sizes: 7, 15, 20, 30 and 40 cubic yard capacities. The C&D boxes must have a unique identifying sign showing that it is a C&D debris box. Design must be reviewed and approved by the Director prior to Contractor order placement, purchase or use.
   d. Contractor shall provide drop boxes for the purpose of collecting Single-source Separated Recyclables in the following sizes 7, 15, 20, 30 and 40 cubic yard capacities.
   e. Contractor shall provide drop boxes for the purpose of collecting Yard Trimnings in the following sizes: 15, 20 and 30 cubic yard capacities.
   f. The drop boxes must have a visible and legible serial number.
   g. The drop boxes must have reflectors at each outside corner.

5. Compactors
a. Contractor shall provide Solid Waste and Organics collection for Customer Compactors in the following sizes: 2, 3, 4, 12-15, 20, 25, 30-36, and 40 cubic yard capacities.

b. Contractor shall work with Customers purchasing new Compactors to determine appropriate size and type Compactor that is serviceable by Contractor.

6. Items Placed Next to Carts
a. Motor oil containers. Contractor shall provide Customers with one gallon plastic containers with tight fitting lids. Specifications and signage to be approved by the Director prior to purchase.

b. Oil filter bags. Contractor shall provide Customers with tear-resistant plastic bags that are watertight and prevent the leakage of liquids. Specifications and signage to be approved by the Director prior to purchase.

c. Battery bags. Contractor shall provide Customers with tear-resistant plastic bags that are watertight and prevent the leakage of liquids. Specifications and signage to be approved by the Director prior to purchase.

d. Cell phones in tear resistant bags.

8. IMPLEMENTATION OF MANDATORY PARTICIPATION

A. General
The City Council has indicated it will consider adoption of an ordinance requiring Customers to participate in recycling and to deposit Recyclable Materials, Yard Trimmings, and Organic Materials where applicable in separate designated containers. The activities described in this section and the schedules are based on the Zero Waste Operational Plan and staff assumptions about the component of such an ordinance. The activities and schedule will be adapted to the ordinance if and when it is actually adopted by the Council. Contractor shall implement a mandatory participation program that requires Single-Family, Multi-Family, and Commercial/Industrial Customers to place Recyclable Materials, Yard Trimmings and Organics in the appropriate Containers. The program shall be phased over a three year period that includes:

- In the first year, commencing July 1, 2009, Contractor shall educate Customers on how to comply with the new mandatory participation requirements and the phase-in schedule;
- In the second year, commencing July 1, 2010, Contractor shall inspect Containers, continue to educate and issue warnings to Customers who fail to separate Recyclable Materials, Yard Trimmings & Organics from Solid Waste Containers;
- In the third year, commencing July 1, 2011, Contractor shall inspect Containers, continue education and give notice to Customers who fail to
separate Recyclable Materials, Yard Trimmings & Organics from Solid Waste Containers and assist the City in the enforcement of the mandatory participation program. If Council directs Contractor to utilize non-collection as a component of enforcement and additional routes are added, additional compensation to the Contractor shall be considered by the City.

B. Phasing:

1. Development of Ordinance
   Upon request by the City, the Contractor shall provide technical assistance in the development of an ordinance as needed.

2. First Year
   Contractor shall conduct an extensive outreach and educational program to educate Customers on how to comply with the new mandatory participation requirements. This phase shall include the following minimum requirements:
   a. Customers serviced in carts or cans for Solid Waste:
      • Outreach material attached to each Solid Waste cart or can in July 2009, January 2010 and June 2010,
      • Information included in the first mailings,
      • Information shared at public events,
      • Additional outreach materials as needed (newspaper ads, brochures, newsletters, utility bills, posters, etc.).
   b. Customers serviced in bins for Solid Waste:
      • Outreach material attached to each Solid Waste Container in July 2009, January 2010 and June 2010,
      • Site visits or other contact with each Customer to inform them of the new mandatory participation requirements,
      • Information included in pre-transition mailings,
      • Additional outreach materials as needed (newspaper ads, brochures, newsletters, utility bills, posters, etc.).

3. Second Year
   a. Customers serviced in carts or cans for Solid Waste: Contractor drivers shall utilize a camera placed near the hopper of the truck to visually inspect each solid waste Container for Recyclable Materials, Yard Trimmings and/or Organics. When the driver observes Recyclable Materials, Yard Trimmings and/or Organics (as applicable by customer type) being emptied from the Solid Waste Container, the driver shall exit the vehicle and Yellow Tag this Container. This Yellow Tag shall describe the mandatory participation program and notify the Customer that in the future they may be subject to fine and/or non-collection of solid waste (as per direction from Council) if Recyclable Materials, Yard Trimmings and/or Organics (as applicable by customer type) are
placed in or not removed from the Solid Waste Container. If needed, additional recycling outreach materials shall be attached to refuse Containers or sent to Customers. The driver shall send the data electronically to Contractor’s office by using the on-route GPS system attached to the vehicle. This data shall be submitted monthly to the City listing Customer name, address and number of violations.

b. Customers serviced in bins for Solid Waste: Contractor’s Environmental Outreach Coordinators (EOC) shall conduct periodic mini-audits as part of their normal job duties. Mini audits shall consist of a visual inspection of the bin prior to the arrival of the collection truck and emptying of contents into the truck. When Recyclable Materials, Yard Trimmings and/or Organics (as applicable by customer type) are found in the Solid Waste bin, the EOC shall Yellow Tag this bin. The Yellow Tag shall describe the mandatory participation program and notify the Customer that in the future they may be subject to a fine and or non-collection of Solid Waste (as per direction from Council) if materials are placed in or not removed from the Solid Waste bin. The EOC will attempt to contact the Customer before the scheduled pick-up to encourage the removal of Recyclable Materials. The EOC will also provide the Customer with additional recycling outreach.

The EOC shall deliver the data to Contractor’s office for input into the electronic tracking system. This data shall be submitted monthly to the City listing Customer name, address and number of violations.

4. Third Year and thereafter

a. Customers serviced in carts or cans for solid waste: The Contractor shall utilize drivers and route supervisors to target 100 customers per day for inspection as part of the regular route activity. Drivers shall place the contents of Solid Waste container in the hopper of the truck and inspect the contents for Recyclable Materials, Yard Trimmings and/or Organics (as applicable by customer type). The drivers may open any bags of materials to fully inspect their contents.

When the driver or route supervisor observes Recyclable Materials, Yard Trimmings and/or Organics (as applicable by Customer type) in the Solid Waste carts or cans the driver or route supervisor shall Red Tag the Container. This Red Tag shall describe the violation and notify the Customer that they are subject to a fine or non-collection of solid waste (as per direction from Council) if Recyclable Materials, Yard Trimmings and/or Organics
(as applicable by Customer type) are placed in or not removed from the Solid Waste container.

The driver shall send the data electronically to Contractor's office by using the on-route GPS system attached to the vehicle. This data shall be submitted weekly to the City listing customer name, address and number of violations.

If Recyclable Materials, Yard Trimmings and/or Organics (as applicable by Customer type) are observed a second or subsequent time in a calendar year in the same Customer's Solid Waste Container, the Container shall be Red Tagged again and not collected or fined per the direction from Council. If non-collection is directed by Council, the Customer shall also be notified that they must sort the contents of the can or cart(s) to remove Recyclable Materials, Yard Trimmings and/or Organics (as applicable by Customer type) and call the Contractor's office to schedule a special pickup of the cart or can.

b. Customers serviced in bins for Solid Waste: The Contractor shall utilize the EOC to conduct regular inspections for bin Customers. The EOC shall visually inspect the bins for Recyclable Materials, Yard Trimmings and Organics before collection. The EOC may open any bags of materials to fully inspect their contents.

When the EOC observes Recyclable Materials, Yard Trimmings and/or Organics (as applicable by Customer type) in the Solid Waste bins the EOC shall Red Tag the Container. This Red Tag shall describe the violation and notify the Customer that they are subject to a fine or non-collection of solid waste (as per direction from Council) if Recyclable Materials, Yard Trimmings and/or Organics (as applicable by Customer type) are placed in or not removed from the Solid Waste container.

The EOC shall deliver the data to Contractor's office for input into the electronic tracking system. This data shall be submitted weekly to the City listing Customer name, address and number of violations.

If Recyclable Materials, Yard Trimmings and/or Organics (as applicable by Customer type) are observed a second or subsequent time in a calendar year in the same Customer's Solid Waste Container, the Container shall be Red Tagged again and not collected or fined per the direction from Council. If non-collection is directed by Council, the Customer shall also be notified that they
must sort the contents of the bin to remove Recyclable Materials, Yard Trimmings and/or Organics (as applicable by Customer type) and call the Contractor’s office to schedule a special pickup of the bin.

9. PUBLIC EDUCATION & OUTREACH

A. General Requirements

The City places the utmost importance on effective public outreach and education in helping residents and businesses fully understand options for source reduction, reuse and recycling. Contractor shall be responsible for ensuring that all Customers consistently receive a high level of service and responsiveness. As specified below, Contractor public education activities shall be performed in collaboration with the City. General provisions are as follows:

1. Contractor shall plan for public education programs, outreach and promotion for new and changed services that will be implemented for Single-Family, Multi-Family, schools, and Commercial customers.

2. Contractor shall submit an annual public education plan and meet with the City for review, modifications and approval of the plan. The City and Contractor shall meet a minimum of once every calendar quarter to discuss services, outreach and promotions.

3. Contractor shall have all press releases, reports, advertisements, letters or other documents prepared by Contractor for release to the public relating to this Agreement, reviewed and approved by Director prior to distribution.

4. Contractor shall send a City-approved letter, outreach brochures, and current rate schedule to all new Customers identified by the City’s utilities billing system or as requested by Director within seven (7) days of being notified.

5. Contractor shall distribute public education and promotion materials (developed by Contractor and City) during any roll-out of the new or expanded collection services. This will entail distributing program literature with delivery of new carts, bins and other Containers.

6. Contractor shall retain the services of an advertising/public relations company with experience in the waste management and recycling field and with skill and experience in developing bilingual materials. Contractor shall initially retain the services of Orloff/Williams, an advertising/public relations company with more than 15 years of experience. Contractor shall not engage a different subcontractor to replace Orloff/Williams without the Director’s prior written approval.

7. Contractor shall prepare multi-lingual public education materials in English, Russian, Chinese, Japanese and Spanish and post the multi-lingual outreach materials on its website.
8. Contractor shall schedule and conduct presentations to service organizations, schools, business groups, civic associations, neighborhood and homeowner’s associations, workshops, other community organizations, etc. This shall be done annually and upon request by City, Customer or community organization.

9. Upon City’s request, Contractor shall staff booths and distribute promotional and educational materials at City-sponsored events, parades, workshops, etc and shall provide tours of its processing sites. Contractor shall provide visual displays, educational materials and activities for children such as seed planting and spin art. Display components will be professionally created and will be completely interchangeable between standing booth backdrop and table-top display. Tables will be professionally dressed. Materials will include those pertaining to the appropriate programs and information on green and sustainable activities. All age groups will be accommodated.

10. Contractor shall annually develop and provide school recycling outreach programs.

11. Contractor shall develop and maintain a system of keeping records of and following up with Customers who receive non-collection notices during collection of materials.

12. Contractor will coordinate extensively with the City to meet the City’s sustainability goals.

B. Staffing

Contractor shall dedicate a minimum of three and three-quarters (3.75) full time employee (FTE) equivalents or subcontractors to administer outreach and public education efforts for the City. Contractor has very low attrition rates and will make every attempt to keep the positions filled throughout the Term. Staffing levels will be maintained throughout the Term with job duties and responsibilities changing in response to program development and the needs of the City. Following the completion of the transition, and periodically thereafter, the Contractor may evaluate the job duties and responsibilities of each member of the Outreach and Public Education Team. Contractor shall be allowed to modify the job duties and responsibilities of each EOC to further maximize outreach and public education efforts throughout the Term.

- The Environmental Outreach Manager (EOM) will be responsible for managing all activities of the Environmental Outreach Coordinators (EOCs) as well as performing some of the same job duties as the EOCs. The EOM and the General Manager will meet with the City on public education and outreach related issues. The EOM will also be responsible for all media correspondence and issues relating to the services provided in the City.

- The Environmental Outreach Coordinators (2.75 FTEs) will be responsible for generating and sustaining the highest possible level of diversion by Customers in the commercial, multi-family, schools, and City facility sectors.
Environmental Outreach Coordinators (EOC) responsibilities include:

- Identifying the waste disposal and recycling needs of every commercial/MFD/School/City facility.
- Providing all Customers with appropriate educational information necessary to make informed, environmentally-forward decisions relative to waste reduction, reuse, and recycling activities.
- Conducting site assessments and waste audits for all commercial/MFD/School/City facilities.
- Ensuring adequate enclosure sizing during City plan review process.
- Reporting progress, challenges, and successes as per Company policy, including daily logs and sharing that information if requested by City.
- Overseeing reporting functions and summarizing information for the City.
- Developing and providing the school recycling programs.
- Responding to customer needs immediately and completely.
- Conducting on-site workshops, school group assemblies, civic and business group meetings and activities, and participating in community events.
- Helping plan recycling and waste disposal needs for special events and large venues.
- Providing tours to City staff, school groups and other community groups.
- Creating and distributing reports as requested by City.

No later than January 1, 2009, Contractor will begin EOC-recruitment and intensive training program. In hiring staff to serve as EOCs, the Contractor will ensure that EOCs are customer-oriented, personable and highly professional, able to satisfactorily perform each responsibility listed above, have a personal interest in recycling and waste prevention, have excellent communications skills (written and spoken), and ideally have a formal education in environmental studies.

EOCs will receive continuing education riding routes with drivers at least once per quarter. EOC team members will be assigned to specific areas of the City as appropriate to fulfill their duties.

EOCs will provide information to Contractor’s webmaster to ensure the Palo Alto page of the Contractor’s website is updated. Contractor agrees to update the Palo Alto portion of the Contractor’s web side within two (2) weeks of receiving new or updated information from EOCs or the City, with applicability to Palo Alto customers. Details on the Baseline and Zero Waste Program shall be available to Customers. The website will also be used to post educational materials for download, highlight program successes and provide diversion statistics.

C. Annual Budget
In addition to staffing expense, Contractor shall spend for public education and outreach no less than $60,000 prior to start-up and during the first year of the Agreement (FY 2009-10), and $55,000 in FY 2010-2011. Subsequently, this amount will be annually adjusted by the same percentage as total compensation, per Attachment N-2.

D. Direct and Ongoing Customer Education and Outreach

1. Recycling Guides
Contractor will produce two separate recycling guides, one directed towards Residential Customers and a second directed to Commercial customers for distribution prior to start-up and to new Customers throughout the Term. These guides will include information on collection methodologies, set out instructions, set out schedule, contact information, and acceptability and necessary preparation of materials for all three containers: Solid Waste, Recyclable Materials and Yard Trimnings/Organics. A section of the guide will specifically address proper methods of handling and disposal of Hazardous Wastes.

Single-family homes will receive the Recyclable Materials and Yard Trimnings recycling guides attached to their carts along with the other start-up items.

For multi-family customers, the EOCs will work with building managers to distribute these guides to each of their residents. In cases where EOCs are unable to contact a building manager, they will deliver the guides door to door. Multi-family property managers and customers will receive a residential guide if using carts, or a commercial guide if using bins. Multi-family customers will also be provided with “Recycling Buddies” as part of the initial outreach effort. All multi-family complexes will be provided laminated Commercial Recycling posters.

For Commercial Customers, the EOCs will work with business associations and business managers to distribute these guides to each member and/or business. Additionally, laminated Commercial recycling posters will also be supplied to businesses.

Recycling guides will also be distributed at community events, recycling presentations and other outreach activities in which Contractor participates.

2. Identify Recycling and Waste Prevention Opportunities
EOCs will conduct waste audits during two specific times during the Term. The waste audits will be conducted for Commercial, Multi-Family and City Facility customers. The first round of waste audits, a minimum of 12 waste audits per month, will occur during the three months prior to
start-up. Following Contractor's receipt of the customer database, the EOCs will develop an audit schedule and route. EOCs will complete mini-audits for Commercial, Multi-family and City Facilities Customers prior to July 1, 2009, utilizing these initial site-visits as an opportunity to make introductions, discuss service levels, promote expanded programs and opportunities for further diversion. The second round of waste audits, a minimum of 12 waste audits per month, will be conducted prior to the fifth year and combined with inspections by EOCs under the Mandatory Recycling Program. EOCs will conduct site-visits prior to collection, performing audits and tracking results. The audits will consist of a visual waste characterization and evaluation (sorting waste by categories) of Customer's Solid Waste, Recyclable Materials and Organics, and documentation (photos, written summary and classification of materials). EOCs will use these results to target Customers with increased opportunities for diversion. Results of audits shall be provided to the Director upon request.

3. Non-Collection Notices
Contractor's corrective action notices shall double as non-collection and courtesy notices, and shall be utilized in clear instances of customer non-compliance. The driver or supervisor will be responsible for the completion of the corrective action notice, selecting the reason for non-collection, and completing the perforated bottom of the notice with the route number, date, time, address, driver initials and reason for non-collection. The corrective action notices will be submitted to a customer service representative (CSR) when the route is completed. A CSR enters the corrective action notice to a comment field in the customer account software. In some cases, the information may be transmitted to the CSR via On-Route GPS system. This information will be sent to the City as required by the Agreement.

4. Commercial Recycling and Organics Programs
Contractor will develop a marketing approach to promote the programs, for review and approval by the City. All new outreach will reflect the new programs. The new Commercial Recycling and Organics program will be a key focus of the EOCs during the first year of operation. Both the City and Contractor recognize this is an entirely new program that requires a paradigm-shift for Customers. The first year will be focused on education and marketing to encourage and induce participation by large generators. The second step involves targeted education, providing resources to ensure success and ultimately facilitating the changing of habits. Contractor shall provide the City with regular updates on Customer participation, progress, successes and obstacles.

In general:
a. The approach will be to establish large “anchor” Customers and then add smaller Customers to form a viable, dense route for recycling and organics collection. EOCs will focus first on the largest waste generators within the City with the most potential for Organics diversion.

b. EOCs will make initial contact with each Customer. EOCs will need to identify and contact the appropriate contact(s), receive replies to emails, phone calls and secure meetings.

c. Contractor understands that large corporate organizations such as supermarkets, hotels, shopping malls, and restaurant chains have varied decision-making environments and require significant time to cultivate.

d. To maximize the opportunity for initial and sustained program success, Contractor will seek to identify a "champion" (ideally a senior manager) at each business.

e. EOCs will assemble a training packet for each Customer. The packet will contain Organics program posters, cart and can stickers, and a question and answer section that addresses frequently asked questions.

f. EOCs will work with Customer management staff to determine the type of Organics collection Containers, their location, and frequency of collection.

g. Organics program posters will also be displayed wherever necessary to reduce confusion about the program. Commingled recycling options will also be presented, to improve diversion rates through diligent source separation and to reduce overall waste expense to the Customer. Follow-up site visits for program evaluation will be offered to new Customers.

h. Timely feedback is important for success. Organic Materials collection drivers will be trained to identify and remove small amounts of obvious contamination and notify the office/EOC at the end of the day so that the Customer can be made aware of a contamination issue. Drivers will be kept updated regarding any changes to the list of acceptable materials.

i. Organic Materials collection drivers will be instructed to report large volumes of contamination at commercial establishments to the collection supervisor who in turn will inspect the container. In most cases, the supervisor will contact the business manager as well as the EOCs regarding the contamination. In some cases, the EOCs will be
directed to the business to conduct a more comprehensive investigation and educational process.

5. The following additional public education and outreach materials shall be produced with City approval upon City request during the term:
   
a. Newspaper advertisement explaining new programs  
b. Press releases about new programs  
c. Description of Annual Clean-Up Program, including options for reuse and recycling. Contractor shall provide separate outreach materials for Residential and Commercial Customers  
d. Zanker 10% off coupon  
e. Company newsletters, quarterly  
f. Door hangers  
g. Corrective Action Notice

E. School Programs
For schools, Contractor shall:

1. Provide on-going technical assistance to schools and the City to improve existing school recycling and organics programs, including supplying composting and organic bins, posters, and other collateral materials in support of these activities.

2. Conduct school-wide composting, organic and recycling in-class presentations and assemblies at local schools. Contractor shall develop a menu of dynamic presentations from which teachers/principals may select the program that best suits their student body needs. Topics will extend beyond the local recycling program to other areas of environmental concern.

3. Promote, coordinate, and conduct educational field trips to the recycling and transfer station in San Jose.

4. Perform annual waste assessments, calculate diversion rates, and communicate the results to the Director.

5. Prepare and distribute an annual report that highlights the many educational services and activities Contractor offers to schools, with scheduling and contact information.

10. Hard to Service Areas

<table>
<thead>
<tr>
<th>Monday:</th>
</tr>
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<tbody>
<tr>
<td>1) Bryant Court</td>
</tr>
<tr>
<td>2) Everett Court</td>
</tr>
</tbody>
</table>
3) Downing Lane  
4) Lane 56 (Channing House)  
5) Lane 15 (E)  
6) Lane (B) West  
7) Lane (B) East  
8) Lane (D) West  
9) Lane (D) East  
10) Page Mill Road (Above Foothill Park)  
11) Alley Behind 200 Block of Everett  
12) Private driveway/street at the corner of Channing and Waverley

**Tuesday:**  
1) East Meadow Circle (New housing development)  
2) Quail and Paloma  
3) Ellsworth  
4) San Carlos  
5) Old Ricky’s site (New housing development on El Camino Real and Charleston Rd.)

**Wednesday:**  
1) Lane (66) Between Fernando & Wilton  
2) Jacobs Court  
3) Madeline Court  
4) Matadero & Roble Ridge

**Thursday:**  
1) Community Lane (3 Blocks)  
2) Alley between Harker & Parkinson (1000 Block)  
3) Alley between Greenwood & Channing (1000 & 1100 Block)  
4) Alley between Harker & Greenwood (1100 Block)  
5) Alley between Harker & Parkinson (1300 Block)

**Other Locations:**  
- Wisteria Lane  
- Driscoll Lane  
- East Meadow Circle (New housing development)
Attachment E
Materials Processing

A. Recyclable Materials Processing

1. General

a. Facility
All Contractor vehicles collecting Recyclable Materials from the City shall deliver directly to the GreenWaste Material Recovery Facility (GreenWaste MRF) located at 625 Charles Street, San Jose, California.

b. Facility Permits
Contractor shall keep in force and be in full regulatory compliance with the terms of all permits and approvals from governmental authorities necessary for the use of the GreenWaste MRF or any other approved alternative processing facility during the term of the Agreement for the processing of City Recyclable Materials.

c. Prohibited Use of Materials
Contractor shall ensure that Recyclable Materials are neither disposed of at a landfill nor utilized as alternative daily cover at a landfill without prior written consent from the Director.

d. Tonnage Tracking and Reporting
Contractor shall submit a report each month to the City on Recyclable Materials received during the immediately proceeding month from each collection vehicle. The reports shall include at a minimum: the source, method of delivery, truck number, time of delivery, tonnage delivered, vehicle license number, person receiving the delivery. Contractor shall also update vehicle tare weights twice per year, and provide that data to the City.

e. Facility Contingency
Contractor shall arrange to process Recyclables Materials at no added cost to the City, should processing capacity at the GreenWaste MRF, for whatever reason, be temporarily unavailable or inadequate.

2. Processing

a. Processing Method
GreenWaste Recovery has installed a new material recovery system capable of processing a minimum of 20 tons per hour of single stream recyclable materials. The equipment is manufactured by Bulk Handling Systems (BHS). From time to time equipment will be modified or replaced to update the system but the following components will be the minimum:

Pre-Sort: The system includes ten pre-sorting stations. Sorters will remove contaminants, large items, metals, and injection-molded plastics prior to the material stream entering the mechanical portion of the facility. This will increase plant throughput, machinery efficiency separation and
output products quality. Staffing level and location will be according to feedstock being processed on each feed line.

Post-Sort: Quality control post-sort stations are included in the design to ensure optimum marketability of the recovered commodity. The system will operate with 2 to 8 post sorters at a time depending upon the quality of the material and the overall performance of the system.

Trommel Screen: The trommel will separate materials into two distinct fractions being approximately ¼ minus, and over's for the purpose of separating glass and fiber.

Cardboard Screen: All captured cardboard from both cardboard disc screens will pass over one quality control sort station where up to two sorters will clean the cardboard before directing it to the cardboard bunker conveyor for later baling.

News Print Screen: This screen will separate newspaper from the rest of the stream. The newspaper will be sent to a post-sort clean up prior to being baled.

Polishing Screen: This screen is used to separate mixed paper from the containers. Mixed paper will float on top as the containers drop through the bottom on to another conveyor.

Optical Sorting: PET beverage containers will be optically sorted prior to final manual quality control (post-sort) before being stored in bunkers, prior to baling. Any cross contamination or trash can be sorted out and redirected to proper streams via conveyors.

Eddy Current Separator: Non-ferrous metals (i.e. aluminum cans) will be separated utilizing an eddy current separator. All non-ferrous metals will be stored prior to baling.

Direct Baling: Clean source-separated loads, such as cardboard and film plastics from commercial and City facilities, will be fed directly into the accessible baler feed conveyor which provides more than 45 feet of direct load capability.

Electro-magnetic Separators: Ferrous metals will be separated using electro-magnetic separators. All ferrous metals will be stored in common storage silo for later baling. If the primary electromagnetic separator is out of service the secondary magnetic separation unit provides redundancy.

Drum Separator: This mechanical separation utilizes a vacuum to separate 3D containers from the waste stream.

b. Acceptable Materials
Recyclable Materials listed in Attachment C, Section 2 shall be processed at the GreenWaste MRF. Additional types of Recyclable Materials which City directs Contractor to collect shall be processed at no additional charge.

c. Residue Rate Requirements.
Contractor guarantees to process mixed loads of Recyclable Materials with a minimum ninety-two percent (92%) recovery rate; maximum eight percent (8%) residue annually at the processing facility.

An annual waste audit shall be conducted by the Contractor at the GreenWaste MRF for the purpose of measuring the annual mixed Recyclables processing line/facility residue rate, and reciprocal recovery rate, prior to July 1 of each year. Contractor shall allow City staff to observe audit, on request.

Every six months a waste audit shall be conducted by the Contractor at the GreenWaste MRF for the purpose of measuring the City’s specific residue rate. Contractor shall allow City staff to observe audit, on request.

3. Marketing

a. Marketing Plan
Contractor shall submit to City on or before January 1 of each year, a plan for marketing Recyclable Materials for the coming year. The Marketing Plan shall include the following: 1. Quantities: estimated quantities of each Recyclable Material; 2. Prices: estimated unit market values 3. Marketing: end markets and uses, and 4. Quantities of materials marketed during the preceding year.

b. Marketing Methods
Contractor shall use, and build on its existing network of, vendors to sell commodities. In general, at the time of execution, materials markets are as follows:

Plastic 1-7, Plastic Bags, Plastic Injection, Black Injection - Plastics are cleaned and sorted to produce new flake that will go into the production of many items. Currently plastics are sold through Berg Mills to both foreign and domestic processors.

Mixed Paper, OCC - Materials will be recycled into new products such as newspaper and cardboard. Currently, fiber products are primarily sold through Berg Mills to domestic and foreign mills.

Glass - Glass will be recycled into new glass and fiberglass products. Currently, glass is sold and processed locally to Strategic Materials

Scrap Metal, Aluminum - Metals will be recycled into new ferrous and non-ferrous products. Currently, metals are sold to Standard Iron to be processed and shipped both domestic and foreign markets.

E-Waste – E-Waste will be disassembled in Hayward at E-Recycling and shipped both domestically and internationally to other recyclers.

c. Stockpiling of Materials
Contractor shall provide storage of materials during extreme market fluctuations. Processed materials shall not be stockpiled for more than one year.

d. Certificate of End Use
Contractor shall submit to City on or before July 1 of each year a certification of end use from each purchasers establishing that the materials sold the prior fiscal year have been, in fact, recycled.

B. Organic Materials Processing

1. General

a. Facility
All Contractor vehicles collecting Organic Materials from the City shall deliver directly to the GreenWaste MRF located at 625 Charles Street, San Jose, California. The City’s Organic Materials may be comingled with materials from other jurisdictions at the Green Waste MRF. The Organic Materials shall then be loaded into transfer vehicles for transportation to the Z-Best Composting Facility (Z-Best) located in Gilroy for processing and composting.

b. Facility Permits
Contractor shall keep in force and be in full regulatory compliance with the terms of all permits and approvals from governmental authorities necessary for the GreenWaste MRF, Z-Best facilities, and any other approved alternative processing facility during the term of the Agreement for the processing of City Organic Materials.

c. Prohibited Use of Materials
Contractor shall ensure that Organic Materials are neither disposed of at a landfill nor utilized as alternative daily cover at a landfill without prior written consent from the Director.

d. Tonnage Tracking and Reporting
Contractor shall submit a report each month to the City on Organic Materials received during the immediately proceeding month at the GreenWaste MRF from each collection vehicle. The report shall include at a minimum: the source, method of delivery, truck number, time of delivery, tonnage delivered, vehicle license number, person receiving the delivery. Contractor shall also update vehicle tare weights twice per year, and provide that data to the City.

e. Facility Contingency
As a primary contingency, the Zanker Material Processing Facility (ZMPF) is in the process of designing and permitting the construction of a 200,000 square foot facility that will be capable of processing and transferring organic materials. This facility is anticipated to be open as early as January 2011.

2. Processing

a. Processing Method
After weigh-in, transfer vehicles will dump loads in the Processing Building. Z-Best’s processing plant consists of several components, including a bag opener, magnet, manual sorting stations, and a shredder. The processing plant removes recyclables such as cardboard, glass, aluminum, metal, as well as large contaminants, before shredding the material to achieve optimum particle size for composting. From time to time methodology and/or equipment may be modified or replaced to update the system and/or increase efficiencies.

Shredded food waste is composted in an enclosed bag with forced aeration called the CTI System. For the majority of the 14 week process, the bagged material reaches 150-160 degrees, which is sufficient to kill all insects, pathogens and weed seeds. After the composting process, the material is sent though a primary screening process. The primary screen removes all inorganic contamination of 1-inch size or greater. This residue is shipped to a landfill for disposal. Composted materials smaller than 1-inch are placed in curing piles for several more weeks. After a suitable curing period, final screening takes place and the resulting compost is ready for market.

b. Acceptable Materials
Organic Materials listed in Attachment C, Section 3 shall be composted at Z-Best. The City may at no additional charge request Contractor to add additional materials as markets allow.

c. Residue Rate Requirements
Contractor guarantees to achieve a minimum rate of ninety percent (90%); maximum ten percent (10%) residue rate for processing City specific materials into compost at the Z-Best facility.

Compliance with this section shall be determined annually by conducting a waste audit prior to July 1 of each year. The waste audit will conducted by: 1) measuring the inbound tons of a minimum of four organic collection vehicles from the City delivered to the GreenWaste MRF on a single day; 2) determining the tonnage of materials disposed from those loads following processing at the Green Waste MRF (pre-processing residue) ; 3) determine the tonnage of materials disposed from those loads following processing at the Z-Best facility (post-processing residue). The total residue rate (and reciprocal recovery rate) will be determined by taking the total tons disposed (residue) from both facilities and dividing it by the total inbound tons of organic materials received at the GreenWaste MRF.

Contractor shall notify the City a minimum of one week in advance prior to conducting audit and shall allow the City to observe to ensure compliance with this section is followed.

3. Marketing

a. Marketing Plan
Contractor shall submit to City on or before January 1 of each year, a plan for marketing Composted Organic Materials for the coming year. The marketing plan shall include the following: 1. Estimated quantities; 2. Prices; estimated unit market values 3. Marketing: end markets and uses and 4. Quantities of materials marketing during the preceding year.

b. Marketing Methods
Compost produced from Organic Materials is directed into commercial markets that include a diverse collection of potential customers, including landscapers, land developers, contractors, nurseries, greenhouses, golf courses and private recreational facilities.

Z-Best markets to the commercial sector through its large database of existing customers, advertisements in the yellow pages of telephone directories, as well as in newspapers and trade publications. In an effort to expand its services to the commercial sector, Z-Best provides delivery services for materials from its facility. Z-Best uses a full time sales person to seek new business through referrals and cold calls to potential end-users. Current users of this product include commercial landscape installers, topsoil producers, and nurseries.

c. Stockpiling of Materials
Contractor shall provide storage of materials during extreme market fluctuations. Processed materials shall not be stockpiled for more than two years.

d. Certificate of End Use
Contractor shall obtain from five of its largest customers a certification of end use, on or before July 1 of each year establishing that the materials sold the prior fiscal year have been, in fact, reused or recycled. The certifications of end use will be retained by Contractor and will be available for review by City.

Contractor shall also submit to the City each month, Z-Best monthly tonnages for materials being received and each material type being marketed.

C. Construction and Demolition Debris Processing

1. General
Commencing July 1, 2009, Contractor shall collect & transport all roll-off boxes and compactors, to the Zanker Materials Processing Facility (ZMPF) or the Zanker Road Resource Recovery Operations and Landfill (ZRRROL).

a. Facilities
Contractor shall collect & transport the roll-off boxes and compactor materials to the ZMPF located at 675 Los Esteros Road in San Jose or the Zanker Road Resource Recovery Operations and Landfill (ZRRROL) located at 705 Los Esteros Road in San Jose.

b. Facility Permits
Contractor shall keep in force and be in full regulatory compliance with the terms of all permits and approvals from governmental authorities necessary for use of the ZMPF, ZRRROL or any other approved alternative processing facility during the term of the Agreement for the processing of Construction and Demolition Debris.

c. Prohibited Use of Materials
Contractor shall ensure that processed Construction and Demolition Debris is neither disposed of at a landfill nor utilized as alternative daily cover (other than described in subsection 3b) at a landfill without prior written consent from the Director.
d. Tonnage Tracking and Recycling
Contractor shall submit a report each month to the City on Construction and Demolition Debris received from each collection vehicle. The reports shall include at a minimum: the source, method of delivery, truck number, time of delivery, tonnage delivered, vehicle license number, person receiving the delivery. Contractor shall also update vehicle tare weights twice per year, and provide that data to the City.

Tracking for all outbound and disposed tons shall be reported by an average monthly recycling percentage for each site. This information shall be formatted to report the 12-month recycling rate for the ZMPF and ZRRROL. This shall be posted on a web site at www.zbest.com/recycling_rate.html.

e. Facility Contingency
Contractor shall arrange to process Construction and Demolition Debris at no added cost to the City, should processing capacity at either ZMPF or the ZRRROL, for whatever reason, be temporarily unavailable or inadequate.

2. Processing

a. Processing Method
ZMPF: The following description of the processing method for Construction and Demolition Debris delivered in roll-off boxes and compactors focuses on the processes at the ZMPF, the primary facility for processing City materials and represents minimum standards that will be met. From time to time the processing methodology and/or equipment may be modified or replaced to update the system and/or increase efficiencies.

Roll-off boxes and compactors loads enter the site and are weighed and recorded. The driver is directed to the mixed C&D unloading area for inspection and unloading. As the truck unloads, a load checker will inspect the load for hazardous materials. An active load-checking program shall be utilized to minimize the acceptance of any unacceptable materials.

After the truck has unloaded, ZMPF employees will start to separate large pieces of metals and wood from the load. Wheel loaders will then push the remaining materials to a temporary stockpile before being conveyed to the C&D sorting conveyor system. An excavator removes larger items before loading the feed conveyor. This pre-sort operation removes larger pieces of wood, metal, concrete, and garbage.

The sorting conveyor system, which includes elevated access platforms and workstations and electrically operated disc-screens, is located above large concrete storage bunkers. The excavator is used to load the walking floor feeder which in turn feeds the incline conveyor of the sort-line.

The C&D Sorting System is designed to evenly distribute the material onto a sorting conveyor that passes a series of work stations where employees resort the larger items such as cardboard, wood, metal and film plastics before the material passes through a two stage disc screen to separate out small materials which is used on-site, or shipped to other landfills, for use as ADC.
After passing through the final stages of the disc screen, the remaining items then pass another series of work stations where employees separate and pick-out smaller recyclable items and drop them directly into the storage bunkers below or place the items in 96-gallon carts adjacent to the work stations. When the bunker is full, the sorted materials are then routed for additional on-site processing, or loaded and hauled to approved recyclers. The unsorted material that falls off the end of the sorting conveyor system is routed to a landfill for disposal.

ZRRROL: If materials are routed to the ZRRROL facility, employees will start to separate large pieces of metals, OCC, gypsum wallboard, concrete, rigid plastics and wood from the load. Wheel loaders will then push the remaining materials to a temporary stockpile before being loaded into a truck and weighed prior to disposal.

b. Acceptable Materials
The ZMPF and ZRRROL facilities shall accept mixed loads of Construction and Demolition Debris. Both facilities have exclusions for putrescible, hazardous and liquid wastes. Loads containing putrescible wastes or containing more than twenty-five percent (25%) of materials that are not recovered at these facilities (Such as pressure-treated lumber, construction insulation or Styrofoam) will be diverted to the Sunnyvale SMaRT Station for disposal.

As currently permitted and operated, the facilities are primarily used for the recycling of construction and demolition (C&D) debris. Accordingly, all waste materials received at the facilities typically go through extensive screening and sorting processes to recover recyclable materials (i.e., wood, plastic, paper, cardboard, gypsum, metal, concrete, etc.). The City may at no additional charge request Contractor add additional materials as markets become available and materials are processed at the ZMPF or ZRRROL.

c. Residue Rate Requirements
Contractor guarantees that the two processing facilities (ZMPF and ZRRROL) shall achieve combined facility diversion rates of seventy-five percent (75%) for the following types of Construction and Demolition Debris loads:

1. Source separated C&D loads average a ninety percent (90%) recovery with a reciprocal ten percent (10%) residue. Source separated loads are delivered to both facilities.

Source separated recyclables in this section is defined as a roll-off box or compactor which is dedicated to only one of the following materials: Wood waste, yard waste, metals (ferrous metals, copper, aluminum, brass) asphalt, sheetrock, cardboard, PETE-HDPE-glass-aluminum containers or cans, mixed paper or concrete. Source separated loads that contain in excess of ten percent (10%) of the non-source separated materials are processed as mixed loads.

2. Mixed C&D loads average a seventy percent (70%) recovery rate with a reciprocal thirty percent (30%) residue rate. Mixed loads are delivered to both facilities.

The monthly recovery rate for each facility will be calculated and posted as described in subsection 1.d above. Compliance with the minimum combined annual facility recovery rate of
75% (and the reciprocal maximum 25% residue rates) will be determined by the arithmetic average of the recovery rates at both facilities for the preceding 12-months period.

3. Marketing

a. Marketing Plan
Contractor shall submit to City on or before January 1 of each year, a plan for marketing Construction and Demolition Debris for the coming year. The marketing plan shall include the following: 1. Quantities: estimated quantities of each Recyclable Material; 2. Prices: estimated unit market values 3. Marketing: end markets and uses and 4. Quantities of materials marketing during the preceding year.

Contractor shall provide to the City prior to each calendar year a proposed marketing plan for each material type for the processing facilities. The City will be allowed to review and suggest recommended changes to that plan. Contractor shall maintain long term relationships with materials brokers, shall continually monitor market condition, shall have the ability to anticipate and react to severe market demand and fluctuations in quantity, composition and pricing. Contractor shall use both domestic and foreign markets to maintain continued material movement and to obtain the highest market value.

b. Marketing Methods
Following are the commodities currently recovered at the ZMPF and ZRRROL from mixed C&D loads, with description of recovery methods and markets for the materials.

Wood Waste: Large pieces of wood are separated at the tipping area utilizing hand labor, loaders or an excavator. Smaller pieces of wood are removed from the sorting line by using hand labor. Zanker has instructed and educated its employees as to the type of wood that is not accepted which includes pressure treated lumber, CCA treated lumber, creosote treated wood and lead painted lumber. These materials are placed in a separate container and properly disposed of. Wood waste is ground and marketed as organic soil amendments, decorative wood chips and cogeneration fuel.

Yard Waste: Relatively clean loads of yard trimmings are processed at the ZRRROL. Small amounts of yard trimmings found in loads from the City will be processed as wood waste. Z-Best Products will be the main vendor for this material.

Ferrous Metals: Ferrous metals, such as tin, shall be extracted from loads in the tipping area by laborers or removed from the sort-line. Large iron pieces will be removed and placed in a roll-off container or stockpiled until ample materials are available to warrant transportation. These materials will be recovered and transported off site to a metals recycler.

Copper: Copper tubing and wire will be removed using hand labor. Most copper will be removed on the sorting line where sorters will have a better opportunity to capture the materials. Copper will be placed in roll-off containers. Depending on pricing, the copper materials may be baled and shipped to market or sold loose to local recyclers.

Asphalt: In the case where large loads of asphalt enter the site, contaminants will be removed by hand or by using a loader or excavator. Loads will be cleaned in order to meet specifications.
The cleaned materials will then be commingled with the clean concrete loads and processed into Class II Base Rock at the ZRRROL.

Sheetrock: Clean gypsum (non-painted or not removed from demolition projects) shall be received at the tipping area. Large pieces of sheetrock will be recycled using hand labor and the loader. Most sheetrock will be removed on the sorting line where sorters will have a better opportunity to capture the materials. Sheetrock will be placed in roll-off containers and shipped to the ZRRROL for further processing and marketing.

Aluminum: Aluminum will be removed at both the tipping area and from the sort-line. Scrap aluminum will be placed into a roll-off container for marketing to local recyclers or baled and marketed.

Brass: Brass fixtures will be recovered from the sort-line by sorters who will have a better opportunity to capture the materials than their ground sorting counterparts. Brass will be placed in roll-off containers. Depending on pricing, the brass materials may be baled and shipped to market or sold loose to local recyclers.

Tires: Passenger and truck tires found in incoming loads will be removed and stockpiled or stored in a separate roll-off container. When ample tires are available to warrant transportation, the tires are hauled to an end-user in Sacramento.

Appliances/White Goods: Appliances will be stored until ample supply is reached to warrant transportation to a recycler.

Hazardous Waste: Hazardous wastes that are dropped off at the tipping area and discovered by load checkers will be stored in an appropriate storage container near the tipping area for a maximum of 90 days or until an ample supply is reached to warrant disposal, whichever comes first. Hazardous wastes will be lab packed and disposed or recycled in accordance with state law. The facilities utilize the services of a certified hazardous waste disposal company for the proper disposal of hazardous wastes.

ADC: ADC is only produced from the screens on the C&D sorting system. Materials pass these screens and the 3-inch minus in size fall into a concrete bunker. Loads of ADC are shipped off-site to other landfills or used on site. Currently, most ADC is being shipped to the Vasco Road Landfill in Alameda County, although some materials are used at the ZMPF or the ZRRROL sites.

No fines are used as soil amendments or beneficial reuse because of the amount of organics and other materials like glass, gypsum etc. Soil from the demolition plants at both the ZMPF and ZRRROL are shipped to area landfills and used as cover, not as ADC, beneficial reuse or erosion control. Soil amendments are produced from grinding and screening wood waste and sold to area landowners.

Asphalt Roofing: Mixed loads of asphalt roofing will enter the tipping area and be directed to a specific area for asphalt roofing. Once deposited in this area, sorters will remove wood, metals and other residuals. The remaining asphalt roofing may be shipped off-site for use as a buttress fill at the Pacheco Pass Landfill, ADC, or to a local asphalt plant for reuse in asphalt roofing.

Porcelain: Porcelain items such as toilets and sinks will be removed from the tipping area and placed in a stockpile with the asphalt and concrete to be processed at the ZRRROL.
Cardboard: Larger pieces of cardboard (OCC) will be extracted from loads in the tipping area while the remaining OCC will be removed by sorters utilizing the C&D sorting system. The OCC will be baled as necessary and then stockpiled until enough materials have accumulated for a complete load. OCC is sold both domestically and for export.

Mixed Paper: Mixed paper will be removed by personnel using the C&D sorting system and stored in bunkers until enough materials are generated for baling. The mixed paper will be baled, and sold both domestically and for export.

PETE and HDPE Containers, Glass Bottles, Aluminum Cans: PETE containers as well as HDPE containers, glass bottles and aluminum cans will be sorted at stations on the C&D sorting system. Sorters will be instructed to remove these items. Employees have small containers directly behind their individual sorting stations to allow for these commodities.

Once these containers are filled, employees will remove and empty each commodity into a specific container. Over time these containers will be filled, baled with the site’s baler and marketed. Glass containers will not be baled; rather, they will be marketed as is to a local glass recycler.

Concrete: Concrete removal will start in the tipping area where large amounts will be found. Materials will be removed by hand into the loader bucket. The loader will bring the concrete to an adjacent area where the material will be stockpiled before being transported to ZRRROL and processed into Class II Base Rock. Smaller pieces of concrete that are removed from the C&D sort-line will also be placed into a container and shipped to ZRRROL for further processing.

E-Waste: When E-Waste is found in the tipping area or on the sort line, employees will remove the materials to a special container specifically for E-Waste. Materials such as TVs, computer monitors, computers, cell phones and printers will be recycled with a certified state recycler and will not be exported to over-seas markets.

Stones & Bricks: Small amounts of stones and bricks are usually generated during renovation of landscape projects or small demolition projects. These items will be recovered using the sorting conveyor. Stones will be co-mingled with recycled concrete, whereas bricks will be placed into a separate container and co-mingled with roofing tiles. Materials will be processed at the ZRRROL into Class II Base Rock.

Carpet Padding: Carpet padding is very common in renovation and demolition projects. The padding may be sorted using the C&D sorting system. This material will be placed into an enclosed storage box to prevent rain and water spray from being absorbed into the padding, and are marketed to a foam recycler. There is no steady market currently for carpet padding and it may be landfilled if no market exists.

c. Stockpiling of Materials
Contractor shall provide storage of materials during extreme market fluctuations. Processed materials shall not be stockpiled for more than two years.

d. Certificate of End Use
Contractor shall submit to City on or before July 1 of each year a certification of end use from 5 major vendors annually establishing that the materials sold have been, in fact, reused or recycled.
D. Pallet Recycling
Pallets that are collected by Contractor will be delivered to a pallet recycler in the area or brought to ZMPF and stockpiled. Zanker will contact pallet recyclers and allow them to inspect all pallets stockpiled at ZMPF. If pallets can be marketed to these recyclers at this time they will be sold or given away. If the pallet recycler is unwilling to take pallets, then they will be processed at ZMPF. Pallets will be delivered to the wood waste area on the site to be ground and marketed as mulch, fuel and soil amendments. Pallets will be allowed to remain onsite for two weeks prior to being recycled.

E. Bulky Item and Books Reuse

1. Bulky items
Bulky items that are collected will be delivered to ZMPF and unloaded in a reuse area. Reuse vendors such as Goodwill, Salvation Army, and other approved vendors will be contacted and allowed to inspect all items. These items will be made available Monday –Friday 8am to 4pm. If these vendors are unwilling to accept any of the items they will be collected and processed at the appropriate ZMPF facility. No item will remain on site for longer than two weeks.

a. Marketing Plan
Contractor shall submit to City on or before January 1 of each year, a plan for partnering with local non-profit organizations to market reusable bulky items for the coming year. The marketing plan shall include the following: 1. Estimated quantities of reusable bulky items; 2. Potential end markets and uses and 4. Quantities of reusable bulky items marketing during the preceding year.

2. Books
Books will follow the same process as bulky items with the exception that they will be stored in a sealed container for protection from the elements. Additional vendors will be contacted for the reuse of books such as second hand bookstores and book donation agencies.

F. Tours of all Facilities

Upon seventy-two (72) hours notice from City, Contractor shall provide tours of the processing facilities. Such tours shall not unreasonably disrupt facilities operations. City shall not be charged for labor, overhead, overtime, or any other costs associated with such tours. As part of such tours, Contractor shall prepare (subject to City's approval of text and form) and shall distribute an educational brochure, printed on recycled paper, on conservation, recycling, and general solid waste management programs.
Attachment O
Liquidated Damages.

The following table lists the events that constitute breaches of the Agreement’s standard of performance warranting the imposition of liquidated damages; the acceptable performance level, and the amount of liquidated damages for failure to meet the contractually required standards of performance.

Contractor shall submit a monthly report listing the number of events that occurred, and the number of complaints received, in each category during the preceding month and computing the amount (if any) of liquidated damages accrued. Upon City request, Contractor shall also provide a printout of the full records. Contractor shall report accurate, reliable and verifiable data.
<table>
<thead>
<tr>
<th>Event of Non-Performance</th>
<th>Acceptable Performance Level (Allowed events per Fiscal Year)</th>
<th>Liquidated Damage Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Collection Reliability</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Failure to notify City of reportable quantities of Hazardous Waste</td>
<td>0</td>
<td>$500 per event</td>
</tr>
<tr>
<td>Failure to maintain the collection schedule on the scheduled day</td>
<td>0</td>
<td>$1,000 per day per route</td>
</tr>
<tr>
<td>Failure to start new customer service, or initiate change in service, within 7 calendar days from the date the request was received</td>
<td>5</td>
<td>$300 per day</td>
</tr>
<tr>
<td>Failure to provide services as required in Attachment C</td>
<td>0</td>
<td>$500 per day</td>
</tr>
<tr>
<td><strong>Collection Quality</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Failure to clean up promptly materials spilled or leaked from collection vehicles</td>
<td>5</td>
<td>$500 per event</td>
</tr>
<tr>
<td>Spills of vehicle fluids from Contractor's vehicles on public streets</td>
<td>0</td>
<td>$500 per event</td>
</tr>
<tr>
<td>Failure to replace containers in original position (or alternate location if original position did not meet guidelines in Attachment C)</td>
<td>10</td>
<td>$300 for every 10 containers replaced incorrectly per day and per route</td>
</tr>
<tr>
<td>Not closing gates, crossing planted areas, or other damage to private property</td>
<td>24</td>
<td>$500 per event</td>
</tr>
<tr>
<td>Failure to resolve property damage claims from customers within thirty (30) calendar days of the date of complaint/damage being reported</td>
<td>0</td>
<td>$300 per event</td>
</tr>
<tr>
<td>Failure to comply with hours of operation as required in Agreement (e.g. early start)</td>
<td>5</td>
<td>$300 per incident</td>
</tr>
<tr>
<td>Complaints about excessive noise complaints</td>
<td>12</td>
<td>$300 per complaint</td>
</tr>
<tr>
<td>Failure to tag Containers not collected with notice of reason (e.g. excessive weight, hazardous waste, etc)</td>
<td>12</td>
<td>$150 per container</td>
</tr>
<tr>
<td>Failure to clean public solid waste receptacles and their lids</td>
<td>5</td>
<td>$150 per container</td>
</tr>
<tr>
<td>Failure to power wash public solid waste and recycling receptacles, lids and metal liners twice per year</td>
<td>0</td>
<td>$150 per container</td>
</tr>
<tr>
<td>Failure to wipe the exteriors and lids of all public receptacles every two weeks</td>
<td>0</td>
<td>$200 for every 10 containers</td>
</tr>
<tr>
<td>Failure to promptly repair, or arrange for the repair of, all damage to private property caused by Contractor</td>
<td>0</td>
<td>$500 per event</td>
</tr>
<tr>
<td>Event of Non-Performance</td>
<td>Acceptable Performance Level (Allowed events per Fiscal Year)</td>
<td>Liquidated Damage Amount</td>
</tr>
<tr>
<td>------------------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------</td>
<td>--------------------------</td>
</tr>
<tr>
<td>employees, within ten (10) Business Days of the complaint being received</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Customer Responsiveness</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Discourteous behavior</td>
<td>0</td>
<td>$500 per complaint</td>
</tr>
<tr>
<td>Failure to respond to and initiate a remedy for a complaint which is found to be justified by the Director within one Business Day after notification by Director</td>
<td>0</td>
<td>$300 per event</td>
</tr>
<tr>
<td>Failure to maintain office hours as required in Agreement</td>
<td>0</td>
<td>$300 per day</td>
</tr>
<tr>
<td>Failure to answer the telephone during work hours or return messages left on answering machine within one Business Day</td>
<td>0</td>
<td>$300 per event</td>
</tr>
<tr>
<td>Failure to respond to service request within one business day</td>
<td>0</td>
<td>$300 per event</td>
</tr>
<tr>
<td>Failure to correct and report billing errors caused by GreenWaste</td>
<td>0</td>
<td>$250 per customer account each month the account error remains uncorrected</td>
</tr>
<tr>
<td>Failure to report accurate and verifiable records of non-utility Customers receiving on-call services from Contractor</td>
<td>0</td>
<td>$500 per event</td>
</tr>
<tr>
<td>Failure to remit to City revenues received from non-utility Customers for services performed by Contractor</td>
<td>0</td>
<td>$500 per event</td>
</tr>
<tr>
<td>Failure to collect missed containers within one Business Day after receipt of notice</td>
<td>0</td>
<td>$300 per event</td>
</tr>
<tr>
<td>Failure to deliver a replacement Cart to Customer within five (5) Business Days of notification of cart being lost, destroyed or stolen.</td>
<td>0</td>
<td>$150 per container</td>
</tr>
<tr>
<td>Failure to deliver a replacement Cart to Customer within seven (7) Business Days of notification to Contractor by the City or a Customer that a change in the size of a wheeled cart is required.</td>
<td>0</td>
<td>$150 per container</td>
</tr>
<tr>
<td>Failure to remove a Cart that is being replaced within seven (7) Business Days of notification to Contractor by the City or a Customer.</td>
<td>0</td>
<td>$150 per container</td>
</tr>
<tr>
<td>Failure to remove graffiti from any container within two (2) Business Days of notification</td>
<td>0</td>
<td>$150 per container</td>
</tr>
<tr>
<td>Event of Non-Performance</td>
<td>Acceptable Performance Level (Allowed events per Fiscal Year)</td>
<td>Liquidated Damage Amount</td>
</tr>
<tr>
<td>-----------------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------</td>
<td>------------------------------------------</td>
</tr>
<tr>
<td>Failure to repair or replace Container damaged by Collection operations within three (3) Business Days of being notified by Customer or of observing the damaged Container.</td>
<td>0</td>
<td>$150 per container</td>
</tr>
</tbody>
</table>

**Reporting**

<table>
<thead>
<tr>
<th>Reporting</th>
<th>Acceptable Performance Level (Allowed events per Fiscal Year)</th>
<th>Liquidated Damage Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Late Submittal of required Reports</td>
<td>0</td>
<td>$250 per day for each day report is overdue</td>
</tr>
<tr>
<td>Submittal of inaccurate report and failure to submit corrections to City.</td>
<td>0</td>
<td>$250 per day for each day inaccurate information is not corrected by Contractor</td>
</tr>
<tr>
<td>Errors in customer service records found during route audits.</td>
<td>0</td>
<td>$200 for each ten errors in excess of ten errors per route</td>
</tr>
</tbody>
</table>

**Processing**

<table>
<thead>
<tr>
<th>Processing</th>
<th>Acceptable Performance Level (Allowed events per Fiscal Year)</th>
<th>Liquidated Damage Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Failure to submit Marketing Plans for Recyclable Materials, Organics, Construction and Demolition Debris, and bulky items.</td>
<td>0</td>
<td>$500 per material type, per day</td>
</tr>
<tr>
<td>Failure to submit certification of end use for Recyclable Materials, Organics, and Construction and Demolition Debris.</td>
<td>0</td>
<td>$500 per material type, per day</td>
</tr>
<tr>
<td>Stockpiling of processed materials beyond the time allowed in Attachment E.</td>
<td>0</td>
<td>$500 per material type, per day</td>
</tr>
<tr>
<td>Recyclable Materials – one year</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Organics – two years</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Construction and Demolition Debris – two years</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bulky items – two weeks</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Failure to recycle seventy-five percent (75%) of Construction and Demolition Debris per Attachment E.C.2.c.</td>
<td>0</td>
<td>$200 per box delivered to C&amp;D processing facility during review year.</td>
</tr>
<tr>
<td>Prohibited use of materials per Attachment E.</td>
<td>0</td>
<td>$10,000 per day</td>
</tr>
</tbody>
</table>

**Miscellaneous**


<table>
<thead>
<tr>
<th>Event of Non-Performance</th>
<th>Acceptable Performance Level (Allowed events per Fiscal Year)</th>
<th>Liquidated Damage Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disposal of Recyclable Materials, Yard Trimmings, Organics, or Construction and Demolition Debris without written City approval or as permitted in Attachment E.</td>
<td>0</td>
<td>$175 per Ton Disposed</td>
</tr>
<tr>
<td>Use of unauthorized facilities (Delivery of Recyclable Materials, Yard Trimmings, Organics, or Construction and Demolition Debris to a facility other than that designated in Agreement or approved in writing by City)</td>
<td>0</td>
<td>$175 per Ton Delivered to unauthorized facilities</td>
</tr>
</tbody>
</table>