

**AMENDMENT #5
TO
SOLID WASTE COLLECTION
FRANCHISE AGREEMENT

BETWEEN
THE COUNTY OF SAN LUIS OBISPO

AND
MISSION COUNTRY DISPOSAL**

NOVEMBER 2022

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This Amendment #5 to the Amended and Restated Solid Waste Collection Franchise Agreement between the County of San Luis Obispo and Mission Country Disposal ("Amendment #5"), is made and entered into between the County of San Luis Obispo, a political subdivision of the State of California (hereafter "County"), and Mission Country Disposal, a California corporation ("Franchisee"), each of which may be referred to individually as a "Party" or together as the "Parties."

RECITALS

This Amendment #5 is made and entered into on the basis of the following facts, understandings, and intentions of the parties:

WHEREAS: The Parties entered into the Amended and Restated Solid Waste Collection Franchise Agreement between the County of San Luis Obispo and Mission Country Disposal on December 9, 2008, ("Agreement"); and

WHEREAS: The Agreement was previously amended on September 21, 2010, September 18, 2012, May 13, 2014, and September 20, 2016; and

WHEREAS: Section 4 of the Agreement provides County with the right to direct Franchisee to modify the scope of one or more types of service described in the Agreement, or to otherwise modify its performance under the Agreement, subject to providing additional compensation; and

WHEREAS: SB 1383 establishes regulatory requirements for jurisdictions, Generators, haulers, solid waste facilities, and other entities to support achievement of state-wide organic waste disposal reduction targets; and

WHEREAS: SB 1383 requires the County to implement collection programs, meet Processing facility requirements, conduct contamination monitoring, provide education, maintain records, submit reports, monitor compliance, conduct enforcement, and fulfill other requirements; and the County has chosen to delegate some of its responsibilities to the Franchisee, acting as the County's designee, through this Agreement; and

WHEREAS: Both Parties have, in good faith, negotiated changes to the Agreement necessary to support the County's compliance with SB 1383, as set forth herein.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions herein contained, County and Franchisee do hereby agree as follows:

1. **EFFECTIVE DATE.**

This Amendment #5 shall become effective on the date on which the latter of the two Parties signs this Agreement.

2. **PROGRAM AMENDMENTS TO AGREEMENT.**

ARTICLE 1. DEFINITIONS

Article 1 of the Agreement is hereby amended to add or modify the following definitions:

"1383 RNG" or "1383 Qualified Renewable Natural Gas" means SB 1383 qualified gas derived from Organic Waste that has been Diverted from a landfill and Processed at an in-vessel digestion facility that is permitted or otherwise authorized by 14 CCR to recover Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(62).

"AB 1826" means the Organic Waste Recycling Act of 2014 (Chapter 727, Statutes of 2014 modifying Division 30 of the California Public Resources Code), also commonly referred to as "AB 1826," as amended, supplemented, superseded, and replaced from time to time.

"AB 341" means the California Jobs and Recycling Act of 2011 (Chapter 476, Statutes of 2011 [Chesbro, AB 341]), also commonly referred to as "AB 341", as amended, supplemented, superseded, and replaced from time to time.

"AB 901" means Assembly Bill 901 approved by the Governor of the State of California on October 10, 2015, which amended Section 41821.5 of, amended, renumbered and added Section 41821.6 of, and added Sections 41821.7 and 41821.8 to, the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time.

"Applicable Law" means all Federal, State, County, and local laws, regulations, rules, orders, judgments, degrees, permits, approvals, or other requirement of any governmental agency having jurisdiction over the Collection, Transportation, and Processing of Recyclable Materials, Organic Materials, and Solid Waste that are in force on the Effective Date and as may be enacted, issued or amended during the Term of this Agreement. Applicable Law includes, but is in no way limited to, AB 939, AB 341, AB 1826, AB 901, and SB 1383.

"Approved Facility(ies)" means any one of or any combination of the: Approved Recyclable Materials Processing Facility; Approved Organic Materials Processing Facility; and/or Approved Disposal Facility.

"Approved Disposal Facility" means the Cold Canyon Landfill as the primary, and Chicago Grade Landfill, or the Santa Maria Landfill, as alternatives, which have been selected by the Franchisee and approved by the County. Franchisee must notify County before using an alternative facility.

"Approved Organic Materials Processing Facility" means the Hitachi Zosen Inova (HZI) Kompogas Facility located at 4300 Old Santa Fe Road, San Luis Obispo, CA 93401, Cold Canyon Landfill 2268 Carpenter Canyon Road, San Luis Obispo, CA 93401, Chicago Grande Landfill 2290 Homestead Road, Templeton, CA 93465 and Engel & Gray Inc. Regional Compost Facility, located at 745 West Betteravia Road, Santa Maria, California, which have been selected by the Franchisee and approved by the County.

“Approved Processing Facility(ies)” means any one of or any combination of the: Approved Recyclable Materials Processing Facility; or Approved Organic Materials Processing Facility.

“Approved Recyclable Materials Processing Facility” means the Cold Canyon Materials Recovery Facility, which has been selected by the Franchisee and approved by the County.

“Bin” means a Container with capacity of approximately one (1) to eight (8) cubic yards, with a hinged lid, and with wheels (where appropriate), that is serviced by a front or rear end-loading Collection vehicle, including Bins with Compactors attached to increase the capacity of the Bin.

“Business Days” mean days during which the County and Franchisee offices are open to do business with the public.

“California Code of Regulations” or **“CCR”** means the State of California Code of Regulations. CCR references in this Agreement are preceded with a number that refers to the relevant Title of the CCR (e.g., “14 CCR” refers to Title 14 of CCR).

“CalRecycle” means California's Department of Resources Recycling and Recovery.

“Cart” means a plastic Container with a hinged lid and wheels that is serviced by an automated or semi-automated Collection vehicle. A Cart has capacity of twenty (20), thirty-two (32), sixty-four (64) or ninety-six (96) gallons (or similar volumes).

“Collect” or **“Collection”** (or any variation thereof) means to take physical possession, Transport, and remove Solid Waste, Recyclable Materials, Organic Materials, and other material at the place of generation in the County.

“Commercial” shall mean of, from, or pertaining to non-Residential Premises where business activity is conducted, including, but not limited to, retail sales, services, wholesale operations, manufacturing, and industrial operations, but excluding businesses conducted upon Residential property which are permitted under applicable zoning regulations and are not the primary use of the property.

“Compactor” means a mechanical apparatus that compresses materials together with the Container that holds the compressed materials or the Container that holds the compressed materials if it is detached from the mechanical compaction apparatus. Compactors include two (2) to eight (8) cubic yard Bin Compactors serviced by front-end loader Collection vehicles and ten (10) to fifty (50) cubic yard Drop Box Compactors serviced by roll-off Collection vehicles.

“Complaint” shall mean each written or orally communicated statement made by any Person, whether to County or Franchisee, alleging: (1) non-performance, or deficiencies in Franchisee's performance, of its duties under this Agreement; (2) a violation by Franchisee of this Agreement; or (3) an SB 1383 non-compliance complaint as required under 14 CCR Section 18995.3.

“Compost” (or any variation thereof) includes a controlled biological decomposition of Organic Materials yielding a safe and nuisance free Compost product.

“Compostable Plastic” (or any variation thereof) means plastic materials that meet the American Society for Testing Materials (ASTM) D6400 standard for Compost-ability.

“Container” means Bins, Carts, and Compactors.

“County” is defined in the introductory paragraph of this Agreement.

“Curb” or **“Curbside”** (or any variation thereof) means the cornered edging between the street and sidewalk. Curb or Curbside also means and describes the location of a Collection Container for pick-up, where such Container is placed on the street or alley against the face of the Curb, or where no Curb exists, the Container is placed not more than five (5) feet from the outside edge of the street or alley nearest the property's entrance or in an area otherwise deemed safe for collections.

“Customer” means the Person whom Franchisee submits its billing invoice to and collects payment from for Collection services provided to a Premises. The Customer may be either the Occupant or Owner of the Premises.

“Designated Waste” means non-Hazardous Waste which may pose special Disposal problems because of its potential to contaminate the environment, and which may be disposed of only in Class II Disposal sites or Class III Disposal sites pursuant to a variance issued by the California Department of Health Services. Designated Waste consists of those substances classified as Designated Waste by the State, in California Code of Regulations Title 27, Section 20210 as may be amended from time to time.

“Discarded Materials” means Recyclable Materials, Organic Materials, and Solid Waste placed by a Generator in a receptacle and/or at a location for the purposes of Collection by Franchisee, excluding Excluded Waste.

“Dispose” or **“Disposal”** (or any variation thereof) means the final disposition of Solid Waste, or Processing Residue at a Disposal Facility.

“Disposal Facility” means a landfill, or other facility for ultimate Disposal of Solid Waste.

“Divert” or **“Diversion”** (or any variation thereof) means to prevent Discarded Materials from Disposal at landfill or transformation facilities, (including facilities using incineration, pyrolysis, distillation, gasification, or biological conversion methods) through source reduction, reuse, Recycling, Composting, anaerobic digestion or other method of Processing, subsequent to the provisions of AB 939. Diversion is a broad concept that is to be inclusive of material handling and Processing changes that may occur over the Term including, but not limited to, changes in standard industry practice or implementation of innovative (but not necessarily fully proven) techniques or technology that reduce Disposal risk, decrease costs and/or are for other reasons deemed desirable by the County.

“ Dwelling Unit ” means any individual living unit in a Single-Family dwelling (SFD) or Multi-Family dwelling (MFD) structure or building, a mobile home, or a motor home located on a permanent site intended for, or capable of being utilized for, Residential living other than a Hotel or Motel.

“ Edible Food ” means food intended for human consumption. For the purposes of this Agreement, Edible Food is not Solid Waste if it is recovered and not discarded. Nothing in this Agreement requires or authorizes the recovery of Edible Food that does not meet the food safety requirements of the California Health and Safety Code. If the definition in 14 CCR Section 18982(a)(18) for Edible Food differs from this definition, the definition in 14 CCR Section 18982(a)(18) shall apply to this Agreement.

“ Effective Date ” is defined in Section 3.1 of this Agreement.

“ E-Waste ” means discarded electronic equipment including, but not limited to, televisions, computer monitors, central processing units (CPUs), laptop computers, computer peripherals (including external hard drives, keyboards, scanners, and mice), printers, copiers, facsimile machines, radios, stereos, stereo speakers, VCRs, DVDs, camcorders, microwaves, telephones, cellular telephones, and other electronic devices. Some E-Waste or components thereof may be Hazardous Waste or include Hazardous Substances and thus require special handling, Processing, or Disposal.

“ Excluded Waste ” means Hazardous Substance, Hazardous Waste, Infectious Waste, Designated Waste, volatile, corrosive, biomedical, infectious, biohazardous, and toxic substances or material, waste that Franchisee reasonably believes would, as a result of or upon Disposal, be a violation of local, State or Federal law, regulation or ordinance, including land use restrictions or conditions, waste that cannot be Disposed of in Class III landfills, waste that in Franchisee’s reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose Franchisee or County to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Residential Solid Waste after implementation of programs for the safe Collection, Recycling, treatment, and Disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code. Excluded Waste does not include Used Motor Oil or Used Motor Oil Filters when properly placed for Collection by Franchisee, as set forth in this Agreement.

“ Federal ” means belonging to or pertaining to the Federal government of the United States.

“ Food Recovery ” means actions to Collect and distribute food for human consumption which otherwise would be Disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).

“ Food Scraps ” means those Discarded Materials that will decompose and/or putrefy including: (i) all kitchen and table Food Waste; (ii) animal or vegetable waste that is generated during or results from the storage, preparation, cooking or handling of food stuffs; (iii) fruit waste, grain waste, dairy waste, meat, and fish waste; and (iv) vegetable trimmings, houseplant trimmings and other Compostable Organic Waste common to the occupancy of Residential dwellings. Food Scraps are a subset of Food Waste.

“Food-Soiled Paper” means Compostable paper material that has come in contact with Food Scraps or liquid, such as, but not limited to, Compostable paper plates, napkins, and pizza boxes. Food -Soiled Paper is a subset of Food Waste.

“Food Waste” means Source Separated Food Scraps and Food-Soiled Paper. Food Waste is a subset of Organic Materials.

“Generator” means any Person whose act or process produces Discarded Materials as defined in the Public Resources Code, or whose act first causes Discarded Materials to become subject to regulation.

“Green Waste” means those Discarded Materials that will decompose and/or putrefy, including, but not limited to, green trimmings, grass, weeds, leaves, prunings, branches (<6” dia.), dead plants, brush (maximum of 4 foot lengths), tree trimmings, dead trees, Christmas trees, small pieces of unpainted and untreated wood, and other types of Organic Materials resulting from normal yard and landscaping maintenance that may be specified in Applicable Law for Collection and Processing as Organic Materials under this Agreement. Yard Trimmings does not include items herein defined as Excluded Waste or yucca. Yard Trimmings are a subset of Organic Materials. Yard Trimmings placed for Collection must fit within the Franchisee-provided Container.

“Hazardous Substance” means any of the following: (a) any substances defined, regulated or listed (directly or by reference) as "Hazardous Substances", "hazardous materials", "Hazardous Wastes", "toxic waste", "pollutant", or "toxic substances", or similarly identified as hazardous to human health or the environment, in or pursuant to: (i) the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, 42 USC §9601 et seq. (CERCLA); (ii) the Hazardous Materials Transportation Act, 49 USC §5101, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC §6901 et seq.; (iv) the Clean Water Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USC §7901 et seq.; and (vii) California Water Code §13050; (b) any amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any other Applicable Law currently existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated biphenyl's (PCBs), petroleum, natural gas, and synthetic fuel products, and byproducts.

“Household Hazardous Waste” or **“HHW”** means Hazardous Waste generated at Residential Premises within the County. HHW includes: paint, stain, varnish, thinner, adhesives, auto products such as old fuel, used motor oil and filter, used oil filter, batteries, household batteries, fluorescent bulbs, tubes, cleaners and sprays, pesticides, fertilizers and other garden products, needles, syringes, and lancets.

“Infectious Waste” means biomedical waste generated at hospitals, public or private medical clinics, dental offices, research laboratories, pharmaceutical industries, blood banks, mortuaries, veterinary facilities and other similar establishments that are identified in Health and Safety Code Section 25117.5 as may be amended from time to time.

"IWMA" or "San Luis Obispo County Integrated Waste Management Authority" means the Joint Powers Authority that has the responsibilities as defined by the Joint Powers Agreement related to the County's compliance with Applicable Law. The County may, at its discretion, designate to the IWMA certain responsibilities and rights of the County related to reporting, monitoring, and education requirements as specified in this Agreement, or subsequent written authorization by the County.

"Liquidated Damages" means the amounts due by Franchisee for failure to meet specific quantifiable standards of performance as described in Section 12.4.

"Low Population Area(s)" means the certain regions of the County that have a valid low population waiver, granted by CalRecycle, in accordance with the criteria and process specified in 14 CCR Section 18984.12(a).

"Multi-family Dwelling Unit" means any Premises, other than a Single-Family Dwelling Unit, with five (5) or more Dwelling Units used for residential purposes, irrespective of whether the resident therein is transient, temporary or permanent, including such Premises when combined in the same building with Commercial establishments, that receive centralized, shared, Collection service for all units on the Premises which are billed to one (1) Customer at one (1) address. Customers residing in Townhouses, mobile homes, condominiums, or other structures with five (5) or more Dwelling Units who receive centralized, shared, Collection service for all units on the Premises which are billed to one (1) Customer at one (1) address shall be considered Multi-Family.

"Occupant" means the Person who occupies a Premises.

"Organic Materials" means Yard Trimmings and Food Waste, individually or collectively. No Discarded Materials shall be considered to be Organic Materials, however, unless they are separated from Recyclable Material and Solid Waste. Organic Materials are a subset of Organic Waste.

"Organic Waste" means wastes containing material originated from living organisms and their metabolic waste products including, but not limited to, food, Yard Trimmings, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges, or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined in 14 CCR Section 18982(a)(4) and 14 CCR Section 18982(a)(16.5), respectively.

"Party" or "Parties" is defined in the introductory paragraph of this Agreement.

"Premises" means any land or building in the county where Discarded Materials are generated or accumulated.

"Process" or "Processing" means to prepare, treat, or convert through some special method.

“Processing Facility” means any plant or site used for the purpose of sorting, cleansing, treating or reconstituting Recyclable Materials for the purpose of making such material available for Recycling or reuse or the facility for the Processing and/or Composting of Organic Materials.

“Prohibited Container Contaminants” means the following: (i) Discarded Materials placed in the Recyclable Materials Container that are not identified as acceptable Recyclable Materials for the County’s Collection program; (ii) Discarded Materials placed in the Organic Materials Container that are not identified as acceptable Organic Materials for the County’s Collection program; (iii) Discarded Materials placed in the Solid Waste Container that are acceptable Recyclable Materials and/or Organic Materials to be placed in the County’s Recyclable Materials or Organic Materials Containers or otherwise managed under the County’s Collection program; and (iv) Excluded Waste placed in any Container.

“Recyclable Materials” or **“Recyclables”** means byproducts or discards set aside, handled, packaged or offered for Collection from Residential, Commercial, governmental or industrial Customers in a manner different from Solid Waste or Organic Materials, including, but not limited to, aluminum, newspaper, clear and colored glass, tin and bi-metal, all plastic containers, cardboard, chipboard, magazines, mixed paper (including magazines, phone books and junk mail) and motor oil and filters (separately collected), and other materials which can be processed and returned to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace. Yet excluding paper tissues, paper towels, paper contaminated with food, Tyvek non-tearing paper envelopes, film plastic (when clean, dry, and contained inside of a plastic bag), and expanded Polystyrene (EPS). Acceptable Recyclable Materials may be added to or removed from this list from time to time by mutual consent or at the sole discretion of the County. Contractor shall not add or remove materials to or from this list without written approval of the Director, and such approval shall not be unreasonably withheld.

“Residential” shall mean of, from, or pertaining to a Single-Family Dwelling Unit or Multi-Family Dwelling Unit including Single-Family homes, apartments, condominiums, Townhouse complexes, mobile home parks, and cooperative apartments.

“Residue” means those materials which, after Processing, are Disposed rather than Recycled due to either the lack of markets for materials or the inability of the Processing Facility to capture and recover the materials.

“SB 1383” means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time. For the purposes of this Agreement, SB 1383 specifically refers to the Short-Lived Climate Pollutants (SLCP): Organic Waste Reductions regulations developed by CalRecycle and adopted on November 3, 2020 that created Chapter 12 of 14 CCR, Division 7 and amended portions of regulations of 14 CCR and 27 CCR.

“Self-Haul” or **“Self-Hauler”** means a Person who hauls Discarded Materials, recovered material, or any other material, to another Person, or as otherwise defined in 14 CCR Section 18982(a)(66). Self-Hauler also includes a Person who back-hauls waste, as defined in 14 CCR Section 18982(a)(66)(A).

“Service Level” refers to the size of a Customer’s Container and the frequency of Collection service.

“Single Family Dwelling Unit” or **“Single-Family”** or **“SFD”** means, notwithstanding any contrary definition in the County Code, any detached or attached house or residence designed or used for occupancy by one (1) family, provided that Collection service feasibly can be provided to such Premises as an independent unit, and the Owner or Occupant of such independent unit is billed directly for the Collection service. Single-Family includes Townhouses that maintain individual collection service regardless of whether each unit is separately billed for their specific Service Level. Single-Family also includes duplex, tri-plex, or four-plex Residential structures regardless of whether each unit maintains individual collection service or is separately billed for their specific Service Level.

“Source Separated” means the segregation, by the Generator, of materials designated for separate Collection for some form of Recycling, Composting, recovery, or reuse.

“State” means the State of California.

“Ton” or **“Tonnage”** means a unit of measure for weight equivalent to two thousand (2,000) standard pounds where each pound contains sixteen (16) ounces.

“Townhouse” means an attached or semi-attached Dwelling Unit within a group of attached or semi-attached Dwelling Units. A Townhouse shall be considered a Single-Family Dwelling Unit if each unit maintains individual Collection service subscription. A Townhouse shall be considered a Multi-Family Dwelling Unit if the Premise receives centralized, shared, Collection service for all units on the Premise. These shall be the designations regardless of whether the Premises are billed individually or through a central account (e.g., homeowner association, property manager).

“Transfer” means the act of transferring the materials Collected by Franchisee in its route vehicles into larger vehicles for Transport to other facilities for the purpose of Recycling or Disposing of such materials.

“Transport” or **“Transportation”** means the act of conveying Collected materials from one location to another.”

ARTICLE 4.
SCOPE OF AGREEMENT

4.1 Scope of Agreement

A. Article 4, Section 4.1 of the Agreement is hereby amended to read as follows:

4.1.1 "Subject to Article 4.2 (Limitations to Scope), the Agreement granted to Franchisee shall be exclusive for Solid Waste, Recyclable Materials, and Organic Materials except where otherwise precluded by law. This Agreement does not include construction and demolition debris, roll-off box Collections or the Collection of liquid waste, hazardous waste, or medical waste; however, County reserves the right to add construction and demolition debris, at its sole discretion, at some point in the future. In addition, this Agreement does not include either animal waste or remains from slaughterhouse or butcher shops or byproducts of sewage treatment, including sludge, ash, grit, and screenings.

4.1.2 In areas of the county that do not require participation in the Solid Waste Collection system, Franchisee shall use its best reasonable efforts to cooperate with the County to maximize participation in the Solid Waste Collection program. The Parties agree that the goal of participation shall be to include one hundred percent (100%) of the households and Commercial establishments in the unincorporated portion of the county that are eligible for Collection services."

4.2 Limitations of Scope

B. Article 4, Section 4.2 of the Agreement is hereby amended to amend and include the following sub bullets:

4.2.2.4 "Other Governmental Agencies within the county which can contract for separate Solid Waste, and Recycling, and Organic Materials services.

4.2.2.5 The hauling of byproducts from the Processing of food or beverages and use of such material as animal feed if the byproducts originate from agricultural or industrial sources, do not include animal (including fish) Processing byproducts, are Source Separated by the Generator of the byproducts, and are not discarded; and if the use as animal feed is in accordance with 14 CCR Section 18983.1(b)(7).

4.2.2.6 Franchisee shall cooperate with and shall not impede, interfere, or attempt to impede or interfere with the implementation, expansion, or operation of Edible Food Recovery efforts in the County."

4.9 County's Right to Perform Service: Tagging of Improper Set Outs and Prohibited Container Contaminants

C. Article 4, Section 4.9 of the Agreement is hereby retitled and amended to read as follows:

- 4.9.1 "The County shall perform SB 1383 activities required for the identification of Prohibited Container Contaminants which includes but is not limited to, record keeping, provision of educational notices and reporting. The Franchisee shall report any Franchisee performed activities regarding the identification of Prohibited Container Contaminants to the County. Such report shall include but is not limited to, record keeping, provision of educational notices, and reporting.
- 4.9.2 In the event Franchisee fails to Collect, remove, and dispose of Solid Waste, Recyclable Material, or Organic Materials on a Customer's regularly scheduled Collection Day, within twenty-four (24) hours of a request from County or a Customer to do so, County may Collect said Discarded Materials and Franchisee shall be liable for all related expenses incurred by County. Such expenses include but are not limited to disposal, administrative, and legal costs. Franchisee shall reimburse County for such expenses as required.
- 4.9.3 In the event Franchisee does not Collect any item or Container of Solid Waste, Recyclable Materials or Organic Materials due to a Customer's non-compliance with rules and regulations for proper set out, or the presence of Prohibited Container Contaminants, Franchisee shall attach a company imprinted tag securely to the item or container not Collected specifying the reasons for non-Collection. The tag shall contain Franchisee's name and telephone number with instructions for Customer to correct the non-compliance before the Container can be serviced.
- 4.9.3.1 The Franchisee shall include in its reports to the County, activities regarding the non-Collection of Containers due to Prohibited Container Contaminants as specified in Exhibit C."

ARTICLE 5. DIRECT SERVICES

5.1 General

D. Article 5, Section 5.1.1 of the Agreement is hereby amended to read as follows:

- 5.1.1 "The work to be done by Franchisee pursuant to this Agreement shall be accomplished in a thorough and professional manner so that the Residents and Commercial Businesses within the county are provided reliable, courteous and high-quality Solid Waste, Recycling, and Organic Materials Collection services at all times. The enumeration of, and specification of requirements for particular aspects of service quality, labor or equipment shall not relieve Franchisee of the duty of accomplishing all other aspects in the manner provided in this Article, whether such aspects are enumerated elsewhere in the Agreement or not."

E. Article 5.1.2 of the Agreement is hereby amended to read as follows:

- 5.1.2 "All Customers shall be provided with Solid Waste, Recycling and Organic Materials Collection service once an applicable rate is established consistent with

County approved Collection programs, within seven (7) days of a Customer's request. If a Customer resides in an area granted a Low population waiver by CalRecycle, Franchisee may, but shall not be required to, provide Organic Materials Collection service to said Customer."

5.3 Solid Waste, Recycling, and Organic Materials Services

F. Article 5, Section 5.3 of the Agreement is hereby retitled and Article 5, Section 5.3.1 is hereby amended to read as follows:

5.3.1 "Franchisee shall provide weekly Collection of Solid Waste, Recyclable Materials and Organic Materials for all places and Premises within Franchise Area or such other level of service as may be permitted by County at rates approved by the County Board of Supervisors. Franchisee shall also provide more frequent Collection services as required pursuant to County Code Chapter 8.12."

5.3.1.1 "Areas that qualify for Low Population waivers as described in Section 6.11 of this Agreement are exempt from certain services, subject to application by the County and approval by CalRecycle."

G. Article 5, Section 5.3.2 of the Agreement is hereby amended to read as follows:

5.3.2 "Franchisee shall Collect and remove all Recyclable Materials and Organic Materials placed in designated Containers (one Container for all Recyclable Materials and a second Container for Organic Materials) at the designated Collection locations for Single-Family Dwelling Units, Multi-family Dwelling Units, and Commercial businesses at the Rates established by the Board of Supervisors and in Containers that comply with the requirements of this Agreement. Franchisee shall Transport all Discarded Materials to the Approved Facility(ies) as specified in Sections 5.17 and 5.20. Residential Recyclable Material and Organic Materials Collection shall be weekly on the same day of the week as Solid Waste Collection service, unless in yard service is provided. Commercially generated Recyclable Materials Collection, including Organic Materials, shall be at least weekly on a schedule as determined by Franchisee and the Generator. Changes to Collection schedules shall be approved in writing by the Director prior to implementation."

5.4 Recyclable Materials and Organic Materials

H. Article 5, Section 5.4 of the Agreement is hereby retitled, and Section 5.4.2 amended to read as follows:

5.4.2 "Subject to Rates established by the Board of Supervisors through the Rate setting process, Franchisee shall provide Recycling services to all Solid Waste Customers as defined in the Rate setting process and indicated on the Rate setting schedule. Changes to the Recyclable Materials list, as defined in Article 1, can only be made with the written approval of the Director."

I. Article 5, Section 5.4.3 of the Agreement is hereby amended to read as follows:

5.4.3 "Franchisee shall fully implement an Organic Materials Collection program that allows Generators to commingle Food Waste and Green Waste in the Organic Materials Containers provided to all Residential, Multi-family, and Commercial premises in accordance with Applicable Law. Franchisee shall provide Organic Materials Collection service to all Solid Waste Customers included in the Rate schedule established by the Board of Supervisors through the Rate setting process. Changes to the Organic Materials list, as defined in Article 1, can only be made with the written approval of the Director."

J. Article 5, Section 5.4.4 of the Agreement is hereby amended to read as follows:

5.4.4 "Organic Materials Collection shall only use containers that are reusable and capable of being emptied at the curb. Organic Materials shall not be Collected in non-compostable bags."

5.5 Refusal to Provide Collection Services

K. Article 5, Section 5.5 of the Agreement is hereby amended to read as follows:

5.5.1 "Franchisee may refuse to Collect Recyclable Materials or Organic Materials and shall not be obligated to continue to provide Container(s) to any participant in cases of non-payment for services, or to any participant in the Recycling or Organic Materials program who, after reasonable warning by Franchisee, fails to properly sort and set out Recyclable Materials or Organic Materials, including excessive contamination. Franchisee shall report monthly to County any warning notices issued as described in Exhibit C."

5.6 Marketing and Sale of Recyclable Materials

L. Article 5, Section 5.6 of the Agreement is hereby amended to read as follows:

5.6.1 "Franchisee shall be responsible for the marketing and sale of all Recyclable Materials and Organic Materials Collected pursuant to this Agreement. Revenues from the sales of these materials shall be retained by Franchisee unless a separate agreement provides for sharing revenues with County or other entity, as approved by County."

5.9 Operations

M. Article 5, Section 5.9.1 of the Agreement is hereby amended to read as follows:

5.9.1 "To preserve peace and quiet, no Solid Waste, Recyclable Materials or Organic Materials shall be Collected from or within two-hundred (200) feet of Residential Premises between 5:00 P.M. and 6:00 A.M. on any day. Residential Solid Waste, Recyclable Materials and Organic Materials shall be Collected, Monday through Friday on the same day. The one exception is Franchisee may elect to Collect motor oil and

oil filters with a separate vehicle using an on-call program. In the event Franchisee misses the Collection of properly set out Solid Waste, Recyclables, or Organic Materials, Franchisee shall Collect the missed pickups within one (1) Business Day of notification.”

5.14 Solid Waste, Recycling, and Organic Materials Containers

N. Article 5, Section 5.14.1 of the Agreement is hereby retitled, and amended to read as follows:

5.14.1 “Franchisee shall provide Recycling services at Rates established by the Board of Supervisors and shall supply each Single-Family Dwelling Unit with a thirty-two (32), sixty-four (64) or ninety-six (96) gallon Container for Solid Waste. In addition, each Single-Family Dwelling Unit will receive from Franchisee a sixty-four (64) or ninety-six (96) gallon Container for all Recyclable Materials and a ninety-six (96) gallon Container for Organic Materials. If requested by Customer, Franchisee shall provide to the Customer a sixty-four (64) or ninety-six (96) gallon Recyclable Container and either a sixty-four (64) or ninety-six (96) gallon Organic Materials Container. If Franchisee establishes that a Customer’s use of a ninety-six (96) gallon Organic Materials Container shall cause safety or operational concerns, Franchisee may require the Customer to utilize a sixty-four (64) gallon Organic Materials Container.”

O. Article 5, Section 5.14.1 of the Agreement is hereby amended to include the following sub bullet:

5.14.1.2 “The Franchisee shall provide kitchen pails designed to contain Food Scraps prior to placement in the Customer’s Organic Materials Cart. Franchisee will be responsible for distribution of kitchen pails to Single-Family and Multi-Family Customers upon request, from Franchisee’s office. County or its designee may restock Franchisee inventories at local offices for distribution to new residents or residents who need a replacement.”

P. Article 5, Section 5.14.3 of the Agreement is hereby amended to read as follows:

5.14.3 “For Residential Customers, all Solid Waste Containers shall be grey/black, all Recyclable Materials Containers shall be blue or grey body with blue lid, and all Organic Materials Containers shall be green or grey body with green lid. For Commercial Customers, all Solid Waste Containers shall be grey/black, all Recyclable Materials Containers shall be blue or grey body with blue lid, and all Organic Materials Containers shall be green or grey body with green lid. If any container is grey with a color lid, it must also contain the in-molded graphic on the lid showing what goes into the container. The final color and signage, including the in-model graphic or sticker on the Containers, shall be approved by the Director, or designee. No later than December 31, 2035, Franchisee shall provide all Customers with Collection Containers that comply with the Container color requirements specified in this Section or as otherwise specified in 14 CCR Section 18982; 14 CCR, Division 7, Chapter 12, Article 3; or other Applicable Law.

If an existing Container breaks or is otherwise rendered non-functional as of date of this Agreement, the Franchisee shall replace the non-functional Container with a Container that complies with the color requirements of this Section. Notwithstanding this Section, the Franchisee is not required to replace functional Containers, including Containers purchased prior to the date of this Agreement, that do not comply with the color requirements of this Section prior to the end of the useful life of those Containers, or prior to January 1, 2035, whichever comes first. "

5.17 Disposal Requirements

Q. Article 5, Section 5.17.1 of the Agreement is hereby amended to read as follows:

5.17.1 "Franchisee shall Dispose of all Solid Waste, Collected under this Agreement efficiently, at Franchisee's own expense and in accordance with all Federal, State and local laws, rules, and regulations. Franchisee shall be responsible for securing a local facility within the County for disposal of all Solid Waste Collected by Franchisee pursuant to this Agreement.

5.17.1.1 Approved Disposal Facility. Franchisee shall Transport all Solid Waste to the Approved Disposal Facility as specified in Article 1. Franchisee's Approved Disposal Facility shall be a Disposal Facility that accepts Single-Family, Multi-Family, and Commercial Solid Waste Collected in accordance with this Agreement for Disposal."

5.18 Cleaning Containers

R. Article 5, Section 5.18 of the Agreement is hereby retitled, and amended to include the following sub bullet:

5.18.2 "Franchisee shall set a steam cleaning fee and/or a clean Container exchange fee for Organics Materials Containers to Residential Customers requesting such service up to two (2) times per year per Organics Container. "

5.20 Material Processing

S. Article 5, Section 5.20 of the Agreement is hereby amended to read as follows:

5.20.1 "Franchisee shall have in place or have made arrangements for a Materials Recovery Facility or Facilities to receive and accept all deliveries of Recyclable Materials and Organic Materials generated in the county at Approved Facility(ies) specified in Article 1 and in accordance with this Section.

5.20.2 The Approved Materials Recovery Facility shall be a Facility or operation that Processes Single-Family, Multi-Family, and Commercial Source Separated Recyclable Materials to recover materials designated for Collection in the Recyclable Materials Container. Any Approved Materials Recovery Facility used by Franchisee must be designed and constructed in accordance with all State and local laws and other

Applicable Laws (e.g., CEQA, California Code of Regulations, etc.). The Approved Materials Recovery Facility must have all permits from Federal, State, regional and County agencies necessary for it to operate as a Material Recovery Facility and must be in full regulatory compliance with all such permits and Applicable Law.

5.20.3 The selected Approved Materials Recovery Facility must be authorized to accept, under its existing permit, and have sufficient uncommitted capacity to accept, all Recyclable Materials delivered to it by, or on behalf of, Franchisee for the Term. Franchisee shall immediately notify County of any notice of breach or default received from the Approved Materials Recovery Facility.

5.20.3.1 Franchisee's Approved Organic Materials Processing Facility shall be a Facility that Processes Single-Family, Multi-Family, and Commercial Source Separated Organic Materials to recover Organic Waste.

5.20.4 If Franchisee becomes unable to deliver County's Recyclable Materials to the Materials Recovery Facility due to causes within its control and which could have been avoided by the exercise of due care, Franchisee shall arrange for it to be accepted at another Materials Recovery Facility, in which case Franchisee shall pay for any increased Transportation costs, any differences in the fees charged at such Materials Recovery Facility and the fees then in effect under this Agreement. If Franchisee's inability to deliver County's Recyclable Materials to the Materials Recovery Facility is not due to causes within its control or which could have been avoided by the exercise of due care, then Franchisee shall propose alternative Material Recovery Facilities including all related costs and County shall have the right to approve the alternative to be used. The County shall adjust Franchisee's Board-approved rates to recognize the cost of using an alternative facility. Franchisee shall provide written notice to the County within forty-eight (48) hours of the use of an alternative Processing Facility.

5.20.5 Franchisee shall keep active all existing permits and approvals necessary for use of the Approved Processing Facility in compliance with regulatory requirements and Applicable Law."

ARTICLE 6.

OTHER SERVICES: BILLING, REPORTING, RECORD-KEEPING AND PUBLIC EDUCATION

6.9 Public Education

T. Article 6, Section 6.9 of the Agreement is hereby amended to read as follows:

6.9.1 "Franchisee acknowledges and agrees that education and public awareness are critical, key and essential elements of any efforts to achieve AB 939, AB 341, AB 1826, and SB 1383 requirements. Accordingly, Franchisee agrees to take direction from County to exploit opportunities to expand public and Customer knowledge concerning needs and methods to divert Solid Waste and Recyclables from Disposal

by reducing the amount of Solid Waste generated and/or accumulated by Recycling or other appropriate waste Diversion strategies and to cooperate fully with County in this regard. Franchisee acknowledges that it is part of a multi-party effort to operate and educate the public about the regional integrated waste management system. Franchisee shall cooperate and coordinate with the Director on public education activities to minimize duplicative, inconsistent, or inappropriately timed education campaigns. The Franchisee shall cooperate with and shall not impede, interfere, or attempt to impede or interfere with the implementation, expansion, or operation of public education and outreach programs or campaigns conducted by the County or its designee.

6.9.1.1 Franchisee shall obtain approval from the County, or its designee, on all Franchisee-provided public education materials outside of the County's education plan, including, but not limited to print, radio, television, or internet media before publication, distribution, and/or release. County shall have the right to request that Franchisee include County identification and contact information on public education materials and approval of such requests shall not be unreasonably withheld.

6.9.2 Franchisee shall maintain its own program of providing information relevant to billing and solid waste services, issues and needs with its bills. If requested by the County, Franchisee shall include an additional message promoting participation in recycling and Organic Materials programs as directed by the County. Franchisee shall bear all labor costs with respect to inserting public education materials with the billings. County shall bear any additional postage expense resulting from any County inserts and shall bear other expenses related to the inserts to the extent said expenses are clearly in excess of Franchisee's normal billing costs. All public education materials shall be approved in advance by County.

6.9.3 At the direction of County, Franchisee shall participate in and promote AB939, AB 341, AB 1826, and SB 1383 activities and other Solid Waste management techniques at community events and local activities. Such participation would normally include, without cost, developing an annual public education plan and providing educational and publicity information promoting the goals and programs of County's Solid Waste program."

6.11 Generator Waivers and Contract Exemptions

U. Article 6, Section 6.11 is hereby added to the Agreement as follows:

6.11.1 **"General.** The County may grant waivers described in this Section to Commercial or Multi-Family Generators that impact the scope of Franchisee's provision of service for those Customers; provided, the Generator shall continue to subscribe with Franchisee for franchised Collection services to the extent such services are not waived by the County. Waivers issued shall be subject to compliance with SB 1383 requirements, pursuant to 14 CCR Section 18984.11, or other requirements specified by the County.

6.11.2 **Generator Waivers.**

6.11.3 **De Minimis Waivers.** The County may waive a Multi-Family's, Commercial Business', or its Property Owner's obligation to comply with some or all of the Recyclable Materials and Organic Materials requirements set forth in this Agreement, SB 1383 Regulations, and Chapter 8.99 of the County Code if the Multi-Family, Commercial Business, or its Property Owner provides documentation or the County has evidence demonstrating one of the following de minimis conditions:

6.11.3.1.1 The Multi-Family's or Commercial Business' total Solid Waste Collection service is two (2) cubic yards or more per week, and Organic Materials subject to Collection comprises less than twenty (20) gallons per week, per applicable Container, of the Multi-Family's or Commercial Business' total waste; or,

6.11.3.1.2 The Multi-Family's or Commercial Business' total Solid Waste Collection service is less than two (2) cubic yards per week, and Organic Materials subject to Collection comprises less than ten (10) gallons per week, per applicable Container, of the Multi-Family's or Commercial Business' total waste.

6.11.4 **Space Constraint.** The County may waive a Multi-Family's, Commercial Business', or its Property Owner's obligation to comply with some or all of the Source Separated Recyclable Materials or Organic Materials Collection service requirements set forth in this Agreement, SB 1383 Regulations, and County Code Chapter 8.99 in the event that the Generator qualifies for a space constraint waiver under the County Code.

6.11.5 **Waiver Requests.** Generators may submit requests for de minimis waivers and physical space waivers to the Franchisee. If a Generator submits a request for a waiver to the Franchisee, the Franchisee shall refer the Generator to the County. Upon request of the County, the Franchisee shall support the County in the waiver review process by providing requested Customer information. If the County grants a waiver to a Generator, the County shall notify the Franchisee and Franchisee shall update the Customer's information and Service Level in accordance with Exhibit C.

6.11.6 **County Exemption for Low Population.** As of the Effective Date, certain census tracts of the County may qualify as Low-Population Areas. Some Collection service requirements may be waived for the Low-Population Areas, as described in this Section. Low-Population waivers granted by CalRecycle are only valid for a period of up to five (5) years; therefore, the qualifying areas are subject to change. If, during the Term of this Agreement, the County is granted a waiver that expands the Low-Population Areas, or if the County's waiver(s) are no longer valid, resulting in a reduction in the number of the Low-Population Areas, any resulting Collection service changes shall be addressed as a change in scope in accordance with Section 4.5."

6.12 Procurement of Recovered Organic Waste Products

V. Article 6, Section 6.12 is hereby added to the Agreement as follows:

6.12.1 **“Renewable Natural Gas (RNG) Vehicles.** Under this Agreement, the Franchisee shall use commercially reasonable efforts for all Collection vehicles to be powered by 1383 RNG generated by a local facility or powered by 1383 RNG that is purchased through a wheeling agreement with a party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been diverted from a Landfill and Processed at an in-vessel digestion Facility that is permitted or otherwise authorized by Title 14 of CCR to recover Organic Waste and meets the requirements of 14 CCR Section 18993.1(h). Upon County’s request, Franchisee shall obtain and provide the County with a written certification by an authorized representative of the publicly owned treatment works or the wheeling agreement Franchisee certifying that the in-vessel digestion Facility produces 1383 RNG consistent with the requirements of 14 CCR Section 18993.1(h). Franchisee shall maintain records of the amount of 1383 RNG purchased and shall report this information in accordance with Exhibit C. Franchisee shall agree to the County’s right to report this 1383 RNG usage toward the County’s fulfilment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1.”

6.12.2 **Power.** To the extent that electricity produced from the Approved Organic Materials Processing Facility qualifies for County’s procurement credit under SB 1383, County shall be allocated its proportional share of such qualified electricity usage based on the inbound tonnage delivered by County divided by the total inbound tonnage of the Approved Organic Materials Processing Facility for that same time period.

6.12.3 **Compost Give-Away Events.** Franchisee shall distribute an annual total of at least one thousand (1,000) cubic yards of Compost to County residents at no additional cost to the County or Customers at two (2) public events. Franchisee shall allocate any procurement credit on the basis of Tonnage Delivered to the County. The location, date, and time of such events shall be mutually agreed upon by Franchisee and the County and may be held in conjunction with other County-approved events Franchisee shall deliver the Compost to the agreed-upon event location at no cost to County. Franchisee shall provide at least one (1) attendant for at least six (6) hours per event.”

ARTICLE 7. PAYMENTS TO COUNTY

7.2 AB 939/SB 1383 Fee

W. Article 7, Section 7.2 of the Agreement is hereby retitled, and amended to read as follows:

- 7.2.1 "If requested by County, Franchisee shall pay an AB 939 and/or SB 1383 fee, to be specified annually by County. Said fee shall be reflected in the rates that Franchisee is allowed to charge and collect from Customers, as a pass through cost.

**ARTICLE 9.
RECORDS, REPORTS AND INFORMATION, STUDIES
AND HEARING REQUIREMENTS**

9.1 Records

- X. Article 9, Sections 9.1.1 and 9.1.3 of the Agreement are hereby amended to read as follows:

9.1.1 "Franchisee shall maintain records pursuant to Exhibit C, Section 2 and as is required to conduct its operations, to support requests it may make to the County, to respond to requests of the County, and to help the County fulfill its obligations under Applicable Laws including, but not limited to, AB 939, AB 341, AB 1826, AB 876, AB 901, SB 1383, and other current or future Federal, State or local regulations. Adequate record security shall be maintained to preserve records from events that can be reasonably anticipated such as a fire, theft and earthquake. Electronically maintained data and records shall be protected and an adequate backup system shall be provided for such data and records. The protection and backup systems shall be subject to approval by the County.

9.1.3 Franchisee shall maintain records of transfer, diversion and disposal of all Solid Waste collected in the County for the period of this Agreement and all extensions to this Agreement or successor Agreements. In the event Franchisee discontinues providing Solid Waste services to the County, Franchisee shall provide all records of Diversion and Disposal of all Solid Waste, Recyclable Materials, and Organic Materials collected within the county to the County within thirty (30) days of discontinuing service. Records shall be in chronological order and organized in a form readily and easily interpreted."

9.4 Report Formats and Schedule

- Y. Article 9, Section 9.4.1 of the Agreement is hereby amended to read as follows:

9.4.1 "Records shall be maintained in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. Franchisee shall submit all reports to County electronically via e-mail using software acceptable to the County and/or its designee. The County reserves the right to require the Franchisee to maintain records and submit the reports required herein through use of the County selected web-based software platform or Microsoft Excel spreadsheets. Reports are intended to compile recorded data into useful forms of information that can be used to, among other things:"

9.5 Monthly Reports

Z. Article 9, Section 9.5.14 is hereby added to the Agreement:

9.5.1.4 "All requirements specified in Exhibit C."

9.8 Additional Reports

AA. Article 9, Section 9.8 is hereby added to the Agreement:

9.8.1 **"SB 1383 Reporting.** At County or its designee’s discretion, the County or its designee may require that the Franchisee provide the County with the data the County needs for its SB 1383 reporting, to the extent available to Franchisee, within five (5) Business Days of the request."

**ARTICLE 12.
DEFAULT, REMEDIES AND LIQUIDATED DAMAGES**

12.4.6 Violations: Collection, Reliability and Quality

BB. Article 12, Sections 12.4.6.1 through 12.4.6.3 and 12.4.6.6 through 12.4.6.7 of the Agreement are hereby amended to read as follows:

12.4.6 "Violations: Collection Reliability and Quality

12.4.6.1 For each failure over two (2) annually to commence service to a new Customer account within seven (7) days after order: \$150.00

12.4.6.2 For each failure over five (5) annually to Collect Solid Waste, Recyclables or Organic Materials, which has been properly set out for Collection, from an established Customer account on the scheduled Collection Day and not Collected within 24 hours after notice of missed pick-up: \$150.00

12.4.6.3 For each failure to Collect Solid Waste, Recyclables or Organic Materials, which have been properly set out for Collection, from the same Customer on two (2) consecutive scheduled pickup days: \$150.00

12.4.6.6 For each failure to clean up Solid Waste, Recyclables or Organic Waste, spilled by Franchisee from Containers: \$150.00

12.4.6.7 For each occurrence over two (2) annually of Collecting Solid Waste, Recyclables or Organic Materials, during unauthorized hours: \$250.00"

12.4.8 Violations: SB 1383

CC. Article 12, Section 12.4.8 is hereby added to the Agreement as follows:

12.4.8 "Violations: SB 1383

12.4.8.1 **Use of Unauthorized Facilities.** For each individual occurrence of delivering Discarded Materials to a Facility other than an Approved Facility(ies), described in Article 1, for each Discarded Material type under this Agreement: \$100/Ton/occurrence.

12.4.8.2 **Failure to Implement Three-Container System.** For each occurrence of failing to provide Customers with the three-Container system required by and compliant with Section 5.3, but excluding Generators and Customers granted waivers pursuant to Section 6.11 of this Agreement, areas described in Section 4.1.2, and Generators and Customers that demonstrate compliance with Recycling and Organic Waste Self-Hauling requirements pursuant to County Code Section 8.99.100 and 14 CCR Division 7, Article 12, Article: \$200/Generator or Customer/occurrence.

12.4.8.3 **Failure to Comply with Container Labeling and Colors.** For each occurrence of Franchisee's failure to comply with Container labeling and color requirements pursuant to Section 5.14 of this Agreement: \$200/Container/occurrence.

12.4.8.4 **Failure to Perform Public Education and Outreach.** For each failure to perform any individual education and outreach activity as required and, in the timeframe, specified by this Agreement: \$300/occurrence.

12.4.8.5 **Failure to Issue Contamination Notices.** For each failure of Franchisee Collection personnel to issue contamination notices and maintain documentation of issuance as required by Section 4.9 of this Agreement: \$150/Franchisee Route/day."

**ARTICLE 14.
ASSIGNMENT**

14.7 Subcontracting

DD. Article 14, Section 14.7 of the Agreement is hereby amended to read as follows:

14.7.1 "Except as approved in writing by County, Franchisee shall not enter into an agreement to have another Person perform Franchisee's duties of this Agreement. Franchisee must obtain written agreements with Processing Subcontractors to guarantee capacity to Process Discarded Materials. Franchisee shall undertake to pay County its reasonable expenses for attorney's fees and investigation costs necessary to investigate the suitability of any proposed Subcontractor, and to review and finalize any documentation required as a condition for approving any such Subcontracting agreement."

Exhibit C Recordkeeping and Reporting

- EE. Exhibit C, Recordkeeping and Reporting, attached to this Amendment #5, is hereby added to the Agreement.

3. Ratification.

All terms and provisions of the Franchise Agreement not amended hereby, either expressly or by necessary implication, shall remain in full force and effect. From and after the date of this Amendment #5, all references to the terms "Franchise Agreement" and "Agreement" in the Agreement shall include the terms contained in this Amendment #5.

4. Counterparts.

This Amendment #5 may be executed in one or more original counterparts, each of which shall be deemed an original and which together shall constitute one and the same instrument.

5. Conflicting Provisions.

In the event of any conflict between the original terms of the Agreement or any prior amendment to the Agreement and this Amendment #5, the terms of this Amendment #5 shall prevail.


6. Authorization.

Each Party executing this Amendment #5 represents and warrants that it is duly authorized to cause this Amendment #5 to be executed and delivered.

The remainder of this page intentionally left blank.


IN WITNESS WHEREOF, the parties have executed this Amendment #5 as of the latter of the dates set forth below.

FRANCHISEE
Mission County Disposal

By: 
Name: Adam Gooderham
Title: Division V.P.

Date: 10-19-22

COUNTY OF SAN LUIS OBISPO

By: 
Chairperson of the Board of Supervisors

Dated: 12/13/22

ATTEST:
WADE HORTON
Ex-Officio Clerk of the Board of Supervisors

By: 
Deputy Clerk

Dated: 12/13/22

APPROVED AS TO FORM AND
LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: 
Deputy County Counsel

Dated: October 12, 2022

The undersigned Deputy Clerk of the Board of Supervisors certifies that, pursuant to Section 25103 of the Government Code, delivery of this document has been made on December 22, 2022

WADE HORTON
County Clerk of the Board and Ex-Officio Clerk of the Board of Supervisors

By: 
Deputy Clerk

Exhibit C Recordkeeping and Reporting

C.1 General

Franchisee shall maintain such accounting, statistical, and other records related to its performance under this Agreement as shall be necessary to develop the reports required by this Agreement or County Code. Franchisee agrees to conduct data collection, information and record keeping, and reporting activities needed to comply with Applicable Laws and regulations and to meet the reporting and Discarded Materials Collection, Processing, and Disposal program management needs of the County. At the written direction or approval of County, the records and reports to be maintained and provided by Franchisee in accordance with this Exhibit and other Articles of the Agreement may be adjusted in number, format, and frequency, if required to comply with State or Federal regulatory or reporting requirements.

Information from Franchisee's records and reports can be used to, among other things:

1. Determine and set Rates and evaluate the financial efficacy of operations; and
2. Evaluate past and expected progress toward achieving the Franchisee's Landfill Disposal reduction or Diversion goals and objectives; and
3. Provide concise and comprehensive program information and metrics for use in fulfilling reporting requirements under Applicable Law; and
4. Determine needs for adjustment to programs; and
5. Evaluate Customer service and Complaints; and
6. Determine Customer compliance with AB 341, AB 1826, and SB 1383 statutes and corresponding regulations; and any subsequent State-mandated landfill Disposal reduction, Recycling, recovery, or Diversion statutes, regulations, or other requirements.

C.2 Record Keeping

- A. **General.** Franchisee shall maintain Customer contact data, Customer service, accounting, statistical, operational, and other records related to its performance as shall be necessary to provide reporting required by this Agreement and Applicable Law and to demonstrate compliance with this Agreement and Applicable Law (such as, but not limited to, AB 939, AB 341, AB 1826, AB 876, AB 901, and SB 1383 statutes and corresponding regulations).

Franchisee shall maintain adequate records, and corresponding documentation, of information required by this Exhibit, such that the Franchisee is able to produce accurate monthly, quarterly, and annual reports, and is able to provide records to verify such reports. Franchisee will make these records available and provide to the County any record or documentation necessary for the County to fulfill obligations under Applicable Law including, but not limited to, AB 939, AB 341, AB 1826, AB 876, AB 901, and SB 1383 statutes and corresponding regulations;

and other current or future Federal, State, or local statutes and regulations, as amended. Upon request by the County, Franchisee shall provide access to Franchisee's requested records in a timely manner, not to exceed ten (10) Business Days from the time of County's request to Franchisee.

- B. Record Retention and Security.** Records shall be maintained in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed, pursuant to this Exhibit. Franchisee's records shall be stored in one central location, physical or electronic, that can be readily accessed by Franchisee. County reserves the right to require the Franchisee to maintain the records required herein through the use of a County selected web-based software platform, at Franchisee's expense. Unless otherwise required in this Exhibit, Franchisee shall retain all records and data required to be maintained by this Agreement for the Term of this Agreement plus five (5) years after its expiration or earlier termination.

Records and data shall be in chronological and organized form and readily and easily interpreted. Franchisee shall maintain adequate record security to preserve records from events that can be reasonably anticipated such as a fire, theft, and an earthquake. Electronically maintained data and records shall be protected and backed-up. To the extent that Franchisee utilizes its computer systems to comply with record keeping and reporting requirements under this Agreement, Franchisee shall, on a monthly basis, save all system-generated reports supporting those record keeping and reporting requirements in a static format in order to provide an audit trail for all data required.

- C. Compilation of Information for State Law Purposes.** Franchisee shall maintain accurate records for its operation, including, but not limited to, Discarded Materials quantities Collected and quantities Transported to or Transferred to each Approved Facility, listed separately by material type, Customer type, and Facility. Records shall be maintained in such form by methods that facilitate the use of data for the production of reports as needed. Franchisee will make these records available and provide to the County and its designee, any record or documentation necessary for the County to fulfill obligations under Applicable Law including, but not limited to, AB 939, AB 341, AB 1826, AB 876, AB 901, AB 1595, and SB 1383 statutes and corresponding regulations; and other current or future local, Federal or State statutes and regulations, as amended.

C.3 Reporting

C.3.1 General

- A. General Purpose.** Reports are intended to compile recorded data into useful forms of information that can be used by the County. All reports shall be adequate to meet County's current and future reporting requirements to CalRecycle, including AB 939, AB 341, AB 1826, and SB 1383 statutes and corresponding regulations, or any other State or Federal agency statutes and regulations throughout the Term of this Agreement.

- B. **Failure to Report.** Failure of Franchisee to comply with the reporting requirements as set forth in this Section may result in an assessment of Liquidated Damages in accordance with the Liquidated Damages provision in Section 12.4 of this Agreement. Franchisee's repeated failure to submit reports, and/or failure to submit reports on time, may be deemed an event of default and may result in the termination of the Agreement at the discretion of the Director, in accordance with Article 12 of this Agreement.
- C. **Submittal Process.** All reports shall be submitted to the County or as directed by the Director. Reports shall be submitted electronically via e-mail or uploaded to a document sharing platform agreed upon by the Parties. County reserves the right to require the Franchisee to maintain records and submit the reports required herein through use of a County selected web-based software platform, at the Franchisee's expense.

C.3.2 Monthly Reports

Monthly reports shall be submitted by Franchisee to County, with a copy to the designee and shall include the following information pertaining to the most recently completed calendar month. In addition, each monthly report shall include a year-to-date summary page that includes the data submitted from the monthly report(s) submitted in the calendar year prior to the submittal of the current monthly report. Franchisee shall report the information included in the following subsections.

A. Tonnage Report

1. Franchisee shall report the total quantities in Tons of Discarded Materials Collected, Transferred, Processed, and Disposed by the Franchisee, all of which shall be based on actual certified scale weights for each load, if available, or similarly accurate methodology pursuant to weighing protocol. Tonnage shall be reported separately by:
 - a. Material type, which shall include, at a minimum, separate reporting of Source Separated Recyclable Materials, Source Separated Organic Materials, Solid Waste, and any other type of Discarded Material separately Collected by Franchisee (including, but not limited to: Bulky Items, used oil, dirt, rock, metals, Cardboard, wood waste, Salvageable Materials, etc.); and
 - b. Customer/sector type (Single-Family, Multi-family, Commercial); and
 - c. Approved Facility and Facility type.
2. Documentation of all Discarded Materials exported out of State, as provided in 14 CCR Sections 18800 through 18813.

B. Collection and Subscription Report

1. Number of Containers at each Service Level by Customer Type and program, including:
 - a. A summary of the total gallons of Cart service, cubic yards of Bin service, and pulls; and cubic yards or Tons of Drop Box and Compactor service by Customer Type.
 - b. Calculation of the average volume of service received per: Single-Family Dwelling Unit (separately identifying Dwelling Units in a duplex, triplex, or fourplex); Multi-Family Dwelling Unit; and Commercial Customer.
2. A summary of Customer subscription data, including the number of accounts; the number of Customers subscribing to each Cart and Bin Service Level listed separately for Single-Family, Multi-Family, and Commercial and separately for each type of Discarded Material; and the number of Bulky Items Collections performed.

C. Contamination Monitoring Report

The Franchisee shall submit the following information regarding contamination monitoring Prohibited Container Contaminant Notices conducted pursuant to Section 4.9 of this Agreement:

1. Description of the Franchisee's Process for determining the level of contamination.
2. Summary report of non-Collection notices which shall include the date of issuance, Customer name, and service address.
3. A record of each inspection and contamination incident, which shall include, at a minimum:
 - a. Name of the Customer
 - b. Address of the Customer
 - c. The date the contaminated Container was observed
 - d. The staff who conducted the inspection
 - e. The total number of violations found, and a description of what action was taken for each
 - f. Copies of all notices issued to Generators with Prohibited Container Contaminants
 - g. Any photographic documentation or supporting evidence.
4. Documentation of the total number of Containers Disposed of due to observation of Prohibited Container Contaminants.

5. Any other information reasonably requested by the County or its designee or specified in contamination monitoring provisions of this Agreement.

D. Customer Service Report

1. Number of Customer calls listed separately by Complaints and inquiries (where inquiries include requests for service information, Rate information, etc.). For Complaints, list the number of calls separately by category (e.g., missed pickups, scheduled cleanups, billing concerns, damage claims). These Complaints and inquiries shall be documented and reported separately from SB 1383 Regulatory non-compliance Complaints or other regulatory non-compliance Complaints.
2. Number of missed or incomplete Collections reported in total, and per one thousand (1,000) Service Opportunities in the County, presented in a graph format, which compares total missed Collections in the County during the current report period to total missed Collections in the County in past reporting periods.
3. Number of new service requests for each Customer type and requested service(s).

E. Education Program Report

The monthly status of activities identified in the annual public education plan described in Section 6.9 of this Agreement.

C.3.3 Annual Reports

In addition to the monthly reporting requirements in this Exhibit and Section 9.5, the Franchisee shall provide an Annual Report, covering the most recently completed calendar year, in accordance with the format and submittal requirements of this Exhibit. The Annual Report shall include the information in the following subsections.

A. Collection and Subscription Report

1. A summary of all data provided in the Tonnage report section, including quarterly and annual totals and averages.
2. The type(s) of Collection service(s) provided, a list of all hauler routes serviced, and a record of the addresses served on each hauler route.
3. A summary of Customer subscription data, including the number of accounts; the total number of Generators enrolled with Franchisee for service, listed separately by Service Level and Container type (Cart and Bin service), separately by Single-Family, Multi-Family, and Commercial Customers, and separately for each type of Discarded Material.

4. A detailed list of Single-Family, Multi-Family, and Commercial Customer information, including Solid Waste Container Waste, Recyclable Materials, and Organic Materials Service Levels, Customer type, and Customer service addresses reflecting Customer Service Levels as of December 1 (for the year in which the report is submitted).

B. Processing Facility Report

1. Temporary Equipment or Operations Failure: If the Franchisee is granted a Processing facility temporary equipment or operational failure waiver, in accordance with Section 5.17 or 5.20 of the Agreement, the Franchisee shall include the following documents and information:
 - a. The number of days the Processing Facility temporary equipment waiver or operation failure waiver was in effect; and
 - b. Copies of any notifications sent to the County pursuant to Section 5.20 of the Agreement, and copies of County notices to Franchisee pursuant to Section 5.20 of the Agreement; and
 - c. Documentation setting forth the date of issuance of the waiver, the timeframe for the waiver; and
 - d. A record of the Tons of Organic Materials, Recyclable Materials, and Solid Waste redirected to an Alternative Facility or Disposed at an Approved Disposal Facility as a result of the waiver, recorded by Collection vehicle or Transfer vehicle number/load, date, and weight.
2. Quarantined Organic Waste: A record of all compliance agreements for quarantined Organic Waste that are Disposed of, including the name of Generator, date issued, location of final disposition, and the amount of quarantined Organic Waste that was required to be Disposed at a Landfill.

C. Compliance Monitoring and Enforcement Report

1. A summary of the total number of SB 1383 Regulatory non-compliance Complaints that were received and investigated, and the number of Notices of Violation issued based on investigation of those Complaints.
2. The number of Commercial Businesses that were included in a compliance review performed by the Franchisee, and the number of violations found and corrected through compliance reviews, including a list with each Generator's name or account name, address, and Generator type.
3. The total number of Prohibited Container Contaminant notices, categorized by type of Generator.
4. The number of violations that were resolved, categorized by type of Generator.

5. Copies of all Prohibited Container Contaminant notices, educational materials issued to non-compliant Generators.

D. Vehicle and Equipment Inventory

1. A list of all vehicles used in performing services under this Agreement including the license plate number, VIN, make, model, model year, purchase date, engine overhaul/rebuild date (if applicable), and mileage on December 31.
2. If applicable, the name, physical location, and contact information of each entity, operation, or facility from whom the 1383 RNG was procured.
3. If applicable, the total amount of 1383 RNG procured by the Franchisee for use in Franchisee vehicles, in diesel gallon equivalents (DGE), including copies of any receipts, invoices, or other similar documentation evidencing procurement. In addition to the amount procured, Franchisee shall include the total amount actually used in Franchisee vehicles in the calendar year, if these values are different.

E. Public Education and Outreach Report

1. A copy of all education and outreach materials provided to Generators, or otherwise used for education and outreach efforts in accordance with this Agreement, including, but not limited to flyers, brochures, newsletters, invoice messaging/billing inserts, and website and social media postings.
2. A record of the date and to whom the information was disseminated, or direct contact made, in the form of a list that includes: the Generator's name or account name, the type of education or outreach received; the distribution date, and the method of distribution.
3. For any mass distribution through mailings or bill inserts, the Franchisee shall maintain a record of the date, a copy of the information distributed, and the type and number of accounts that received the information.
4. A copy of electronic media, including the dates posted of social media posts, e-mail communications, or other electronic messages.
5. A summary of the status of the annual public education plan of the reporting year, including activities conducted and the quantitative and/or qualitative results of those activities.
6. The annual public education plan required by Section 6.9 of the Agreement for the upcoming then-current calendar year. For example, Franchisee submittal of a 2021 annual report in February 2022 shall include Franchisee submittal of the annual public education plan for calendar year 2022.
7. A copy of all special event reports submitted to the County or its designee, in accordance with Section 5.19 of the Agreement.

C.3.4 Additional Reports

- A. **Upon Request Reporting.** County reserves the right to request additional reports or documents in the case of unforeseen events or additional requirements imposed upon the County due to new or revised regulations by the State. The Franchisee shall promptly provide the requested reports, documents, or information.

- B. **SB 1383 Reporting.** At County or its designee's discretion, the County or its designee may require that the Franchisee provide the County with the data the County needs for its SB 1383 reporting, to the extent available to Franchisee, within five (5) Business Days of the request.

- C. **Facility Capacity Planning Information.** To the extent such information is available to Franchisee, County or its designee may require Franchisee to provide County or designee with information of available Organic Waste Processing capacity for any Approved Processing Facilities, where available capacity may include identification of monthly Tons of additional Organic Waste such Approved Facilities have the ability to receive within permitted limits. Franchisee shall respond to County or designee within sixty (60) days of County's or its designee's request for information regarding available new or expanded capacity, to the extent such information is available to Franchisee, and, at County or its designee's discretion, may be required to submit reports on a more regular basis (such as monthly, quarterly, or annually). If Franchisee uses a Subcontractor to perform some or all of the Facility-related services required by this Agreement, Franchisee shall use commercially reasonable efforts to secure any County-requested Facility capacity planning information from its Subcontractor(s).

The annual Facility capacity planning report shall comply with the following:

1. Include reports of current throughput and permitted capacity and available capacity for Organic Materials Processing for any Facility in the County that Processes Organic Materials. Existing capacity may include identification of monthly Tons of additional Source Separated Recyclable Materials, Source Separated Organic Materials, and/or Solid Waste capacity such Facility has the ability to receive within permitted limits.

2. Include description of potential new or expanded Processing capacity at those Facilities, operations, and activities for Processing of Organic Materials, including information about throughput and permitted capacity necessary for planning purposes.

3. Be submitted using a form or format approved by the Director.

