

**AGREEMENT BETWEEN THE CITY OF WEST HOLLYWOOD AND ARAKELIAN ENTERPRISES, INC., D.B.A. ATHENS SERVICES, FOR INTEGRATED SOLID WASTE MANAGEMENT SERVICES**

**AMENDMENT NO. 4**

This Amendment No. 4 to the Agreement for Integrated Solid Waste Management Services (“Amendment No. 4”) is entered into this 3rd day of February, 2025 by and between the City of West Hollywood, a California municipal corporation (“CITY”), and Arakelian Enterprises, Inc. dba Athens Services, a California corporation (“CONTRACTOR”). CITY and CONTRACTOR may hereinafter be individually referred to as “Party” or collectively as the “Parties.”

**RECITALS**

A. WHEREAS, this Amendment No. 4 shall amend the original Agreement #7174 effective January 1, 2015, between CITY and CONTRACTOR, Amendment No. 1 dated March 12, 2015, Amendment No. 2 dated June 1, 2020, and Amendment No. 3 dated November 21, 2022 (hereinafter referred to as the “Agreement”); and

B. WHEREAS, the Parties desire to revise the Agreement to (i) extend the City’s SB 1383 program to all of the City’s food waste-generating commercial customers (restaurants, coffee shops, cafeterias, etc.); and (ii) make changes to the regularity of certain route and facility reviews for City’s SB 1383 program to reflect changes in law, program design, and best practices.

**AGREEMENT**

NOW, THEREFORE, in consideration of the promises and covenants contained herein, the above recitals, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree to amend the Agreement as follows.

1. **Review of Adjustments.** Section 5.07.4, is hereby deleted and replaced in its entirety with the following:

5.07.4 Review of Adjustments. On or before May 1, 2025, and annually thereafter by each May 1, CONTRACTOR shall submit a written notice to CITY for calculating an adjustment allowed under Sections 5.07.1 and 5.07.2 in the Maximum Service Rates (“Annual Rate Adjustment”) in a form approved by CITY. CONTRACTOR’s notice shall include the basis and calculations for the increase, and a complete schedule of the requested Maximum Service Rates. No later than May 15, 2025 and annually thereafter by each May 15, CITY shall notify CONTRACTOR of CITY’s agreement or disagreement with CONTRACTOR’s basis and calculations of Annual Rate Adjustment and/or CONTRACTOR’s Maximum Service Rates. Any approval or denial of CONTRACTOR’s Annual Rate Adjustment may be done at the administrative level, or through an action by City Council, and in accordance with state law (including, for example, Proposition 218). CITY may not unreasonably deny CONTRACTOR’s Annual Rate Adjustment provided that any such adjustment is calculated in conformance with this Section 5.07. CONTRACTOR shall be responsible for all written notifications to Customers, property

owners, and tenants responsible for solid waste bills of adjustments at least thirty (30) days before the effective date of the adjustment pursuant to Government Code Section 53756. CITY shall be responsible for mailed notices to property owners and tenants responsible for solid waste bills in accordance with Proposition 218, when applicable.

2. **Restaurant Food Waste Diversion Program.** Section 12.11.2 is hereby deleted. For the avoidance of doubt, City's food waste-generating commercial customers (restaurants, coffee shops, cafeterias, etc.) shall receive three-container service in accordance with Sections 12.09.1, 12.10.1, and 12.11.1 of the Agreement.

3. **Commingling.** Exhibit 13 at Section 1.7 is hereby deleted and replaced in its entirety as follows:

1.7 **Commingling.** CONTRACTOR shall not commingle, in the vehicles or otherwise, (i) any Refuse with any source-separated Recyclable Materials, Organic Waste or Green Waste, or (ii) any source-separated Recyclable Materials with Organic Waste or Green Waste when collected by CONTRACTOR, unless otherwise specifically authorized in writing by CITY. CONTRACTOR shall not be deemed to have violated this Section where such materials were commingled prior to Collection by CONTRACTOR.

4. **Facilities Waste Characterizations.** Exhibit 13 at Section 1.12 is hereby deleted and replaced in its entirety as follows:

1.12 **Facilities Waste Characterizations.** At least twice per year, in two distinct seasons of the year, CONTRACTOR shall conduct waste characterizations at facilities owned or operated by CONTRACTOR, pursuant to 14 CCR Section 18984.5(c).

5. **Route Reviews.** Exhibit 13 at Section 1.13 is hereby deleted and replaced in its entirety as follows:

1.13 **Route Reviews.** Beginning January 1, 2025, CONTRACTOR shall, at its sole expense, conduct hauler route reviews for Contamination consistent with 14 CCR Section 18984.5(b) in a manner deemed safe by CONTRACTOR and such that all hauler routes are reviewed annually. Containers may be randomly selected along hauler routes. CONTRACTOR shall develop a hauler route review methodology in compliance with 14 CCR Section 18984.5(b). CONTRACTOR shall submit its proposed route review methodology for the coming year to CITY no later than January 15 of each year describing its proposed methodology for the calendar year and schedule for performance of each route's annual review. CONTRACTOR's proposed route review methodology shall include its plan for Container inspections and shall also include its plan for prioritizing the inspection of Customers that are more likely to be out of compliance. CITY shall review, comment on, and approve the proposed methodology. CONTRACTOR will commence with the

proposed methodology upon approval. Comments shall be provided no later than five (5) business days after CONTRACTOR's submission and approval shall be provided no later than three (3) business days after CONTRACTOR's last comment. Approval shall not be unreasonably withheld.

6. **Performance Review Methodology.** Exhibit 9, Performance Review Methodology, is hereby deleted in its entirety and replaced in its entirety with Attachment 1 of this Amendment No. 4, which shall be incorporated as a new Exhibit 9 of the Agreement ("Performance Review Methodology.")

7. **Effective Date.** Unless expressly specified otherwise, this Amendment No. 4 shall be effective on February 1, 2025.

8. **Due Execution.** The person(s) executing this Amendment No. 4 on behalf of a Party hereto warrant(s) that (i) such Party is duly organized and existing; (ii) such person(s) are duly authorized to execute and deliver this Amendment No. 4 on behalf of said Party; (iii) by so executing this Amendment No. 4, such Party is formally bound to the provisions of this Amendment No. 4; and (iv) entering into this Amendment No. 4 does not violate any provision of any other agreement to which said Party is bound.

9. **Entire Amendment.** This Amendment No. 4 contains the entire agreement and understanding between the Parties with respect to the subject matter of this Amendment No. 4 and supersedes any and all prior or contemporaneous oral and written representations, warranties, agreements, and understandings between the Parties concerning the subject matter of this Amendment No. 4.

10. **Full Force and Effect.** Other than as set forth in this Amendment No. 4, the terms of the Agreement shall remain unchanged and in full force and effect. In the event of any conflict between the Agreement and this Amendment No. 4, this Amendment No. 4 shall apply.

11. **Counterparts.** This Amendment No. 4 may be executed in counterparts, each of which shall be considered an original.

*[Signature page follows]*

IN WITNESS WHEREOF, the Parties have executed this Amendment No. 4 as of the 3<sup>rd</sup> of February, 2025.

CITY OF WEST HOLLYWOOD

ARAKELIAN ENTERPRISES, INC., a  
California corporation

DocuSigned by:  
*Helen Collins*  
92B0F69E4FA7447...  
Helen Collins  
Acting Director of Public Works

DocuSigned by:  
*David A. Wilson*  
A535B3A7676E408...  
David A. Wilson  
City Manager

DS  
NM

Signed by:  
*Ron Arakelian*  
C092A9E93065488...  
Ron Arakelian III  
Executive Officer

2/3/2025  
Date

1/27/2025  
Date

ATTEST:

Signed by:  
*Melissa Crowder*  
2072ACE2525D4B9...  
Melissa Crowder  
City Clerk

2/4/2025  
Date

APPROVED AS TO FORM:

Signed by:  
*Lauren Langer*  
91F6B9D25FD347A...  
Lauren Langer  
City Attorney

2/3/2025  
Date

**Attachment 1**

**Exhibit 9 (Performance Review Methodology)**

**Exhibit 9**  
**PERFORMANCE REVIEW METHODOLOGY**

**1. Performance Review Methodology**

The purpose of the Performance Review will be for CITY (or its designated consultant) to determine CONTRACTOR's level of compliance with its obligations as specified under the terms and conditions of this Agreement. The compliance checklist that will guide the Performance Review is listed in Section 2 of this Exhibit 9.

CITY (or its designated consultant) may utilize a variety of methods in the execution of the Performance Review, including analysis of relevant documents, on-site and field observations, and interviews.

CITY (or its designated consultant) will review and document the items in the Agreement that require CONTRACTOR to meet specific performance standards, submit information or reports, perform additional services, or document operating procedures, that can be objectively evaluated. CONTRACTOR's information required as part of the compliance checklist will include supporting documentation and findings tracked for each of the identified items.

On-site and field observations by CITY (or its designated consultant) may include, but are not necessarily limited to:

- Interviews and discussions with CONTRACTOR's administration and management personnel;
- Review and observation of CONTRACTOR's customer service functions and structure;
- Review of public education and outreach materials;
- Interviews and discussions with CONTRACTOR's financial and accounting personnel;
- Interviews with route dispatchers, field supervisors and managers;
- Interviews with route drivers;
- Interviews with vehicle maintenance staff and observation of maintenance practices; and
- Review of on-route collection services, including observation of driver performance and collection productivity and visual inspection of residential routes before and after collection to evaluate cart placement and cleanliness of streets.

The Performance Review will specifically include a determination of CONTRACTOR's compliance with the diversion requirements of Article 6, and the public outreach and education requirements of Article 16.

As stated above, CITY (or its designated consultant) may review the customer service functions and structure utilized by CONTRACTOR. This may include CONTRACTOR's protocol for addressing customer complaints and service interruption procedures. Complaint logs may be reviewed, along with procedures and systems for tracking and addressing complaints.

**Exhibit 9**  
**PERFORMANCE REVIEW METHODOLOGY**

**2. Agreement Compliance Checklist**

Primary Issue	#	Compliance Category	Item Description	Section	Pg.
<b>Recitals</b>					
N	1	Recitals	CONTRACTOR has agreed to provide such services as are necessary or desirable to ensure CITY complies with the requirements of AB 341, AB 939, AB 1594, AB 1826, SB 1383 and Public Resources Code Section 40000, et seq.	Recitals	8
<b>Article 1. Definitions</b>					
<b>Article 2. Term of Agreement</b>					
N	2	Education and Outreach Payments	CONTRACTOR shall, on June 30, 2023, and continuing on June 30 of each subsequent year, pay CITY \$200,000 (as adjusted annually by Trash CPI + one percent (1%), not to exceed eight percent (8%) per year to use on education and outreach, or any purpose allowed by law. .	2.02	18
<b>Article 3. Grant of Franchise</b>					
<b>Article 4. General Requirements Applicable to Services Provided by CONTRACTOR</b>					
N	3	Service Standards	CONTRACTOR shall perform all Collection Services under this Agreement in a professional manner, consistent with the standards applicable in its industry, regardless of weather conditions or difficulty of Collection, unless determined it would be unsafe for CONTRACTOR's employees to do so.	4.01	23
N	4	Labor and Equipment	CONTRACTOR shall provide and maintain all labor, equipment, tools, facilities, and personnel supervision required for the performance of CONTRACTOR's obligations under this Agreement.	4.02	23
N	5	Collection Schedule	CONTRACTOR shall establish Collection routes and schedules such that Customers will have not less than one established Collection day each week.	4.03	23
N	6	Collection Schedule Notice	CONTRACTOR shall provide notice to each Customer of its established Collection day(s), and provide at one week's notice to Customers of any changes.	4.03	23
N	7	Coordination With Street Sweeping Services	CONTRACTOR shall make reasonable efforts to coordinate route schedules with CITY's street sweeping schedule. CONTRACTOR shall provide all routes and route schedules to CITY and work with CITY to resolve conflicts with street sweeping schedules.	4.04	23
N	8	Holiday Service	If the regularly scheduled Collection day falls on a Holiday listed in Section 4.05, Holiday Service, CONTRACTOR shall perform Collection on the following Monday.	4.05	23
Y	9	Commingling of Materials	CONTRACTOR shall not at any time commingle any Solid Waste Collected pursuant to this Agreement with any other material Collected by CONTRACTOR inside or outside the City of West Hollywood without the express prior written authorization of the Agreement Administrator.	4.07	24
N	10	Spillage and Litter	CONTRACTOR shall not litter, shall transport all materials Collected under the terms of this Agreement in such a manner as to prevent the spilling or blowing of such materials from CONTRACTOR'S vehicle, shall exercise all reasonable care and diligence as to prevent spilling or dropping of Solid Waste and shall immediately, at the time of occurrence, clean up such spilled or dropped Solid Waste.	4.08	24

<b>Exhibit 9</b>					
<b>PERFORMANCE REVIEW METHODOLOGY</b>					
N	11	Report of Accumulation of Refuse	CONTRACTOR shall direct its drivers to note (1) the addresses of any Premises at which they observe that Refuse is accumulating and not being Collected, and (2) the address or location description at which Refuse has been dumped in an apparently unauthorized manner, within five (5) working days of such observation, to CITY.	4.10	24
N	12	Non-Collection	In the event of non-collection, CONTRACTOR shall affix to the Container a Non-Collection Notice explaining why Collection was not made, and shall maintain a copy of such notices during the term of this Agreement.	4.11	24
N	13	Warning Notice	CONTRACTOR shall place a red tag or other warning notice approved by CITY on all Recyclable loads that are contaminated, indicating to the Customer why the load was not recycled. CONTRACTOR shall notify CITY on a monthly basis of any warning notices issued, provide copies of such warnings to CITY upon request, and should not remove Recycling Containers without prior written CITY authorization.	4.12	24
N	14	Hazardous Waste Inspection and Reporting	CONTRACTOR shall maintain a training program that will assist its employees in identifying and properly disposing of any Hazardous Waste.	4.13	24
N	15	Hazardous Waste Diversion Records	CONTRACTOR shall maintain records showing the types and quantities, if any, of Hazardous Waste found in Solid Waste and which was inadvertently Collected from Customers within CITY, but diverted from landfilling.	4.14	25
N	16	Access to Security Buildings	CONTRACTOR is responsible for obtaining and securing keys and remote controls used to gain access to security buildings, and is responsible for closing and locking all doors. CONTRACTOR is responsible for the cost of misplacing key or remote control. CONTRACTOR shall establish a coding system for key/remote identification to safeguard against address identification if key or remote is lost.	4.15	25
N	17	Scout Services	CONTRACTOR shall provide "scout" services, as deemed necessary by CONTRACTOR or upon Customer request, to position Containers for proper Collection. If positioning a Container is required, the Containers shall not be left in a location that will obstruct traffic, access through the public right-of-way, or accessibility ramps and routes	4.16	25
N	18	Walk-Out Service	Beginning July 1, 2027, or as sooner determined by CITY, for Customers not eligible to receive Walk-Out SFD and MFD Collection Services at no additional cost, CONTRACTOR shall provide Walk-Out SFD and MFD Collection Services to any Customer who requests such service for a fee.	4.17	25
<b>Article 5: Compensation and CONTRACTOR Rates</b>					
N	19	Billing by CITY and CONTRACTOR	CITY will Bill Customers for SFD Collection Services. CONTRACTOR will Bill Customers for all other Collection Services in accordance with Section 5.03. CONTRACTOR shall invoice CITY on the 25th of each month for services to be provided to these Customers the following month.	5.01	25
Y	20	CONTRACTOR Compensation	CONTRACTOR shall impose no other charges not contained within the Maximum Service Rates for services provided to Customers unless approved by CITY Manager for all Collection Services.	5.02	25

Exhibit 9 PERFORMANCE REVIEW METHODOLOGY					
N	21	Billing by CONTRACTOR	CONTRACTOR will Bill Customers directly for all services other than Single Family Solid Waste Collection Services monthly, but no sooner than the first of the month for which service is being Billed, with payment due no sooner than the last day of the month for which service is being Billed. CONTRACTOR shall provide Customers with itemized Bills. Billings may not contain the designation "payable upon receipt," and instead shall contain a due date, which date shall not be earlier than the last day of the period for which services are provided.	5.03	25
N	22	Senior Citizen Discount	CONTRACTOR shall offer a ten percent (10%) service fee discount to property owners who those who are considered Senior Citizens in accordance with Section 5.03.1.1, and shall notify all such Customers in writing of the availability and amount of the following discounts at least once per year.	5.03.1.1	26
N	23	Low-Income Discount	CONTRACTOR shall offer a ten percent (10%) service fee discount to property owners who those who are considered Low-Income in accordance with Section 5.03.1.2, and shall notify all such Customers in writing of the availability and amount of the following discounts at least once per year.	5.03.1.2	26
N	24	Partial Month Service	CONTRACTOR shall reimburse Customers that pay in advance for service not used, on a prorated daily basis, within 30 days of the Customer terminating service.	5.03.2	26
N	25	Non-Payment, Collections, Suspension of Service	CONTRACTOR may not discontinue service to Multi-family Customers.	5.04	26
N	26	Non-Payment, Collections, Suspension of Service	In the event of a Billing dispute or to avoid negatively impacting public health or safety, CONTRACTOR shall continue to provide service to any Customer if directed to do so by CITY without regard to the status of said Customer account.	5.04	26
Y	27	Review of Billings	CONTRACTOR shall review each Customer's account annually, and submit to CITY a written report of its annual review of all Customer accounts annually on the anniversary of the Effective Date of this Agreement. Results of this Billings review should be submitted as part of the CONTRACTOR Annual Route Audit Methodology described in Exhibit 10. CONTRACTOR shall maintain copies of all Billings as well as records of receipts from said Billings, each in chronological order, as required by Section 17.01 for inspection by CITY upon request.	5.04.1	27
N	28	Credit for Missed Pickups	CONTRACTOR shall credit Customers for missed pickups, provided that the pickup was not made up within 24 hours. In addition to crediting these Customers for service not received, CONTRACTOR shall still pay CITY administrative charges as indicated in Section 18.02.	5.05	27
Y	29	Franchise Fee Payments	Throughout the term of this Agreement CONTRACTOR shall pay to CITY a franchise fee in an amount equal to 10% of the Gross Receipts derived by CONTRACTOR from services Billed by CONTRACTOR.	5.06.1	27
N	30	Franchise Fee Payment: Time and Method of Payment	If the franchise fee is not paid on or before the thirtieth (30th) day following the end of the calendar quarter, CONTRACTOR shall pay to CITY a penalty in an amount equal to ten percent (10%) of the amount owing for that quarter, plus twelve percent (12%) interest per annum prorated to each day of delinquency.	5.06.3	27

<b>Exhibit 9</b>					
<b>PERFORMANCE REVIEW METHODOLOGY</b>					
Y	31	AB 939 Fee Amount	CONTRACTOR shall pay an AB 939 Fee to CITY in the amount of \$126,340.92 in 2014, adjusted annually as set forth herein by July 1st of each subsequent year.	5.06.2	27
N	32	AB 939 Fee Amount: Time of Payment	If the AB 939 Fee is not paid by July 31st of each Agreement Year, CONTRACTOR shall pay to CITY a penalty in an amount equal to ten percent (10%) of the amount owing for that year, plus twelve percent (12%) interest per annum prorated to each day of delinquency.	5.06.3	27
N	33	Times and Method of Payment	CONTRACTOR shall maintain copies of all Billing and Collection records for five (5) years, following the date of Billing, for inspection and verification by CITY at any reasonable time upon request.	5.06.3	27
N	34	Review of Adjustments To Maximum Service Rates	On March 1, 2023 and each March 1st thereafter, CONTRACTOR shall submit a written request to CITY for an adjustment allowed under Sections 5.07.1 and 5.07.2 in the Maximum Service Rates to CITY in a form approved by CITY, including the basis and calculations for the increase, and a complete schedule of the requested Maximum Service Rates.  CONTRACTOR shall be responsible for all written notifications to Customers, property owners, and tenants responsible for solid waste bills of adjustments at least thirty (30) days before the effective date of the adjustment pursuant to Government Code Section 53756.	5.07.4	28
N	35	Detailed Rate Review	If a Detailed Rate Review is requested in accordance with the Detailed Rate Review Methodology as specified in Exhibit 8, CONTRACTOR shall pay the cost for the Detailed Rate Review and the cost of such a Detailed Rate Review is not an allowable pass-through cost.	5.08	29
N	36	Supporting Information	Detailed Rate Review requests shall be accompanied by a copy of CONTRACTOR's certified annual financial statements for West Hollywood prepared by a Certified Public Accountant, which shall have been prepared in compliance with Rule 58 of the "Rules and Regulations of the State Board of Accountancy," as established by the California Code of Regulations, Title 16, Chapter I.	5.08.1	29
Y	37	Grants	In the event that CONTRACTOR receives grant funding for services or equipment to be used for services pursuant to this Agreement, CONTRACTOR shall notify CITY of receipt of any such grant funds. The total amount of CONTRACTOR compensation shall be reduced by an amount equal to 50% of the amount of any such grant received from Federal, State or local agencies other than CITY, and by an amount equal to 100% of the amount of any such grant received from CITY.	5.09	29
N	38	Discretionary Adjustments	For each request for a discretionary adjustment to the Maximum Service Rates brought pursuant to this Section, CONTRACTOR shall prepare a schedule documenting the extraordinary costs.	5.01	29
<b>Article 6: Diversion Requirements and Guarantee</b>					
NA	39	CONTRACTOR'S Diversion Requirement	CONTRACTOR shall divert fifty percent (50%) of the Solid Waste generated in CITY during each year of the Agreement.	6.01	30
Y	40	Calculation of Diversion; Reporting	CONTRACTOR shall provide documentation to the CITY within 20 days of the end of each calendar quarter stating and supporting that quarter's diversion rate.	6.01.2	31

Exhibit 9 PERFORMANCE REVIEW METHODOLOGY					
N	41	Use of Transformation Facility	CONTRACTOR may direct up to ten percent (10%) of CITY's total waste stream to a waste-to-energy facility for diversion purposes provided that such diversion is allowable and deemed to be diversion by CalRecycle. CONTRACTOR is not entitled to any additional compensation associated with use of any Transformation Facility unless approved by CITY as part of a Detailed Rate Review in accordance with Section 5.08 of this Agreement.	6.01.3	31
Y	42	End Uses for Green Waste	CONTRACTOR shall divert Green Waste materials Collected through weekly Cart and bundle Collection, holiday tree Collection, Roll-Off Container Collection, and mixed waste processing (if applicable) from disposal.	6.01.4	31
Y	43	End Uses for Green Waste	CONTRACTOR must provide end uses for Green Waste that maximizes diversion credits for CITY according to regulations established by the CalRecycle.	6.01.4	31
Y	44	Use of Alternative Daily Cover (ADC)	CONTRACTOR shall divert through uses other than as Alternative Daily Cover (ADC) whenever feasible.	6.01.4	32
Y	45	Bulky Item Diversion	Bulky Items Collected by CONTRACTOR under this Agreement may not be landfilled or disposed of until the following hierarchy of diversion efforts outlined in Section 6.02.1 has been followed by CONTRACTOR.	6.02.1	32
Y	46	Compliance with C&D Diversion Requirements	CONTRACTOR shall comply with the requirements of CITY's Construction and Demolition Waste diversion ordinance, and Applicable Law. CONTRACTOR shall assist Customers with compliance by diverting Construction and Demolition Waste to the maximum extent feasible and by providing receipts for all materials Collected.	6.02.2	
Y	47	Warranties and Representations	CONTRACTOR warrants and represents that it is aware of and familiar with CITY's waste stream, and that it has the ability to and will provide sufficient programs and services to ensure CITY will meet or exceed the Diversion Requirement as set forth in the Agreement, and comply with Applicable Laws governing CONTRACTOR's obligations under this Agreement (including AB 341, AB 939, AB 341, AB 1826, AB 1594, SB 1016, and SB 1383 and their implementing regulations),, without imposing any costs or fees other than the Maximum Service Rates.	6.03	32
Y	48	Mutual Cooperation	CITY and CONTRACTOR shall reasonably cooperate in good faith with all efforts by each other to meet CITY's diversion and other compliance requirements imposed by AB 939 and other Applicable Laws, and to meet CONTRACTOR'S obligations under CONTRACTOR'S Diversion Requirement.	6.04	32
Agreement/ Warrant/ Guarantee	49	Guarantee and Indemnification	CONTRACTOR warrants and guaranties that (i) both it and CITY will at all times be in compliance with the requirements of the Applicable Laws and (ii) CITY will meet or exceed the diversion requirements set forth in CONTRACTOR'S Diversion Requirement and the Applicable Laws	6.05	33

<b>Exhibit 9</b>					
<b>PERFORMANCE REVIEW METHODOLOGY</b>					
Agreement/ Warrant/ Guarantee	50	Guarantee and Indemnification	CONTRACTOR agrees that it will at its sole cost and expense: To the extent legally permitted, defend, indemnify, and hold harmless CITY and CITY's agents from and against all fines and/or penalties and other liabilities which may be imposed a regulatory agency if: (1) CONTRACTOR fails to timely provide information which delays CITY from submitting reports in a timely manner; or (2) the Diversion Requirement or the requirements of Applicable Laws are not met.	6.05.1	33
Agreement/ Warrant/ Guarantee	51	Guarantee and Indemnification	CONTRACTOR agree to: (a) Assist CITY in responding to inquiries from any regulatory agency, (b) Assist CITY in preparing and participating in CalRecycle's biannual review of CITY's SRRE, (c) Assist CITY in applying for any extension if so directed by CITY; (d) Assist CITY in any hearing conducted by any regulatory agency relating to CITY's compliance with the Applicable Laws; (e) Assist CITY with the development of a public awareness and education program; (e) Provide CITY with technical assistance needed to comply with the Applicable Laws; (f) Defend CITY and CITY's officials, employees, and agents against the imposition of fines/penalties/liabilities, issued by CalRecycle pursuant to the Applicable Laws (g) Be responsible for and pay, any fees/penalties/costs imposed against CITY by CalRecycle, and indemnify and hold harmless CITY from and against any fines/penalties/liabilities levied against it for violation of Applicable Laws related to CONTRACTOR's performance of its obligations under this Agreement.	6.05.1	33
Agreement/ Warrant/ Guarantee	52	Waste Reduction and Program Implementation	CONTRACTOR shall implement the programs identified in the Source Reduction and Recycling Element (SRRE) and Household Hazardous Wastes Element (HHWE) of the CITY's General Plan, and will implement any additional diversion programs required to meet CONTRACTOR's Diversion Requirements. CONTRACTOR shall be responsible for providing data and information, cooperating, and assisting CITY with the preparation of, all reports and other information as may be required by any agency, including specifically, the State of California, in order to comply with AB 939 and other Applicable Laws.	6.06	
Agreement/ Warrant/ Guarantee	53	Waste Generation/ Characterization Studies	CONTRACTOR agrees to participate and cooperate with CITY to accomplish studies and data collection and prepare reports to satisfy the requirements of the Applicable Laws.	6.07	34
Agreement/ Warrant/ Guarantee	54	Implementation of Additional Diversion Services	If CITY determines CONTRACTOR has not fulfilled the Diversion Requirement and directs CONTRACTOR to perform additional services or modify the manner in which it performs existing services, CONTRACTOR agrees to do so at no additional charge.	6.08	34
<b>Article 7: Service Units</b>					
N	55	Additions and Deletions	CONTRACTOR shall provide services described in this Agreement to new Service Units in CONTRACTOR'S Service Area within five (5) Work Days of receipt of notice from CITY or new Service Unit to begin such Service.	7.02.1	35
N	56	Annexation	If additional territory within or adjacent to CONTRACTOR'S Service Area is acquired by CITY through annexation, CONTRACTOR agrees to provide Collection Services in such annexed area in accordance with the provisions and service rates set forth in this Agreement within five (5) Work Days of notice from CITY, and not begin Collection Service without written CITY authorization.	7.03	35

Exhibit 9 PERFORMANCE REVIEW METHODOLOGY					
N	57	Route Map Update	CONTRACTOR shall revise the Service Unit route maps to show the addition of Service Units added due to annexation and shall provide such revised maps to the Agreement Administrator as requested.	7.04	35
<b>Article 8. Flow Control</b>					
N	58	Flow Control	CONTRACTOR expressly consents to CITY's ability to direct the location for disposal or processing of Solid Waste hereunder, and waives any and all rights to challenge CITY's ability to do so, including without limitation, any rights under the Commerce Clause of the United States Constitution.	8.01.2	35
<b>Article 9. Processing and Disposal</b>					
Y	59	Disposal Facility	All Refuse Collected as a result of performing Collection Services shall be transported to, and delivered on the same day as Collection, at the Disposal Facility listed in Exhibit 3. In the event the Disposal Facility is closed on a Work Day, CONTRACTOR shall transport and dispose of the Refuse at such other legally permitted disposal facility as is approved by CITY.	9.01.2	36
N	60	Status of Disposal Site	Any Disposal Facility utilized by CONTRACTOR shall be designed and constructed in accordance with 23 California Code of Regulations Section 2510 et seq. ("Subchapter 15").	9.01.2.1	36
N	61	Status of Disposal Site	Any such landfill has been issued all permits from federal, state, regional, county and city agencies necessary for it to operate as a Class III Sanitary Landfill and is in full regulatory compliance with all such permits.	9.01.2.1	36
Agreement/ Warrant/ Guarantee	62	Disposal Priority and Capacity Agreement	CONTRACTOR warrants and guarantees CITY that its Facilities listed in Exhibit 3 will have capacity for all Refuse Collected by CONTRACTOR pursuant to this Agreement throughout the term hereof. CONTRACTOR will either retain ownership of this facility, or obtain and/or retain contracts with this facility guaranteeing such capacity for the term of this Agreement.	9.01.2.2	36
N	63	Disposal Priority and Capacity Agreement	CONTRACTOR shall be solely responsible for transfer and disposal of residual waste from this facility to the Disposal Facility.	9.01.2.2	36
Y	64	Organic Waste Processing Facility	CONTRACTOR shall deliver all Collected Organic Waste to a fully permitted Organic Waste Processing Facility listed in Exhibit 3 within twenty-four (24) hours of Collection. In the event the facility is closed on a Work Day, CONTRACTOR shall transport and deliver the Organic Waste to such other legally permitted facility as is approved by CITY.	9.01.3	36
Y	65	Materials Recovery Facility	All Recyclable Materials Collected as either Source Separated Recyclables are as mixed waste a result of performing SFD, MFD, Commercial and City Recycling Services shall be delivered to the Materials Recovery Facility (MRF) listed in Exhibit 3. In the event the MRF is closed on a Work Day, CONTRACTOR shall transport and deliver the Recyclable Materials to such other legally permitted MRF as is approved by CITY	9.01.4	36
Y	66	Transformation Facility	Any Transformation Site utilized by CONTRACTOR, shall be designed and constructed in accordance with applicable federal, State, regional, County and City laws, and shall have been issued all permits from all agencies necessary for it to operate as a Transformation Facility and shall be in full regulatory compliance with all such permits.	9.01.5	36
N	67	Marketing and Sale of Recyclable Material	CONTRACTOR shall be responsible for marketing and sale of all Recyclable Materials Collected pursuant to this Agreement.	9.02	37

<b>Exhibit 9</b>					
<b>PERFORMANCE REVIEW METHODOLOGY</b>					
<b>Article 10. SFD Collection Services</b>					
N	68	Provision of Carts for SFD Service Units	CONTRACTOR shall provide each Customer at a SFD Service Unit with one Refuse Cart, one Recycling Cart, and one Organic Waste Cart.	10.01	37
Y	69	SFD Use of Existing Carts	CONTRACTOR shall replace the Carts in accordance with the Replacement Schedule set forth in Exhibit 6.	10.01.1	37
N	70	SFD Collection Requirement	CONTRACTOR shall provide SFD Collection Service to all Customers at SFD Service Units in the Service Area not less than once per week, at rates that do not exceed the Maximum Service Rates, with all Collection Services on the same Work Day.	10.03	37
N	71	SFD Walk-Out Service	CONTRACTOR shall provide "Walk-Out SFD Collection Services" to a SFD Service Unit when requested on the same Work Day that curbside Collection would otherwise be provided to the SFD Service Unit, at no additional cost to the SFD Service Unit meeting the criteria outlined in Section 10.04.2.1.	10.04	37
Y	72	SFD Hours and Days of Collection	Except as provided in Section 4.05, SFD Collection Service shall be provided, commencing no earlier than 7:00 a.m. and terminating no later than 6:00 p.m., Monday through Friday.	10.05	38
N	73	SFD Manner of Collection	CONTRACTOR shall provide SFD Collection Service with as little disturbance as possible and shall leave any Cart in an upright position at the same point it was Collected without obstructing alleys, roadways, driveways, sidewalks or mailboxes.	10.06	38
N	74	SFD, MFD, Commercial Replacement of Refuse, Recycling, and Organic Waste Carts	Any Cart damaged by CONTRACTOR shall be replaced by CONTRACTOR, at CONTRACTOR'S expense, on or before the next service date at no cost or inconvenience to the Customer.	10.07	38
N	75	SFD, MFD, Commercial Replacement of Refuse, Recycling, and Organic Waste Carts	Any Cart that has been stolen or damaged beyond repair through no fault of CONTRACTOR shall be replaced by Customer within five (5) Work Days upon notification to CONTRACTOR by CITY.	10.07	38
N	76	SFD, MFD, Commercial Replacement of Refuse, Recycling, and Organic Waste Carts	CONTRACTOR shall maintain records documenting all Cart replacements occurring on a monthly basis.	10.07	38
N	77	Repair of Refuse, Recycling and Organic Waste Carts	Within five (5) business days of being made aware of needed Cart repairs, CONTRACTOR shall either repair the damaged Cart or remove the Cart for repairs and deliver a replacement Cart to the Customer.	10.08	38
N	78	SFD Refuse Collection Service	CONTRACTOR shall provide all Customers at SFDs with one Refuse Cart and shall Collect all Refuse placed therein not less than once per week.	10.10.1	39
Y	79	SFD Refuse Overage	CONTRACTOR shall Collect all Refuse put out for Collection in addition to two pickups at no charge.	10.10.2	39
Y	80	SFD Refuse Overage	CONTRACTOR shall Collect all additional Refuse placed out for Collection in the Customer's own containers (bags, barrels, etc.) at no additional charge during the period beginning December 26 through the end of the holiday tree Collection period.	10.10.2	39

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N	81	SFD Refuse Overage	CONTRACTOR will track overage pickups in its computer files.	10.10.2	39
Y	82	SFD Disposal Facility	In the event the Disposal Facility is closed on a Work Day, CONTRACTOR shall transport and dispose of the Solid Waste at such other legally permitted disposal facility as designated in writing by CITY.	10.10.3	39
N	83	SFD Recycling Service	CONTRACTOR shall provide all Customers at SFDs with a Recycling Cart, and shall Collect all Recyclable Materials placed therein not less than once per week on the same day as such Customers' Refuse Cart is Collected and deliver all Recyclable Materials Collected to a MRF as listed in Exhibit 3.	10.11.1	39
N	84	SFD Recycling - Improper Procedure	CONTRACTOR shall, if practical, separate the Refuse or Organic Waste from the Recyclable Materials. The Recyclable Materials shall then be Collected and the Refuse or Organic Waste shall be left in the Recycling Cart along with a Non-Collection Notice.	10.11.2	40
Y	85	SFD Organic Waste Collection Service	CONTRACTOR shall provide all SFD Customers Organic Waste Services in accordance with Exhibit 13.	10.12.1	40
N	86	SFD Organic Waste Non-Collection	In the event of non-collection, CONTRACTOR shall affix to the Organic Waste Cart a Non-Collection Notice. CONTRACTOR shall maintain a copy of such notices during the term of this Agreement.	10.12.2	40
Y	87	Holiday Tree Collection Program	CONTRACTOR shall operate an annual holiday tree Collection program, beginning December 26 <sup>th</sup> and continuing through 10:00 P.M. on the second Saturday in January, where Holiday trees placed out for Collection by Single Family and Multi-Family Customers shall be Collected by CONTRACTOR.	10.12.3	41
Y	88	SFD Bulky Item Collection Service	CONTRACTOR shall provide unlimited Bulky Item pickup service to all SFD Service Units at no additional charge.	10.13	41
Y	89	Disposal of Electronic Waste	CONTRACTOR shall divert Electronic Waste, or "E-Waste," Collected by taking these goods to a properly permitted facility, and not by landfilling.	10.14	41
<b>Article 11. MFD Collection Services</b>					
Y	90	MFD Source Separated Recycling Collection	CONTRACTOR will provide each building with a minimum capacity of two 96-gallon Recyclables Carts, but no less than the number of Carts in use prior to implementation of service under this Agreement. CONTRACTOR will provide 35, 64 and 96-gallon Carts, or 18-gallon crates, upon request to Multi-Family Customers for use Collecting Recyclable Materials inside multi-story complexes.	11.02	41
Y	91	MFD Source Separated Recycling Collection	CONTRACTOR must Collect Recyclables a minimum of once per week, wheel out Multi-family Recycling Carts and return the Carts to their storage location, and will Collect Recyclables more often at no additional charge if space does not permit Customer to store a sufficient amount of Recyclables Containers for the Customer to require only once per week Collection.	11.02	41
Y	92	MFD Source Separated Recycling Collection	CONTRACTOR shall notify all Customers via a mailed flyer each year of the availability of Recycling Collection programs.	11.02	41

Exhibit 9 PERFORMANCE REVIEW METHODOLOGY					
Y	93	MFD Organic Waste Collection Service	CONTRACTOR shall provide Organic Waste Services to MFD Customers in accordance with Exhibit 13.	11.03.1	42
Y	94	Holiday Tree Collection Program	CONTRACTOR shall operate an annual holiday tree Collection program, beginning December 26 <sup>th</sup> and continuing through 10:00 P.M. on the second Saturday in January, where Holiday trees placed out for Collection by Single Family and Multi-Family Customers shall be Collected by CONTRACTOR.	11.04	42
N	95	MFD Manner of Collection	CONTRACTOR'S shall follow the regular walk for pedestrians while on private property and shall not trespass nor cross property to the adjoining Premises unless the occupant or owner of both properties has given permission. Care should be taken to prevent damage to property, including flowers, shrubs, and other plantings.	11.06	42
Y	96	MFD On-Call Bulky Item Pickup	CONTRACTOR shall provide unlimited Bulky Item pickup service to all MFD Service Units at no additional charge.	11.07	43
<b>Article 12. Commercial Collection Services</b>					
Y	97	Commercial and MFD Hours of Collection	Collection Services shall not start before 7:00 am or continue after 6:00 pm of any day.	12.02	43
N	98	Commercial Accessibility	CONTRACTOR shall Collect all Bins, Carts and Roll-Off Containers that are readily accessible to CONTRACTOR'S crew and vehicles and not blocked. However, CONTRACTOR shall provide "push services" as necessary during the provision of Commercial Collection Services.	12.04	43
N	99	Commercial and MFD Locking Bins	All Bins shall have the ability to be locked should the Customer require locking lid service.	12.05	43
N	100	Commercial and MFD Manner of Collection	CONTRACTOR shall provide Commercial Collection Service with as little disturbance as possible and shall leave any Bins, Carts or Roll-Off Containers at the same point it originally located without obstructing alleys, roadways, driveways, sidewalks or mailboxes.	12.06	43
Y	101	Commercial and MFD Replacement/Cleaning of Bins	CONTRACTOR shall at Customer's request annually refurbish, replace, or steam clean as necessary all Bins and Roll-Off Containers at no charge to Customers.	12.07	43
N	102	Commercial and MFD Refuse Collection Service.	Commercial Refuse Collection Service shall be received no less than one (1) time per week with no exception for holiday(s) as set forth herein, except that Collection service scheduled to fall on a holiday may be rescheduled as determined between the Customer and CONTRACTOR as long as the minimum frequency requirement is met.	12.09.1	44
N	103	Commercial and MFD Refuse Overflow	In the case of repeated overflows of Refuse, CONTRACTOR shall contact the Commercial Service Unit Customer to arrange for an appropriate change in Cart or Bin size, Collection frequency or both.	12.09.2	44

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N	104	Commercial Recycling - Improper Procedure	CONTRACTOR shall, if practical, separate the Refuse or Organic Waste from the Recyclable Materials. The Recyclable Materials shall then be Collected and the Refuse or Organic Waste shall be left in the Recycling Cart along with a Non-Collection Notice.	12.10.2.1	45
Y	105	Commercial Organic Waste Collection Services	CONTRACTOR shall provide Organic Waste Services to Commercial Customers in accordance with Exhibit 13 .	12.11.1	45
Y	106	Commercial On-Call Bulky Item Pickup	CONTRACTOR shall provide Commercial Bulky Item Collection Service to all Commercial Service Units in the Service Area at rates outlined in Exhibit 11.	12.12.1	46
Y	107	Commercial Permanent Roll-Off Container Service	CONTRACTOR shall direct 100% of the Refuse Collected from Permanent Compactors and Roll-Off Containers to a MRF for processing until directed otherwise by CITY. The processing will occur at the facility listed in Exhibit 3. A minimum of 30% of this 100% shall be diverted from landfilling. Increasing to 35% July 1, 2020, and 41% July 1, 2025.	12.13	46
<b>Article 13. CITY Collection Services</b>					
Y	108	CITY Collection Services	CONTRACTOR shall provide CITY Collection Services at all CITY Service Units at no cost to CITY and shall provide Containers for such service as CITY deems appropriate for each of its various Premises	13.01	47
Y	109	CITY Temporary Roll-Off Collection Service	CONTRACTOR shall provide temporary CITY Roll-Off Service to all CITY Service Units requesting such service at no charge to CITY.	13.02	47
Y	110	CITY Code Enforcement Clean-Up Services	CONTRACTOR shall provide CITY Collection Services to support Code Enforcement by providing Bins, Cart, or a Roll-Off Containers within twenty-four (24) hours of a request of the Agreement Administrator. CONTRACTOR shall transport and deliver the Collected Solid Waste to the appropriate facility.	13.03	47
Y	111	CITY Streetside Litter Container Collection and Container and Bench Cleaning	CONTRACTOR provides 32-gallon inserts that will be emptied as frequently as necessary to prevent overflow, but at least once per day. CONTRACTOR will wash and disinfect all such Containers and accompanying bus benches at least once per month.	13.04	47
Y	112	CITY Special Pickup/Abandoned Item Collection	CONTRACTOR will Collect all items abandoned in CITY's public right-of-ways, or on CITY's public property within 24 hours of notification from CITY to do so. CONTRACTOR shall not charge CITY for this service.	13.05	47
Y	113	CITY Special Event Collection Service	CONTRACTOR shall provide CITY Collection Services, as well as Containers for Refuse, Organic Waste and/or Recyclable Materials at all CITY-sponsored special events at no cost.	13.06	47
N	114	CITY Emergency Collection and Disposal Service	CONTRACTOR will assist CITY at CITY's request with emergency Collection and disposal service	13.07	48
Y	115	Bi-Annual Neighborhood Cleanup Campaign	CONTRACTOR shall conduct neighborhood clean-ups twice per year.	13.08	48
N	116	Bi-Annual Neighborhood Cleanup Campaign	CONTRACTOR shall deliver Roll-off Containers to sites as directed by, process or dispose of all Collected Solid Waste, and replace Containers if necessary at no charge to CITY or Customers.	13.08	48

<b>Exhibit 9</b>					
<b>PERFORMANCE REVIEW METHODOLOGY</b>					
Y	117	Bi-Annual Neighborhood Cleanup Campaign	CONTRACTOR shall record the kinds and weights (in tons) of Solid Waste diverted, if any, during these cleanups from the landfill through Recycling, reuse, Transformation or other means of diversion.	13.08	48
Y	118	Maximize Diversion at Large Special Events	CONTRACTOR will work with large venue event organizers to develop recycling plans for events planned each year in CITY. CONTRACTOR will assist event organizers to incorporate "zero waste" focus and practices, track and report diversion, and other successes during events.	13.09	49
N	119	Additional Programs and Services	CONTRACTOR shall provide additional services and programs as requested by CITY.	13.10	49
Y	120	Pet Waste Services	CONTRACTOR shall provide Pet Waste Services at no charge to CITY in accordance with Exhibit 14.	13.11	
N	121	Household Hazardous Waste Drop-off Event	CONTRACTOR shall host one (1) Household Hazardous Waste Drop-Off Event per year on a date, at a location and at a time selected by CITY at no charge to CITY or its residents.	13.12	
<b>Article 14. Collection Equipment and Personnel</b>					
Y	122	Collection Vehicles	CONTRACTOR's Collection vehicles shall be maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible be "watertight" and "leak-proof", and (2) at all times comply with the provisions of all laws and regulations, including any applicable National Pollution Discharge Elimination Systems ("NPDES") permit, with regards to leaking of materials.	14.01	49
Y	123	Collection Vehicles	CONTRACTOR shall immediately clean up any spills from its Collection vehicles of which it becomes or is made aware, in a manner that complies with all Applicable Laws.	14.01	49
Y	124	Collection Vehicles	CONTRACTOR shall, at a minimum: notify the Agreement Administrator and applicable Hazardous Materials Management Agencies within one (1) hour of a spill or leak of any Hazardous Substance or Waste; clean up any spillage or litter caused by CONTRACTOR within ninety (90) minutes upon notice from CITY; and, to facilitate such cleanup, CONTRACTOR'S Collection vehicles shall at all times carry reasonable quantities of petroleum absorbent materials along with a broom and shovel.	14.01	49
N	125	Vehicle Registration, Licensing and Inspection	CONTRACTOR shall submit documentation to the Agreement Administrator to verify that each of CONTRACTOR'S Collection vehicles is in compliance with all registration, licensing and inspection requirements.	14.01.2	49
N	126	Vehicle Registration, Licensing and Inspection	CONTRACTOR shall not use any vehicle to perform Collection Services that is not in compliance with applicable registration, licensing and inspection requirements.	14.01.2	50
Y	127	Clean Air Vehicles	During the term of this Agreement, to the extent required by law, CONTRACTOR's Collection vehicles to be in full compliance with local, State and federal clean air requirements.	14.02	50
Y	128	Fuel Type	CONTRACTOR shall use compressed natural gas (CNG) as the fuel type for all its Collection vehicles, and to the extent practical CNG, bio-diesel or hybrid electric for all its support vehicles.	14.02.1	50

Exhibit 9 PERFORMANCE REVIEW METHODOLOGY					
Y	129	Best Available Technology	<p>CONTRACTOR's collection vehicle fleet shall utilize best available technology when providing integrated solid waste management services pursuant to this Agreement, consistent with CONTRACTOR'S fleet of collection vehicles. CONTRACTOR shall provide real-time GPS tracking of vehicles with a maximum update time of fifteen (15) minutes; historical GPS data by vehicle for a minimum of one (1) year; speed monitoring of vehicles; ability to designate specific locations as landmarks or restrictions; and report capability on demand, to provide activity data, route, start/stop times and locations, idle time, visits to landmarks or restricted areas, and speed record by day or route.</p> <p>CITY shall have password access to an internet-based monitoring site allowing CITY management unlimited access to real-time data or historical data and reports for CONTRACTOR vehicles assigned to this Agreement. If training is required for staff to be able to effectively make use of the internet-based monitoring site, CONTRACTOR shall be required to train CITY staff members in person or virtually, on CITY premises, as specified.</p>	14.03	50
N	130	Collection Vehicle Replacement	Collection vehicles utilized by CONTRACTOR pursuant to this Agreement shall be replaced with new vehicles as specified in the Replacement Schedule in Exhibit 6, but in no event lo later than July 1, 2017.	14.04	50
Y	131	Collection Vehicle Age	Without prior approval of CITY, CONTRACTOR shall not operate any Collection vehicle within CITY that is older than ten (10) years after the date first put in service.	14.05	50
N	132	Collection Vehicle Noise Level	Collection vehicle noise level using compaction processes shall not exceed seventy-five (75) decibels at a distance of twenty-five (25) feet from the Collection vehicle measured at an elevation of five (5) feet above ground level using the "A" scale of the standard sound level meter at slow response.	14.06	50
N	133	Safety Markings	All Collection equipment used by CONTRACTOR shall have appropriate safety markings including, but not limited to, highway lighting, flashing and warning lights, clearance lights, and warning flags	14.07	50
Y	134	Vehicle Signage and Painting	Collection vehicles shall be painted and numbered consecutively, and shall have CONTRACTOR'S name, CONTRACTOR'S Customer service telephone number, and the number of the vehicle painted in letters of contrasting color, at least four (4) inches high, on each side and the rear of each vehicle.	14.07.1	50
N	135	Vehicle Signage and Painting	CONTRACTOR shall repaint all vehicles (including vehicle striping) during the term of this Agreement on a frequency as necessary to maintain a positive public image as reasonably determined by the Agreement Administrator, but not less often than every thirty-six (36) months beginning July 1, 2015.	14.07.1	50
Y	136	Bin Signage, Painting, and Cleaning	All metal Bins shall be either painted or galvanized, and all metal or plastic Bins shall display CONTRACTOR'S name, CONTRACTOR'S Customer service telephone number, and the number of the bin, and shall be steam cleaned by CONTRACTOR as frequently as necessary so as to maintain them in a sanitary condition. At a minimum, CONTRACTOR shall steam clean or replace the Bins as needed once per year at CONTRACTOR'S expense.	14.07.2	51

Exhibit 9 PERFORMANCE REVIEW METHODOLOGY					
N	137	Maintenance Log	CONTRACTOR shall maintain a maintenance log for all Collection vehicles, which shall all times be accessible to CITY by physical inspection upon request of Agreement Administrator, and shall show, at a minimum, each vehicles CONTRACTOR assigned identification number, date purchased or initial lease, dates of performance of routine maintenance, dates of performance of any additional maintenance, and description of additional maintenance performed.	14.08	51
N	138	Reserve Equipment	CONTRACTOR shall at all times have available to it, reserve Collection equipment which can be put into service and operation within one (1) hour of any breakdown. Such reserve equipment shall correspond in size and capacity to the equipment used by CONTRACTOR to perform the contractual duties.	14.09	51
Y	139	Equipment Maintenance	CONTRACTOR shall maintain Collection equipment in a clean condition and good repair and shall wash all Collection vehicles at least once a week.	14.10	51
N	140	Bulky Items	Vehicles used for Collection of Bulky Items shall not use Compactor mechanisms or mechanical handling equipment that may damage reusable goods or release Freon or other gases from pressurized appliances.	14.11	51
Y	141	Collection Vehicle Size Limitations	CONTRACTOR shall not use any Collection vehicle exceeding 40 cubic yards in capacity or exceeding 56,000 pounds when loaded.	14.12	51
Y	142	Containers	CONTRACTOR shall provide and maintain all Carts, Bins and Roll-off Containers in a clean, properly labeled and maintained manner, and free of any graffiti.	14.13	51
N	143	Containers	CONTRACTOR shall remove, repair, or replace any damaged Cart, Bin, or Roll-off Container that is damaged, dirty, or marked by graffiti, as requested by a Customer or CITY within forty-eight (48) hours of such a request at no additional charge.	14.13	51
Y	144	Cart Replacement	Carts that are in service as of the Effective Date shall be replaced in accordance with the Replacement Schedule set forth in Exhibit 6.	14.14	51
N	145	Personnel Requirements	CONTRACTOR shall employ and assign qualified personnel to perform all services set forth herein. CONTRACTOR shall be responsible for ensuring that its employees comply with all Applicable Laws and regulations and meet all federal, state and local requirements related to their employment and position.	14.15	51
N	146	Qualified Drivers	CONTRACTOR shall furnish such qualified drivers, mechanical, supervisory, clerical, management and other personnel as may be necessary to provide the services required by this Agreement in a satisfactory, safe, economical and efficient manner.	14.15.1	51
N	147	Customer Courtesy	CONTRACTOR shall train its employees in Customer courtesy, shall prohibit the use of loud or profane language, and shall instruct Collection crews to perform work quietly. If any employee is found to be discourteous or not to be performing services in the manner required by this Agreement, CONTRACTOR shall take all necessary corrective measures	14.15.2	52
N	148	Identification Required	CONTRACTOR shall provide its employees, companies and subcontractors with identification for all individuals who may make personal contact with residents or businesses in CITY. CONTRACTOR shall provide a list of current employees, companies, and subcontractors to CITY upon request.	14.15.3	52

<b>Exhibit 9</b>					
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N	149	Fees and Gratuities	CONTRACTOR shall not, nor shall it permit any agent, employee, or subcontractors employed by it, to request, solicit, demand, or accept, either directly or indirectly, any compensation or gratuity for Solid Waste Collection Services under this Agreement.	14.15.4	52
N	150	Unauthorized Material Removal	CONTRACTOR will dismiss or discipline employees that remove documents or any other material from Containers, other than specifically for the purposes of disposal and diversion as described in this Agreement.	14.15.5	52
N	151	Uniforms	CONTRACTOR'S field operations personnel shall be required to wear a clean uniform shirt bearing CONTRACTOR'S name.	14.15.7	52
N	152	Driver's License	Each driver of a Collection vehicle shall at all times carry a valid California driver's license and all other required licenses for the type of vehicle that is being operated.	14.15.8	53
N	153	Compliance with Applicable Laws	Each driver of a Collection vehicle shall at all times comply with all Applicable Laws, regulations and requirements.	14.15.9	53
N	154	Identification of Employees	CONTRACTOR'S employees, officers, and agents shall at no time be allowed to identify themselves or in any way represent themselves as being employees of CITY.	14.15.10	53
N	155	Identification of CONTRACTOR	CONTRACTOR'S name and the Customer service telephone number shall be properly displayed on all Collection vehicles.	14.15.11	53
N	156	Employee List	CONTRACTOR shall provide a list of current employees and authorized subcontractors to CITY upon request.	14.15.12	53
N	157	Training and Legal Compliance	CONTRACTOR shall provide operating and safety training for all personnel that meet minimum OSHA standards, and shall comply with all Applicable Laws and regulations applicable to its employees and personnel.	14.15.13	53
N	158	Training and Legal Compliance	CONTRACTOR shall establish and enforce an education program designed to train CONTRACTOR's employees in the identification of Hazardous Wastes, and will provide employees with appropriate literature.	14.15.13	53
<b>Article 15. Service Inquiries and Complaints</b>					
N	159	CONTRACTOR Representative	CONTRACTOR shall designate a "CONTRACTOR Representative" within thirty (30) days of the execution of this Agreement and annually by January 1st of each subsequent Agreement Year, and any other time the person in that position changes. CONTRACTOR Representative shall be available to CITY through the use of telecommunications equipment at all times that CONTRACTOR is providing Collection Services in the Service Area.	15.01	53
N	160	Service Supervisor	CONTRACTOR shall assign a qualified "Service Supervisor" within thirty (30) days of the execution of this Agreement, and annually by January 1st of each subsequent Agreement Year of the term of this Agreement, and any other time the person in that position changes. The Service Supervisor shall be available to the Agreement Administrator through the use of telecommunication equipment at all times that CONTRACTOR is providing Collection Services. CONTRACTOR shall designate an acceptable substitute who shall be available and who has the authority to act in the same capacity as the supervisor.	15.02	53
Y	161	CONTRACTOR'S Office	CONTRACTOR shall maintain a customer service center as listed in Exhibit 3. Said office shall be open at a minimum, from 7:00 A.M. to 5:00 P.M., Monday through Friday, and from 7:00 A.M. to 3:00 P.M. on Saturdays, exclusive of holidays.	15.03	54

<b>Exhibit 9</b>					
<b>PERFORMANCE REVIEW METHODOLOGY</b>					
N	162	Emergency Contact	CONTRACTOR shall provide the Agreement Administrator with an emergency phone number where CONTRACTOR can be reached outside of the required office hours.	15.04	54
Y	163	Telephone Customer Service Requirements	CONTRACTOR shall maintain a toll free telephone number that rings at its customer service center during Office Hours. Bilingual (English and Spanish speaking) personnel will be available during Office Hours to assist Customers with both personal and telephonic inquiries.	15.05	54
Y	164	Complaint Documentation	CONTRACTOR shall log all complaints received by telephone and any action taken by CONTRACTOR to respond to and remedy the complaint. Daily logs of complaints shall be retained for a minimum of twenty-four (24) months.	15.06	54
N	165	CONTRACTOR's Customer Service	All service inquiries and complaints shall be directed to CONTRACTOR. A representative of CONTRACTOR shall be available to receive the complaints during normal business hours. All service complaints will be handled by CONTRACTOR in a prompt and efficient manner.	15.08	55
N	166	CONTRACTOR's Customer Service	CONTRACTOR'S service and emergency telephone numbers shall be accessible by a toll free (West Hollywood) phone number. The telephone number(s) shall be listed in the area's telephone directories under CONTRACTOR'S name in the White Pages and Yellow Pages.	15.08.4	55
<b>Article 16. CONTRACTOR Provided Education and Public Awareness</b>					
Y	167	Education and Public Awareness	CONTRACTOR shall maintain its own program of providing information relevant to needs and methods to reduce, reuse and recycle Solid Waste with its Bills. All public education materials shall be approved in advance by CITY and, unless otherwise noted, shall be printed in English, Russian and Spanish. CONTRACTOR shall reproduce and include in any Billing, at no additional cost, one 8.5" x 11" sheet, provided by CITY.	16.01	55
Y	168	Implementation and Ongoing Education Requirements.	All materials and programs shall be produced and/or available in English, Russian and Spanish languages, including pictures wherever applicable. CONTRACTOR's Public Education Plan shall be updated annually and submitted to CITY by January 1st of each Agreement Year.	16.01.1	56
Y	169	Instructional Packet	An information packet shall be attached to each set of Carts or Bins distributed to a Customer.	16.01.1.1	56
Y	170	Container Labels	Recyclables and Green Waste Containers shall carry stickers/labels or other identifying markings in English, Russian and Spanish, and include icons indicating the materials that should and should not be placed in each Container.	16.01.1.2	56
Y	171	How-To Brochure	CONTRACTOR will prepare and distribute a brochure packet to new Multi-Family and Commercial Customers when they start service.	16.01.1.3	56
Y	172	Quarterly Notices	Each quarter except for the quarter in which the annual newsletter is distributed, CONTRACTOR shall prepare and mail notices to each Customer promoting and explaining: programs; Household Hazardous Waste disposal, Collection schedules, including holiday schedules; and the procedures to begin and terminate services. These materials may be included with Billings, and may be printed in English only (Russian and Spanish language is not required).	16.01.1.4	57

<b>Exhibit 9</b>					
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Y	173	Educational Video	CONTRACTOR is responsible for the cost and production of one, eight-to-ten minute educational video on the new programs. Content of the video shall be approved in advance by CITY.	16.01.1.5	57
N	174	News Media Relations	Copies of draft news releases shall be submitted to CITY for prior review and approval at least five (5) working days in advance of release. Copies of articles resulting from media interviews or news releases shall be provided to CITY within five (5) days after publication.	16.02	57
Y	175	Workshops	CONTRACTOR shall attend and participate in such workshops described in Section 16.03.	16.03	57
N	176	Community Events	CONTRACTOR will provide its mini-Collection truck "Mighty Mike" and its recycling display and information booth for community sponsored events free of charge at CITY's request.	16.04	57
Y	177	Seminars by Industry Professionals	CONTRACTOR will conduct monthly seminars by English and Russian-speaking industry professionals on the subjects of Recycling, composting, waste reduction, and other related topics for Customers at no additional cost to CITY, Customers, or Attendees.	16.05	57
<b>Article 17. Record Keeping and Reporting Requirements</b>					
N	178	Record Keeping	CONTRACTOR shall maintain records required to conduct its operations. Electronically maintained data/records shall be protected and backed up and maintained for five (5) years after the expiration of this Agreement.	17.01	58
N	179	Financial Records	CONTRACTOR shall maintain financial records relating to its operations pursuant to this Agreement separate and segregated from such records relating to its other operations. CONTRACTOR shall maintain at least: Audited financial statements for CONTRACTOR as a whole; Audited statements of revenue and expense for this Agreement segregated from the other operations of CONTRACTOR; and Complete descriptions of related party transactions as set forth in Section 17.01.1	17.01.1	58
N	180	CERCLA Defense Records	CONTRACTOR shall maintain data retention and preservation systems which can establish where Solid Waste Collected in CITY was landfilled for not less than five (5) years following the termination of this Agreement, and agrees to notify CITY 's Risk Manager and CITY Attorney before destroying such records thereafter. At any time, including after the expiration of the term hereof, CONTRACTOR shall provide copies of such records to CITY.	17.01.2	58
N	181	Disposal Records	CONTRACTOR shall maintain disposal records of all Solid Waste Collected in CITY for the period of this Agreement and all extensions to this Agreement or successor Agreements.	17.01.3	58
N	182	Other Records	CONTRACTOR shall maintain all other records reasonably related to provision of Collection Services, whether or not specified in this the Agreement.	17.01.4	59
Y	183	Monthly Reporting	CONTRACTOR shall provide monthly reports to the Agreement Administrator, in an electronic format acceptable to CITY, submitted no later than the 20th day of each report month and shall cover the following topics for the previous month: Tonnage and Diversion Reports, Facility Reports.	17.02	59

<b>Exhibit 9</b>					
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Y	184	Tonnage and Diversion Reports	CONTRACTOR shall report tons of Refuse, Organic Waste (inclusive of Green Waste and Food Waste), Recyclable Materials, and Construction and Demolition Debris Collected and processed for recovery by CONTRACTOR broken down by SFD, MFD, Commercial, CITY Service Unit, and franchised Construction and Demolition Debris.	17.02.1	
Y	185	Quarterly Reports	CONTRACTOR shall provide Quarterly reports to the Agreement Administrator, in an electronic format acceptable to CITY, submitted no later than the 30th day following the end of each calendar quarter and shall include the topics for the previous quarter: Franchise Fees Report.	17.03	59
Y	186	Annual Reporting	CONTRACTOR shall provide annual reports to the Agreement Administrator, both in a hard copy format and in an electronic format acceptable to CITY. The annual reports shall be submitted no later than January 31st for the previous Agreement Year, and shall summarize the monthly and quarterly reports, and shall include the following additional information: Annual Route Audit, Equipment Inventory, Public Education, Outreach Activities, Diversion Analysis, Customer Service Data Level, Service Issue Summary, Hazardous Waste Diversion Report, Collection Vehicle Noise Testing, Recyclable Material Revenue Report, and Additional Reporting.	17.04	59
N	187	Upon CITY Request	CONTRACTOR shall provide the reports under this Section to the Agreement Administrator. The reports requested under this section shall be submitted within five (5) working days of when such written notice of CITY's request is given. CONTRACTOR shall provide annual reports to the Agreement Administrator, both in a hard copy format and in an electronic format acceptable to CITY: Spill Reports, Account Delinquency, Bulky Item Pickups Report, Customer Service Report, Bin and Cart Inventory.	17.05	60
N	188	CalRecycle Reports	CONTRACTOR shall provide data and information, to assist in CITY'S preparation of annual CalRecycle reports.	17.06	61
N	189	Financial Report	CITY may request and be provided with CONTRACTOR's financial reports/statements for the most recently completed fiscal year. The cost for preparation of the financial statements and audit shall be borne by CONTRACTOR as a direct cost of service. In addition, CONTRACTOR shall provide to CITY the supplemental schedule on a compiled basis.	17.07	61
N	190	Adverse Information	For matters directly related to the performance of services pursuant to the Agreement, CONTRACTOR shall provide CITY two copies (one to the City Administrator, one to the City Attorney) of all reports or other material relating to CONTRACTOR's performance of services pursuant to this Agreement, submitted by CONTRACTOR to, or received by CONTRACTOR from, any federal, state or local agency, including any federal or state court within 30 days of receipt by CONTRACTOR, or sooner.	17.08	61
<b>Article 18. Quality of Performance of CONTRACTOR</b>					
N	191	Intent	CONTRACTOR acknowledges and agrees that one of CITY'S primary goals in entering into this Agreement is to ensure that the Collection Services are of the highest caliber, that Customer satisfaction remains at the highest level, that maximum diversion levels are achieved, and that materials Collected are put to the highest and best use to the extent possible.	18.01	61
N	192	Administrative Charges	CONTRACTOR shall pay any administrative charges assessed by CITY within ten (10) days after they are assessed.	18.02	62

<b>Exhibit 9</b>					
<b>PERFORMANCE REVIEW METHODOLOGY</b>					
N	193	Timing of Payment	CONTRACTOR shall pay any administrative charges assessed by CITY within ten (10) days after they are assessed. If they are not paid within the ten (10) day period, CITY may proceed against the performance bond required by the Agreement or find CONTRACTOR in default and terminate this Agreement, or both.	18.04	64
<b>Article 19. Franchise Fee Audit and Performance Review</b>					
N	194	Franchise Fee Annual Audit and Costs	CONTRACTOR shall be responsible for the cost of the audit, up to a \$37,500 per year cap, adjusted by the annual increase in the CPI.	19.01	65
N	195	Payments and Refunds	Should an audit disclose that the franchise fees payable by CONTRACTOR were underpaid or that Customers were overcharged for the period under review, CONTRACTOR shall pay to CITY any underpayment of franchise fees and/or refund to CONTRACTOR's Customers any overcharges within thirty (30) days following the date of the audit.	19.02	65
N	196	Performance Review: at CONTRACTOR'S Cost	Beginning July 1, 2025, and no more than every five years thereafter, CONTRACTOR shall pay in advance the cost of the review under this Section 19.03.2 an amount of Seventy-Five Thousand Dollars (\$75,000.00), and this amount shall be adjusted annually each July 1 <sup>st</sup> by Trash CPI + one percent (1%), not to exceed eight percent (8%) per year.	19.03.2	66
N	197	Performance Review: At CONTRACTOR'S Cost	CONTRACTOR shall reimburse CITY for any cost in excess Seventy-Five Thousand Dollars (\$75,000.00), and as adjusted by Trash CPI+ one percent (1%), not to exceed eight percent (8%) per year, to CITY within 30 days of request for reimbursement by CITY	19.03.2.1	66
N	198	CONTRACTOR'S Cooperation	CONTRACTOR shall cooperate fully with the review and provide all data requested by CITY within thirty (30) Work Days.	19.04	66
N	199	Performance Satisfaction Survey	If requested by CITY, CONTRACTOR will create and conduct a survey at CONTRACTOR's expense. CONTRACTOR shall obtain CITY's approval of the survey's content, format, and mailing list prior to its distribution. The survey results shall be made available to CITY 30 days prior to the Solid Waste Services and Performance Review Hearing.	19.05	67
<b>Article 20. Performance Bond</b>					
Y	200	Performance Bond	Concurrent with execution of this Agreement, CONTRACTOR shall deliver to CITY a performance bond or cash bond in the sum of the amount of Five Hundred Thousand Dollars (\$500,000).	20.01	67
<b>Article 21. Insurance</b>					
Y	201	Insurance Policies	CONTRACTOR shall secure and maintain throughout the term of this Agreement insurance against claims for injuries to persons or damages to property, which may arise from or in connection with CONTRACTOR'S performance of work or services under this Agreement.	21.01	68
Y	202	Verification of Coverage	CONTRACTOR shall furnish CITY with certificates of insurance and with original endorsements affecting coverage required by this clause. Proof of insurance shall be mailed to the City Clerk.	21.06	69
Y	203	Delivery of Proof of Coverage	Simultaneously with the execution of this Agreement, CONTRACTOR shall furnish CITY certificates of each policy of insurance required hereunder, in form and substance satisfactory to CITY.	21.07	70

<b>Exhibit 9</b>					
<b>PERFORMANCE REVIEW METHODOLOGY</b>					
Y	204	Subcontractors	CONTRACTOR shall include all Companies and subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each CONTRACTOR and subcontractor. CONTRACTOR shall comply with all requirements of the insurers issuing policies.	21.08	70
Y	205	Rights of Subrogation	CONTRACTOR shall ensure that any companies issuing insurance to cover the requirements contained in this Agreement agree that they shall have no recourse against CITY for payment or assessments in any form on any policy of insurance.	21.10	70
<b>Article 22. Indemnification</b>					
Agreement/ Warrant/ Guarantee	206	Indemnification	CONTRACTOR agrees to and shall indemnify and hold harmless CITY from and against any and all loss, liability, penalty, forfeiture, claim, demand, action, proceeding or suit in law in any way connected with the Agreement, including: (1) the negligence or willful misconduct of CONTRACTOR; (2) the failure of CONTRACTOR, and/or subcontractors to comply in all respects with the provisions of this Agreement; (3) the acts of CONTRACTOR, (4) any challenge to the award of, or any provisions of this Agreement. CONTRACTOR agrees to reimburse CITY for any and all costs and expenses CITY incurs in providing any such defense.	22.01	71
Agreement/ Warrant/ Guarantee	207	Hazardous Substances Indemnification.	CONTRACTOR specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to CITY) reimburse, indemnify, and hold CITY harmless from and against any and all claims, actions, liabilities, damages, that arise out of any action, inaction or omission of CONTRACTOR that results in Sections 22.02.2-22.02.7	22.01	71
Agreement/ Warrant/ Guarantee	208	AB 939 Indemnification and Guarantee	CONTRACTOR agrees to indemnify and hold harmless CITY from and against all fines and/or penalties imposed by CalRecycle in the event the source reduction and Recycling goals or any other requirement of AB 939 are not met by CITY with respect to the waste stream Collected under this Agreement.	22.03	73
Agreement/ Warrant/ Guarantee	209	AB 939 Indemnification and Guarantee	CONTRACTOR warrants and represents that it is familiar with CITY's waste characterization study as set forth in CITY's SRRE, and that it has the ability to and will provide sufficient programs and services to ensure CITY will meet or exceed the diversion requirements set forth in AB 939, with respect to that portion of the Solid Waste generated in CITY that is the subject of this Agreement.	22.03	73
Agreement/ Warrant/ Guarantee	210	Subcontractors	CONTRACTOR shall require all subcontractors to enter into a contract containing the provisions set forth in the preceding subsection in which contract the subcontractor fully indemnifies CITY in accordance with this Agreement.	22.04	73
Agreement/ Warrant/ Guarantee	211	Payroll Tax	CONTRACTOR shall exonerate, defend, indemnify and hold harmless CITY and agents, and shall assume full responsibility for payment of all wages or salaries and all taxes or contributions with respect to CONTRACTOR's employees engaged in the performance of CONTRACTOR's obligations.	22.05	73
Agreement/ Warrant/ Guarantee	212	Damage by CONTRACTOR	If CONTRACTOR'S employees or subcontractors negligently cause any injury, damage or loss to CITY property, including but not limited to CITY streets or curbs, CONTRACTOR shall reimburse CITY for CITY'S cost of repairing such injury, damage or loss.	22.06	73
<b>Article 23. CITY's Remedies: Default and Termination</b>					

<b>Exhibit 9</b>					
<b>PERFORMANCE REVIEW METHODOLOGY</b>					
N	213	Performance During Reviews	CONTRACTOR's performance under this Agreement is not excused during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.	23.05	74
N	214	Termination without Right to Cure	The occurrence of any of the listed in Sections 23.06.1-23.06.15 shall be deemed an "Event of Default," in which case CITY may terminate this Agreement without providing CONTRACTOR an opportunity to cure:	23.06	74
N	215	Failure to Provide Assurance of Performance	CONTRACTOR shall have forty-eight (48) hours from the time it is given notification by CITY to cure any default arising under subsections 23.06.1-23.06.13	23.06.14	75
<b>Article 24. CONTRACTOR'S Remedies; Administrative Hearing</b>					
N	216	Actions for Damages	CONTRACTOR shall present a claim to CITY, as required by Government Code section 910 et seq., within 30 days of the date of the occurrence giving rise to the claim for damages.	24.04	77
<b>Article 25. CITY'S Additional Remedies</b>					
<b>Article 26. Rights of CITY to Perform Service</b>					
N	217	General Provisions	Under CITY's right to perform service, CONTRACTOR agrees: a) It will take direction from CITY to effectuate the transfer of possession of equipment and property to CITY for CITY's use, b) It will, if CITY so requests, keep in good repair and condition all of such equipment and property, provide all motor vehicles with fuel, oil and other service, and provide such other service as may be necessary to maintain said property in operational condition. c) CITY may immediately engage all or any personnel necessary or useful for the Collection and transportation of Solid Waste	26.01	78
N	218	Billing and Compensation to CITY During CITY's Possession	During such time that CITY is providing Integrated Waste Management Services, CONTRACTOR shall Bill and collect payment from all Customers. CONTRACTOR shall reimburse CITY for any and all costs and expenses incurred by CITY beyond that billed and received by CITY, not later than five (5) working days from and after each such submission.	26.03	79
<b>Article 27. Legal Representation</b>					
<b>Article 28. Financial Interest</b>					
Agreement/ Warrant/ Guarantee	219	Financial Interest	CONTRACTOR warrants and represents that no elected official, officer, agent or employee of CITY has a financial interest, directly or indirectly, in this Agreement	28.01	80
<b>Article 29. Exempt Waste</b>					
N	220	Exempt Waste	If CONTRACTOR is aware of any Exempt Waste and chooses not to Collect it, CONTRACTOR must notify CITY of the Exempt Waste.	29.01	80
<b>Article 30. Independent Contractor</b>					
N	221	Independent Contractor	CONTRACTOR shall be an independent contractor and not an officer, agent, servant or employee of CITY. CONTRACTOR shall have exclusive control of the details of the services and work performed and over all persons performing such services and work and shall be solely responsible for the acts and omissions of its agents. CONTRACTOR nor its agents shall obtain any right to any other benefits that accrued to CITY employees and expressly waives any claim it may have or acquire to such benefits.	30.01	80

<b>Exhibit 9</b>					
<b>PERFORMANCE REVIEW METHODOLOGY</b>					
N	222	CONTRACTOR Name	CONTRACTOR's name may not include "West Hollywood" or any other language indicating that CONTRACTOR is a division of, or otherwise connected to, CITY.	30.01.1	81
N	223	Subcontractors	CONTRACTOR shall require all subcontractors to enter into a contract containing the provisions set forth in the preceding subsection in which contract the subcontractor agrees that CONTRACTOR and subcontractor are independent contractors and have no other agency relationship with CITY.	30.02	81
<b>Article 31. Relationship of the Parties</b>					
<b>Article 32. Laws to Govern</b>					
<b>Article 42. Notices</b>					
<b>Article 34. Assignment, Subletting, Transfer; Requirements and Limitations</b>					
N	224	General	CONTRACTOR shall not assign its rights, nor delegate, subcontract or otherwise transfer its obligations under this Agreement to any other person without the prior written consent of CITY.	34.01	81
N	225	Nature of Agreement - Personal to CONTRACTOR	CONTRACTOR acknowledges that this Agreement involved rendering a vital service to CITY's residents and businesses, and that CITY has selected CONTRACTOR to perform the services specified herein based on CONTRACTOR's experience, skill and reputation for conducting its Integrated Waste Management Services, and CONTRACTOR's financial resources to maintain the required equipment and to support its indemnity obligations to CITY under this Agreement.	34.03	82
N	226	Procedure for Consideration of Assignment	As part of the procedure for the consideration of assignment, CONTRACTOR shall pay CITY its reasonable expenses for attorney's fees and investigation costs necessary to investigate the suitability of any proposed assignee, with an advance payment of \$50,000 being paid to CITY prior to assignment request consideration. CONTRACTOR shall pay CITY a transfer fee equal to one percent (1%) of the Gross Receipts it will receive during the remaining term of the Agreement, as estimated by CITY.	34.04	82
N	227	Procedure for Consideration of Assignment	CONTRACTOR shall furnish CITY with audited financial statements of the proposed assignee's operations for the immediately preceding three (3) operating years. CONTRACTOR shall furnish CITY with satisfactory proof to ensure the proposed assignee can fulfill the terms of this Agreement in a timely, safe and effective manner.	34.04	82
<b>Article 35. Compliance with Laws</b>					
Y	228	Compliance with Laws	CONTRACTOR shall at all times, at its sole cost, comply with all applicable laws and regulations of the United States, the State of California, and any federal, state, regional or local administrative and regulatory agencies including without limitation the West Hollywood Municipal Code.	35.01	83
<b>Article 36. Nondiscrimination, Permits, Licenses, Ordinances</b>					
Agreement/ Warrant/ Guarantee	229	Nondiscrimination	CONTRACTOR shall not discriminate against any person on the basis of such person's race, sex, color, national origin, religion, marital status or sexual orientation and shall comply with all applicable local, state and federal laws and regulations regarding nondiscrimination, including those prohibiting discrimination in employment.	36.01	83

<b>Exhibit 9</b>					
<b>PERFORMANCE REVIEW METHODOLOGY</b>					
Agreement/ Warrant/ Guarantee	230	Permits	CONTRACTOR shall obtain, at its own expense, all permits and licenses required by law or ordinance and maintain same in full force and effect throughout the term of this Agreement. CONTRACTOR shall provide proof of such permits, licenses or approvals and shall demonstrate compliance with the terms and conditions of such permits, licenses and approvals upon the request of the Agreement Administrator.	36.02	83
Agreement/ Warrant/ Guarantee	231	Living Wage Ordinance	CONTRACTOR shall abide by the provisions of the West Hollywood Living Wage Ordinance. During the term of this Agreement, CONTRACTOR shall keep on file sufficient evidence of its employee compensation to enable verification of compliance with the West Hollywood Living Wage Ordinance made available upon request of CITY for a period of three years after the Agreement expiration.	36.03	83
Agreement/ Warrant/ Guarantee	232	Equal Benefits to Domestic Partners Ordinance	CONTRACTOR shall abide by the provisions of the West Hollywood Equal Benefits to Domestic Partners Ordinance. During the term of this Agreement, CONTRACTOR shall keep on file sufficient evidence of its employee compensation to enable verification of compliance with the West Hollywood Equal Benefits to Domestic Partners Ordinance. These records shall be made available at the request of CITY, with reasonable notice, during regular business hours, and shall be retained by CONTRACTOR for a period of three years after the expiration of this Agreement.	36.04	84
Agreement/ Warrant/ Guarantee	233	Arab League Boycott of Israel	CONTRACTOR hereby warrants that it is in compliance with West Hollywood Municipal Code Section 1403.	36.05	84
<b>Article 37. Ownership of Written Materials</b>					
N	234	Ownership of Written Materials	CONTRACTOR shall not use such materials in connection with any project not connected with this Agreement without the prior written consent of the Agreement Administrator.	37.01	84
<b>Article 38. Waiver</b>					
<b>Article 39. CONTRACTOR's Warranties and Representations</b>					
Agreement/ Warrant/ Guarantee	235	CONTRACTOR's Warranties and Representations	CONTRACTOR hereby covenants, represents, and warrants that CONTRACTOR is duly organized and validly existing as a corporation under the laws of the State of California, with full legal right and power to enter into and perform its obligations under this Agreement.	39.01	84
Agreement/ Warrant/ Guarantee	236	CONTRACTOR's Warranties and Representations	CONTRACTOR hereby covenants, represents, and warrants that CONTRACTOR has the authority to enter into and perform its obligations under this Agreement. CONTRACTOR or its authorized representative has taken all actions required by law and its governing documents to authorize the execution of this Agreement.	39.01	84

Exhibit 9 PERFORMANCE REVIEW METHODOLOGY					
Agreement/ Warrant/ Guarantee	237	CONTRACTOR's Warranties and Representations	CONTRACTOR hereby covenants, represents, and warrants that neither the execution of this Agreement nor the delivery by CONTRACTOR of services nor the performance by CONTRACTOR of its obligations hereunder: (1) conflicts with, violates or results in a breach of Applicable Law; (2) conflicts with, violates or results in a breach of any term or condition of any judgment, decree, agreement or instrument to which CONTRACTOR is a party or by which CONTRACTOR or any of its properties or assets are bound, or constitutes a default under any such judgment, decree, agreement or instrument; or (3) will result in the creation or imposition of any encumbrance of any nature whatsoever upon any of the properties or assets of CONTRACTOR.	39.01	84
Agreement/ Warrant/ Guarantee	238	CONTRACTOR's Warranties and Representations	CONTRACTOR hereby covenants, represents, and warrants that there is no action, suit or other proceeding likely to result in an unfavorable decision which would adversely affect the validity or enforceability of this Agreement or which could adversely affect the ability of CONTRACTOR to perform its obligations hereunder or which would have an adverse effect on the financial condition of CONTRACTOR.	39.01	84
Agreement/ Warrant/ Guarantee	239	CONTRACTOR's Warranties and Representations	CONTRACTOR hereby covenants, represents, and warrants that CONTRACTOR has no knowledge of any Applicable Law in effect as of the date of this Agreement that would prohibit the performance by CONTRACTOR of this Agreement and the transactions contemplated hereby.	39.01	84
Agreement/ Warrant/ Guarantee	240	CONTRACTOR's Warranties and Representations	CONTRACTOR hereby covenants, represents, and warrants that CONTRACTOR has made an independent investigation, satisfactory to it, of the conditions and circumstances surrounding this Agreement and the work to be performed by it, and is satisfied that those conditions and circumstances will not impair its ability to perform the work and provide the Collection Services required by this Agreement.	39.01	84
Agreement/ Warrant/ Guarantee	241	CONTRACTOR's Warranties and Representations	CONTRACTOR hereby covenants, represents, and warrants that the information supplied by CONTRACTOR in all submittals made in connection with negotiation and execution of this Agreement, including all materials in Exhibits of this Agreement, and all representations and warranties made by CONTRACTOR throughout this Agreement are true, accurate, correct and complete in all material respects on and as of the Effective Date of this Agreement, or when the Exhibit is amended.	39.01	84
Agreement/ Warrant/ Guarantee	242	CONTRACTOR's Warranties and Representations	CONTRACTOR hereby covenants, represents, and warrants that CONTRACTOR's representative, designated in Section 3.03, shall have authority in all daily operational matters related to this Agreement. CITY may rely upon action taken by such designated representative as action of CONTRACTOR unless the actions taken are not within the scope of this Agreement.	39.01	84
Agreement/ Warrant/ Guarantee	243	CONTRACTOR's Warranties and Representations	CONTRACTOR hereby covenants, represents, and warrants that the Disposal Facility as listed in Exhibit 3 is properly permitted, is classified as a Class 3 landfill, complies with all Applicable Laws, is not on or being considered for inclusion on a state or federal Superfund list, or CalRecycle list of solid waste facilities failing to meet State minimum standards, has sufficient capacity to accept all Solid Waste Collected from within CITY during the term, and that it will in fact accept all Solid Waste Collected from within CITY during the term.	39.01	84

<b>Exhibit 9</b>					
<b>PERFORMANCE REVIEW METHODOLOGY</b>					
Agreement/ Warrant/ Guarantee	244	CONTRACTOR Status	CONTRACTOR represents and warrants that it is duly organized, validly existing and in good standing under applicable laws. It is qualified to transact business in the State of California and has the power to own its properties and to carry on its business as now owned and operated and as required by this Agreement.	39.02	84
Agreement/ Warrant/ Guarantee	245	Accuracy of Representations	All representations and warranties made by CONTRACTOR and set forth in this Agreement shall be accurate, true and correct on and as of the effective date of this Agreement, and shall remain so during the term hereof.	39.03	86
Agreement/ Warrant/ Guarantee	246	Conditions to Effectiveness of Agreement	Accuracy of Representations. All representations and warranties made by CONTRACTOR and set forth in this Agreement shall be accurate, true and correct on and as of the effective date of this Agreement, and shall remain so during the term hereof.	39.04	86
Agreement/ Warrant/ Guarantee	247	Conditions to Effectiveness of Agreement	Absence of Litigation. There shall be no litigation pending in any court challenging the award of this franchise to CONTRACTOR or the execution of this Agreement or seeking to restrain or enjoin its performance.	39.04	86
Agreement/ Warrant/ Guarantee	248	Conditions to Effectiveness of Agreement	Furnishing of Insurance and Bond or Letter of Credit. CONTRACTOR shall have furnished evidence of the insurance and bonds or letter of credit required by Article 20, and shall comply with all ongoing requirements relating thereto.	39.04	86
Agreement/ Warrant/ Guarantee	249	Conditions to Effectiveness of Agreement	Effectiveness of City Council Action. CITY's Resolution approving this Agreement shall have become effective pursuant to California law prior to the Effective Date.	39.04	86
Agreement/ Warrant/ Guarantee	250	Conditions to Effectiveness of Agreement	CONTRACTOR shall deliver to CITY evidence satisfactory to the Agreement Administrator that CONTRACTOR has the authority to provide, or has arranged for, the disposal and processing rights at the designated Disposal Facility, Materials Recovery Facility (MRF), Recycling facility, and Green Waste facility.	39.04	86
<b>Article 40. Condemnation</b>					
N	251	Condemnation	CITY fully reserves the rights to acquire CONTRACTOR's property utilized in the performance of this Agreement, by purchase or through the exercise of the right of eminent domain. This provision is additive, and not intended to alter the rights of the parties set forth in Article 26.	40.1	86
<b>Article 41. Prohibition Against Gifts</b>					
N	252	Prohibition Against Gifts	CONTRACTOR shall not offer any CITY officer or designated employee any gifts prohibited by CITY or the Applicable Laws.	41.01	87
<b>Article 42: Notices</b>					
N	253	Services Description	CONTRACTOR shall periodically, at least 30 days prior to the effective date of a rate change, and a minimum of once per year, prepare and distribute subject to the direction of CITY, a notice to each Customer Billed by CONTRACTOR.	42.03	87
<b>Article 43. Representatives of the Parties</b>					

Exhibit 9 PERFORMANCE REVIEW METHODOLOGY					
N	254	Representatives of the Parties	CONTRACTOR shall, by the Effective Date, designate in writing a responsible officer who shall serve as the representative of CONTRACTOR in all matters related to the Agreement and shall inform CITY in writing of such designation and of any limitations upon his or her authority to bind CONTRACTOR. CITY may rely upon action taken by such designated representative as actions of CONTRACTOR unless they are outside the scope of the authority expressly delegated to him/her by CONTRACTOR as communicated to CITY.	43.02	88
<b>Article 44. CITY Free to Negotiate with Third Parties</b>					
<b>Article 45. Privacy</b>					
N	255	Privacy	CONTRACTOR shall strictly observe and protect the rights of privacy of Customers. Information identifying individual Customers or the composition or contents of a Customer's waste stream shall not be revealed to any person, governmental unit, private agency, or company, unless upon the authority of a court of law, by statute, or upon valid authorization of the Customer.	45.01	88
<b>Article 46. Proprietary information, Public Records</b>					
<b>Article 47. Transition to Next CONTRACTOR</b>					
N	256	Transition to Next CONTRACTOR	In the event CONTRACTOR is not awarded an Agreement to continue to provide Collection Services following the expiration or early termination of this Agreement, CONTRACTOR shall cooperate fully with CITY and any subsequent contractors to assure a smooth transition of services described in this Agreement.	47.01	89
<b>Article 48. Retention of Records</b>					
N	257	Retention of Records	CONTRACTOR shall maintain all records or documents related to charges for services or expenditures charge to Customers for at least (5) years, or for any longer period required by law, from the date of final payment to CONTRACTOR.	48.01	89
N	258	Retention of Records	CONTRACTOR shall maintain all documents and records, which demonstrate performance under this Agreement for a minimum period of five (5) years, or for any longer period required by law, from the date of termination or completion of this Agreement.	48.02	89

## EXHIBIT F

### CALIFORNIA LEVINE ACT STATEMENT

California Government Code Section 84308, commonly referred to as the "Levine Act," prohibits any West Hollywood City Council Member from participating in any action related to a contract or application if he or she receives any political contributions totaling more than \$250 within the previous twelve months, and for three months following the date a final decision from the business/board or applicant.

The Levine Act also requires a member of the West Hollywood City Council who has received such a contribution to disclose the contribution on the record of the proceeding.

Current West Hollywood City Councilmembers are listed at:

<https://www.weho.org/city-government/city-council>

Proposers are responsible for accessing this link to review the names prior to answering the following questions.

1. Have you or your company, or any agent/board member on behalf of you or your company/entity, made any political contributions of more than \$250 to any West Hollywood City Councilmember in the 12 months preceding the date of the submission of your proposal or application, or the anticipated date of any Council action?

YES If yes, please identify the Councilmember(s):

NO

2. Do you or your company/entity, or any agency on behalf of you or your company/entity, anticipate or plan to make any political contribution of more than \$250 to any West Hollywood City Councilmember in the 12 months following any Council action related to your proposal or application?

YES If yes, please identify the Councilmember(s):

NO

Answering yes to either of the two questions above does not preclude the West Hollywood City Council from awarding a contract or approving an application or any subsequent action. It does however, preclude the identified Councilmember(s) from participating in any actions related to your proposal or application.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of authorized individual

\_\_\_\_\_  
Company/Applicant Name