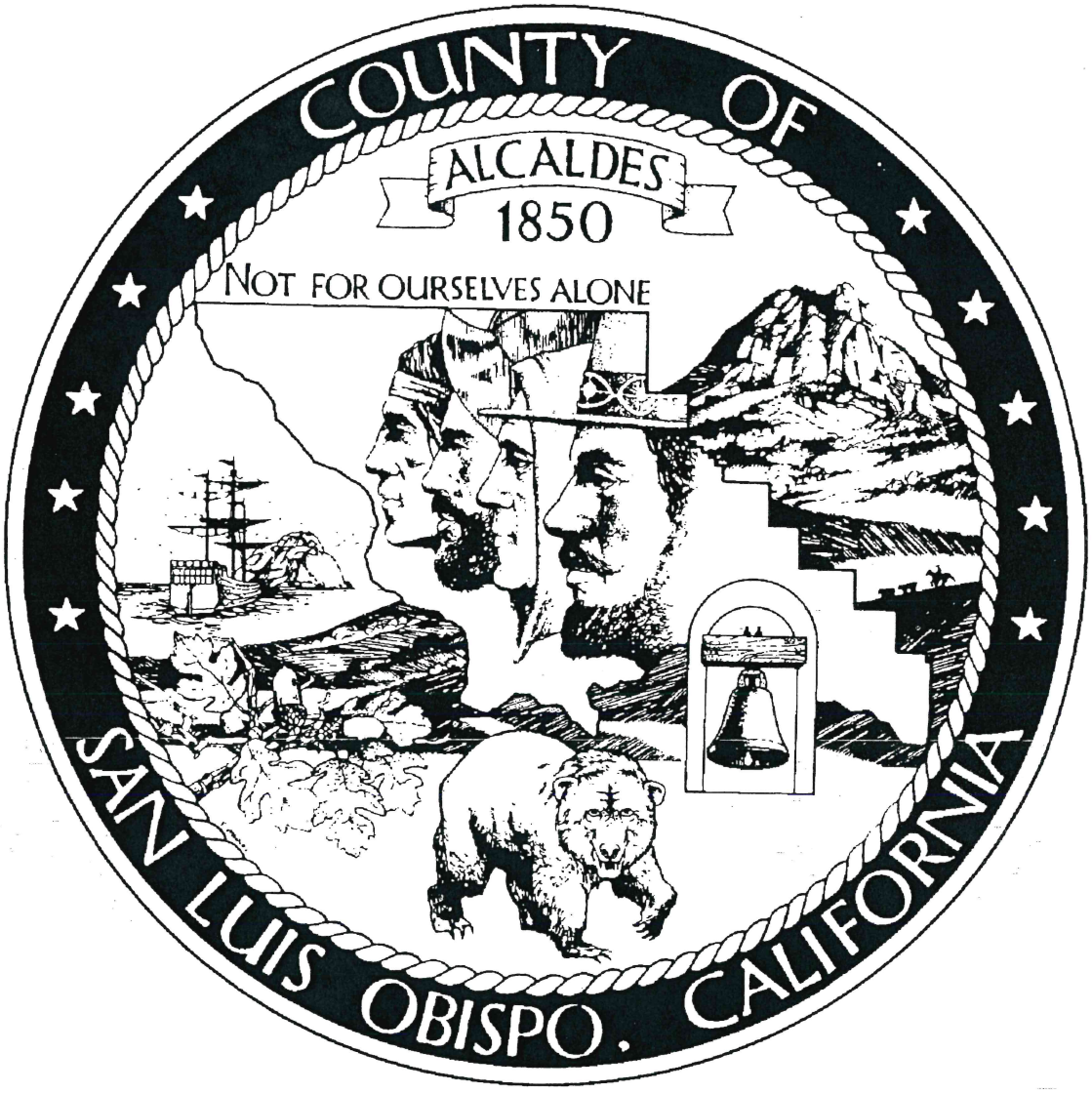
SOLID WASTE COLLECTION FRANCHISE AGREEMENT



SAN LUIS GARBAGE COMPANY, INC.
AND
COUNTY OF SAN LUIS OBISPO

DECEMBER 2008

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AMENDED AND RESTATED SOLID WASTE COLLECTION FRANCHISE AGREEMENT

This Amended and Restated Solid Waste Collection Franchise Agreement (this "Agreement") is entered into on the 9th day of December, 2008 by and between the County of San Luis Obispo a political subdivision of the State of California ("County") and San Luis Garbage Company, Inc. a California corporation ("Franchisee") for Franchisee to provide solid waste, recycling and greenwaste services within the unincorporated County.

RECITALS

WHEREAS County and Franchisee are parties to that certain Solid Waste Franchise Agreement (the "Prior Solid Waste Agreement") dated June 19, 1998, which was approved by County; and

WHEREAS County and Franchisee now desire to further amend and restate, in its entirety, the Prior Solid Waste Agreement, as set forth herein; and

WHEREAS the Integrated Waste Management Act of 1989 (AB 939) Division 30 of the California Public Resources Code, commencing with Public Resources Code Section §40000, imposes mandates on local government for the reduction of the waste stream; and

WHEREAS the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (AB 939) Division 30 of the California Public Resources Code, commencing with Public Resources Code Section §40000, has declared that it is within the public interest to authorize and require local agencies to make adequate provisions for Recyclable Materials handling and services within their jurisdictions; and

WHEREAS County has determined that an Agreement granted to a private company for the Collection, processing and marketing of commercial and residential Recyclable Materials is the most effective and efficient way to collect and divert commercial and residential Recyclable Materials within County; and

WHEREAS County declares its intention of maintaining reasonable rates and high quality service for Solid Waste Collection Service and the Collection, processing, and marketing of Recyclable Materials; and

WHEREAS, Public Resources Code Section 40059(a)(2) authorizes County to determine the terms of franchises within certain statutory limits for the collection and disposal of solid waste; and

WHEREAS, County enacted the San Luis Obispo County Code, Chapter 8.12, "Solid Waste Management" which codifies and implements County's ordinances with respect to solid waste management; and

WHEREAS, San Luis Obispo County Code, Chapter 8.12.700 implements and details the requirements for County franchise contracts for the collection of solid waste and recyclables; and

WHEREAS, it is in the interest of public health, safety and well being for County to enter into this Agreement to collect and dispose of all solid waste generated and/or accumulated within Franchise Areas, provided however, that County does not intend, by virtue of this Agreement, to grant an exclusive franchise with regard to roll off box collections or the collection of liquid waste, hazardous waste, medical waste, recyclables, and other materials intended for separate collection and/or diversion from disposal; and

WHEREAS Waste Connections, Inc., a California corporation, the parent company of Franchisee, is investing several million dollars to expand the Cold Canyon Landfill and Materials Recovery Facility to provide the additional capacity necessary to serve San Luis Obispo County in the Collection and processing of solid waste and recyclables for the term of this Agreement; and

WHEREAS by this Agreement, the parties wish to set forth the terms and conditions of Franchisee's contractual obligations for the provision of solid waste Collection and disposal.

NOW, THEREFORE, for and in consideration of the mutual promises herein contained, the adequacy of which is hereby acknowledged, it is hereby agreed by and between County and Franchisee as follows:

ARTICLE 1
DEFINITIONS

For purposes of this Agreement, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this Section. In addition to the terms defined in Chapter 8.12 of the County Code, which definitions are incorporated into this Agreement, the following terms are defined as follows:

1.1 "AB 939" means the California Integrated Waste Management Act of 1989, codified at California Public Resources Code Section 40000 et seq., as it may be amended from time to time.

1.2 "Affiliate" means all businesses (including corporations, limited and general partnerships and sole proprietorships) which are directly or indirectly related to Franchisee by virtue of direct or indirect common ownership interest or common management shall be deemed to be "Affiliated with" Franchisee and included within the term "Affiliates with" Franchisee and included within the "Affiliates" as used herein. An Affiliate shall include a business in which Franchisee owns a direct or

indirect ownership interest, a business which has a direct or indirect ownership interest in Franchisee and/or a business which is also owned, controlled or managed by any business or individual which has a direct or indirect ownership interest in Franchisee. For the purposed of determining whether an indirect ownership exists, the constructive ownership provisions of Section 318(a) of the Internal Revenue Code of 1986, as in effect on the date of this Agreement, shall apply; provided, however, that (i) "ten percent (10%)" shall be substituted for "fifty percent (50%)" in Section 318(a)(2)(C) and in Section 318(a)(3)(C) thereof; and (ii) Section 318(a)(5)(C) shall be disregarded. For purposes of determining ownership under this paragraph and constructive or indirect ownership under Section 318(a), ownership interest of less than ten percent (10%) shall be determined on the basis of the percentage of voting interest or value which the ownership interest represents, whichever is greater.

1.3 "Agreement" means this residential and commercial Amended and Restated Solid Waste Collection Franchise Agreement (including all exhibits and attachments, and any amendments thereto) between County and Franchisee.

1.4 "Arranger" means any person who, by contract, agreement, or otherwise, arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person, by any other party or entity, at any facility or incineration vessel owned or operated by another party or entity and containing such hazardous substances.

1.5 "Auditor-Controller" means the individual elected to serve as the San Luis Obispo County Auditor-Controller or that Auditor-Controller's designee.

1.6 "Billings" means any and all statements of charges for services rendered by Franchisee pursuant to this Agreement.

1.7 "Board" means the San Luis Obispo County Board of Supervisors.

1.8 "California Integrated Waste Management Act of 1989" means Public Resources Code, §40000 et. seq.

1.9 "CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C " 9601 et seq.

1.10 "Collect" or "Collection" means to take physical possession, transport, and remove Solid Waste and Recyclable Materials within and from the county.

1.11 "Commercially Generated Recyclable Materials" means Recyclable Materials generated at commercial, governmental and/or industrial property and separated by the generator for Collection.

1.12 "Container" means any waste wheeler, can or bin used for Collection and storing of Solid Waste or Recyclable Materials before removal.

1.13 "Franchisee" means Mission Country Disposal, Inc., a California corporation, and its officers, directors, employees, agents, companies and subcontractors where applicable.

1.14 "Director" means the San Luis Obispo County Director of Public Works and Transportation or Director's designee.

1.15 "Environmental Laws" means all federal and state statutes, and county ordinances and regulations concerning public health, safety and the environment including, by way of example and not limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC 9601 et seq.; the Resource Conservation and Recovery Act, 42 USC 6901 et seq.; the Federal Clean Water Act, 33 USC 1251 et seq.; the Toxic Substances Control Act, 15 USC 2601 et seq.; the Occupational Safety and Health Act, 29 USC 651 et seq.; the California Hazardous Waste Control Law, California Health and Safety Code §25100 et seq.; the California Hazardous Substances Account Act, California Health and Safety Code §25300 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; currently in force and as hereinafter amended, and all rules and regulations promulgated there under.

1.16 "Facility" means any plant or site, owned or leased and maintained and/or operated or used by Franchisee for the purposes of performing the duties to fulfill this Agreement.

1.17 "Fiscal Year" means the period commencing July 1 and concluding June 30.

1.18 "Flow Control" means County has explicitly, in writing, directed Franchisee to dispose of waste or recyclables at a specific solid waste facility.

1.19 "Franchise Area" means the area in which Franchisee has been granted the privilege of providing solid waste collection services.

1.20 "Gross Revenues" means those revenues earned, as recognized by Generally Accepted Accounting Principles (GAAP), by Franchisee, or the value of any other economic benefit derived by Franchisee, pursuant to the rates established in accordance with this Agreement. Any rate subject to the requirements of this Agreement, which did not receive approval of the Board of Supervisors, but which Franchisee nevertheless charged, shall also be deemed to be included in gross revenues.

1.21 "Gross Receipts" means those revenues received, on the cash basis of accounting, by Franchisee, or the value of any other economic benefit derived by Franchisee, pursuant to rates approved by the San Luis Obispo County Board of

Supervisors in accordance with this Agreement. Any rates subject to the requirements of this Agreement, which did not receive approval of the Board of Supervisors, but which Franchisee nevertheless collected, shall also be deemed to be included in gross receipts.

1.22 "Gross Revenues Collected" means any and all revenue or compensation actually collected by Franchisee from customers under this Agreement for the exclusive collection, transportation, processing, recycling and disposal of Solid Waste, Recyclables, and Green Waste within the county, in accordance with Generally Accepted Accounting Principals (GAAP), net of Franchise Fees, Integrated Waste Management Authority (IWMA) fees and AB 939 fees. The term Gross Revenues Collected, for purposes of this Agreement, shall not include any: a) County, or other federal, state, or local taxes or surcharges; or b) any revenues generated from the sale of Recyclables or any recycling rebates received from the State.

1.23 "Hazardous Waste" means any discarded material or mixture of materials, which is toxic, corrosive, flammable, radioactive or which, because of its quantity, concentration, physical, chemical or infectious characteristics may do harm to either humans, animals or the environment, or as defined in Section 2, Chapter 6.5 §25117 of the Health and Safety Code and Public Resources Code §40141.

1.24 "In Yard" means residential collection service in which solid waste containers are located on a customer's property in excess of ten feet from a normal collection vehicle route.

1.25 "IWMA" means the San Luis Obispo County Integrated Waste Management Authority, the local joint powers authority for solid waste program implementation.

1.26 "Materials Recovery Facility" means a permitted Facility where Solid Waste or Recyclable Materials are sorted, processed, transferred or separated for the purposes of Recycling or reuse.

1.27 "Multifamily Dwelling Unit" means any Premises, other than a Single Family Dwelling Unit, used for residential purposes, irrespective of whether the resident therein is transient, temporary or permanent.

1.28 "Owner" means the person(s) holding legal title to the real property constituting the Premises to which solid waste collection service is to be provided under this Agreement.

1.29 "Person" means any individual, firm, association, organization, partnership, corporation, business trust, joint venture, the United States, the State of California, the County of San Luis Obispo, local agencies, cities and special purpose districts.

1.30 "Premises" means any land or building in the county where Solid Waste is generated or accumulated.

1.31 "Recyclable Materials" means by-products or discards set aside, handled, packaged or offered for Collection from residential, commercial, governmental or industrial customers in a manner different from Solid Waste, 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), yard or green waste 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. Greenwaste material is included in this definition, but is collected separately from other Recyclable Materials, and includes grass clippings, leaves, weeds, brush, wood, Christmas trees, branches and other organic matter.

1.32 "Recycling" means the process of separating, Collecting, treating and/or reconstituting Recyclable Materials which would otherwise be discarded without receiving compensation or returning them to the economy in the form of raw materials for new, reused, or reconstituted products. The Collection, transfer, transportation or disposal of Recyclable Materials not intended for, or capable of, reuse is not Recycling.

1.33 "Related Party Entity" means any Affiliate that has financial transactions with Franchisee.

1.34 "Residential Recyclable Materials" means Recyclable Materials generated at Single Family Dwelling Units and separated by the generator for Collection.

1.35 "Set out" means the number of customers that put out materials for collection during the specific period of time being analyzed.

1.36 "Single Family Dwelling Unit" means each Premises used for or designated as a single family residential dwelling, including each unit of a duplex or triplex in all cases in which there is separate or individual Solid Waste Collection services.

1.37 "Solid Waste" means all putrescible and nonputrescible solid, semisolid and liquid waste such as garbage, rubbish, paper, ashes, industrial waste, demolition and construction waste, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid waste, including liquid waste disposed of in conjunction with solid waste at a solid waste transfer/processing station or disposal site but excluding materials or substances having commercial value which have been salvaged for reuse, recycling, composting, or resale.

1.38 "Term" means the term of this Agreement, as provided for in Article 3 (Term of Agreement).

1.39 "Transfer Station" includes those facilities used to receive solid wastes, temporarily store, separate, convert, or otherwise process the materials in the solid wastes, or to transfer the solid wastes directly from smaller to larger vehicles for transport.

ARTICLE 2
REPRESENTATIONS AND WARRANTIES OF FRANCHISEE

2.1 Franchisee Status

2.1.1 Franchisee shall be an independent Franchisee and not an agent or employee of County.

2.2 Franchisee Authorization

2.2.1 Franchisee has the authority to enter into and perform its obligations under this Agreement. The Board of Directors of Franchisee (or the shareholders, if necessary) have taken all actions required by law, its articles of incorporation, its bylaws or otherwise to authorize the execution of this Agreement. The persons signing this Agreement on behalf of Franchisee have the authority to do so.

2.3 Compliance With Laws and Regulations

2.3.1 Franchisee shall perform all duties required under this Agreement in accordance with all applicable current and future Federal, State, and local laws and regulations, including all environmental laws, at rates established by County pursuant to the procedures set forth herein. For purposes of this Agreement, said laws, rules, and regulations shall include but not be limited to any policy, resolution, or ordinance adopted by a duly constituted governing body of a public agency, including joint powers authorities and districts.

2.4 Grant and Acceptance of Agreement

2.4.1 Subject to Article 3.5 (Conditions of the Effectiveness of Agreement) and pursuant to San Luis Obispo County Code, Chapter 18.12.700, County hereby grants to Franchisee a right, privilege, and exclusive franchise to collect and dispose all solid waste in those places in the unincorporated area of the county as hereinafter specified as the "Franchise Area." Franchisee hereby acknowledges and agrees that this Agreement is exclusive with respect to solid waste as defined by County Code Chapter 8.12 and is not intended to establish an exclusive franchise with regard to roll off box collections or the collection of liquid waste, hazardous waste, medical waste, recyclables, and other materials intended for separate collection and/or diversion from disposal . However, if Franchisee collects recyclables within the Franchise Area, that activity shall comply with terms and conditions as specified in this Agreement.

2.4.2 Franchisee hereby accepts the Agreement on the terms and conditions set forth in this Agreement.

2.5 Serve Without Interruption

2.5.1 Franchisee shall perform all duties throughout the term of this Agreement without interruption.

2.6 Permits, Licenses and Notices

2.6.1 Franchisee shall procure, and keep in full force and effect, all permits and licenses, including a current and valid Solid Waste Collection and Transportation Permit(s) pursuant to County Code, pay all charges and fees, and give all notices as necessary.

2.6.2 If Franchisee fails to continuously maintain any one of these current and valid permits pursuant to said County Code, such failure shall constitute a breach of this Agreement. In that event, this Agreement shall immediately be subject to termination or limitation of Franchisee's right to perform services, at County's discretion, upon written notice by County, without the necessity of suit or other proceeding pursuant to procedures set forth herein. The termination remedy provided herein shall not be available in the event that Franchisee has made a timely and complete application for the requisite permit or permits and there is a delay in issuance which is attributable solely to County.

2.7 Preservation of County Property

2.7.1 Franchisee shall pay to County, on demand, the cost of all repairs to public property made necessary by any of the operations of Franchisee under this Agreement directly caused by Franchisee.

2.8 Enforcement of Exclusivity of Franchise

2.8.1 The County may, in its sole discretion, enforce the exclusivity provisions of this Agreement against third-party violators, taking into account the cost of doing so and other factors. Franchisee may independently enforce the exclusivity provisions of this Agreement against third-party violators, including but not limited to seeking injunctive relief and/or damages, and County shall use good-faith efforts to cooperate in such enforcement actions brought by Franchisee.

2.8.2 This Agreement grants certain specific exclusive rights to Franchisee. This Agreement also allows Franchisee to engage in certain nonexclusive activities.)

2.9 California Emergency Services

2.9.1 Franchisee acknowledges and agrees that pursuant to the California Emergency Services Act (Government Code 8550 et seq.) County may use County staff or otherwise contract for emergency services as needed to perform services within the exclusive franchise rights.

2.9.2 Franchisee agrees to assist County in an emergency situation by complying with any emergency operational or funding requirements set by any State or Federal agency.

ARTICLE 3
TERM OF AGREEMENT

3.1 Effective Date

3.1.1 The effective date of this Agreement shall be the date it is signed by the Board of Supervisors, who shall be the last to sign. (the "Effective Date").

3.2 Term of Agreement

3.2.1 The term of this Agreement shall be fifteen (15) years commencing on the Effective Date and expiring on June 30, 2023, unless extended by the parties as provided in Article 3.4 (Option to Extend).

3.2.2 In the event of a change of law which would render the collection and disposal services to be implemented under this Agreement illegal, County reserves the right to terminate this Agreement upon the giving of a six (6) month prior written notice of County's election to so terminate this Agreement.

3.3 Franchise Area

3.3.1 The Franchise Area subject to this Agreement shall consist of the unincorporated county area subject to County's jurisdiction within the boundaries of the County of San Luis Obispo described in Exhibit A and as shown on the Solid Waste Collection Permit from the Environmental Health Services Division of the San Luis Obispo County Health Agency.

3.4 Option to Extend

3.4.1 The County shall have the sole option to extend this Agreement up to 36 months in periods of at least twelve (12) months each. If County elects to exercise this option, it shall give written notice not later than one hundred eighty (180) days prior to the initial termination date, or, if one extension has been exercised, one hundred eighty (180) days prior to the extended termination date. The terms and conditions of this Agreement and any written modifications shall be applicable during said extension option unless the parties mutually agree upon any changes.

3.5 Conditions of the Effectiveness of Agreement

3.5.1 The obligation of County to permit this Agreement to become effective and to perform its undertakings provided for in this Agreement is subject to the satisfaction of each and all of the conditions set out below, each of which may be waived, in writing and executed by the signatory authority, in whole or in part by County.

3.6 Accuracy of Representations

3.6.1 The representations and warranties made by Franchisee throughout this Agreement are accurate, true and correct on and as of the effective date of this Agreement and continuously thereafter during the period of this Agreement.

3.7 Absence of Litigation

3.7.1 There is no litigation pending in any court challenging the award of this Agreement to Franchisee or the execution of this Agreement or seeking to restrain

or enjoin its performance. Franchisee represents that there are no suits or threatened suits which would impair the financial or legal ability of Franchisee to perform its obligations under this Agreement and that entering into this Agreement by Franchisee will not in any way constitute a breach of any other agreement entered into by Franchisee with other parties, or constitute a violation of any law.

3.8 Furnishing of Insurance and Performance Bond

3.8.1 Ten (10) Days before the effective date of the Agreement, Franchisee shall provide proof of insurance and performance bond in the form, coverages, and amounts specified in Article 10 (Insurance, Bond and Indemnification).

ARTICLE 4
SCOPE OF AGREEMENT

4.1 Scope of Agreement

4.1.1 Subject to Article 4.2 (Limitations to Scope), the Agreement granted to Franchisee shall be exclusive for Solid Waste 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, medical waste, recyclables, and other materials intended for separate collection and/or diversion from disposal; 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 by-products 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 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 to Scope

4.2.1 This Agreement to Collect, transport, process, and market Recyclable Materials shall be interpreted to be consistent with State and Federal laws, now and during the term of the Agreement, and the scope of this Agreement shall be limited by current and developing State and Federal laws with regard to Recyclable Materials, flow control, and related doctrines. In the event that changes in law limit the ability of County to lawfully provide for the scope of services as specifically set forth herein, Franchisee and County agree to work in good faith to amend the scope of the Agreement so as to comply with such changes in law, and County shall not be responsible for any lost profits and/or damages claimed by Franchisee as a result of changes in law.

4.2.2 The Agreement for the Collection, processing and marketing of Recyclable Materials granted to Franchisee does not include the following categories of

Recyclable Materials listed in this Article. The granting of this Agreement shall not preclude the categories of Recyclable Materials listed below from being delivered to and Collected and transported by others provided that nothing in this Agreement is intended to or shall be construed to excuse any person from obtaining any authorization from County that is otherwise required by law:

4.2.2.1 Recyclable Materials separated from Solid Waste by the generator and for which generator sells or is otherwise compensated by a collector in a manner resulting in a net payment to the generator for such Recycling or related services; provided that such separation and Recycling or disposal are actually performed by the generator, and not by a subcontractor or other third-party;

4.2.2.2 Recyclable Materials donated to a charitable, environmental or other non-profit organization; provided, however, that all such Recyclable Materials are substantially separated from non-Recyclable Solid Waste by the generator;

4.2.2.3 Recyclable Materials which are separated at any Premises and which are transported by the owner or occupant of such Premises (or by his/her full-time employee) to a recycling center;

4.2.2.4 Other Governmental Agencies within the county which can contract for separate solid waste and recycling services.

4.3 Administration of Agreement

4.3.1 The Director or his/her designee shall administer this Agreement and shall supervise Franchisee compliance with the Agreement terms and conditions.

4.4 Use of County Streets

4.4.1 Franchisee shall have the right and privilege to operate Collection vehicles and equipment on any and all streets, public ways, rights-of-way, or easements of County, as necessary to provide the services contracted for in this Agreement.

4.5 County Request to Direct Changes

4.5.1 General

4.5.1.1 County may request Franchisee to perform additional services (including new diversion programs, etc.) or modify the manner in which it performs existing services. Pilot programs and innovative services that may entail new Collection methods, different kinds of services and/or new requirements for generators are included among the kinds of changes that County may request. Franchisee shall present, within thirty (30) days of a request to do so by County, a proposal to provide additional or expanded diversion services pursuant to the terms of Article 4.6 (New Diversion Programs). Franchisee shall be entitled to proceed with an adjustment in its compensation in accordance with Article 8.4 (Special Interim Rate Review), for providing such additional or modified services.

4.6 New Diversion Programs

4.6.1 Franchisee shall present, within thirty (30) days of a request to do so by County, a proposal to provide additional or expanded diversion or other services. The proposal shall contain a complete description of the following:

4.6.1.1 Collection methodology to be employed (equipment, staff, etc.)

4.6.1.2 Equipment to be utilized (vehicle number, types, capacity, age, etc.).
4.6.1.3 Labor requirements (number of employees by classification).
4.6.1.4 Type of Containers to be utilized.
4.6.1.5 Provision for program publicity/education/marketing.
4.6.1.6 Materials Recovery Facility to be utilized for diversion and/or recovery of materials.
4.6.1.7 A projection of the financial results of the program's operations for the remaining Term of the Agreement in a balance sheet and operating statement format, including documentation of the key assumptions underlying the projections and the support for those assumptions.

4.7 County's Right to Acquire Services

4.7.1 If pursuant to Article 4.6 (New Diversion Programs), Franchisee and County cannot agree on terms and conditions of such new services in ninety (90) days from the date when County first requests a proposal from Franchisee to perform such services, Franchisee acknowledges and agrees that County may permit Persons other than Franchisee to provide such services.

4.8 Ownership of Solid Waste and Recyclable Materials

4.8.1 All Solid Waste Collected, removed, and transported by Franchisee from the Premises where produced, generated, and/or accumulated pursuant to this Agreement shall be the property and responsibility of Franchisee. Any hazardous waste or medical waste that Franchisee collects shall be the responsibility of Franchisee, as between Franchisee and County. The parties expressly agree that in no event shall the ownership of any solid waste, hazardous waste, medical waste or any other waste be construed to be the property of County, either explicitly or implicitly. Notwithstanding the foregoing, Franchisee shall have no duty or obligation to collect any Hazardous Waste or other material that does not meet the definition of Solid Waste, and ownership of all such non-conforming materials shall remain with the generator.

4.8.2 Pursuant to Public Resources Code 41950, once Recyclable Materials are placed in Containers and properly presented for Collection, ownership and the right to possession shall transfer directly from the Generator to Franchisee by operation of this Agreement. Franchisee is hereby granted the right to retain, recycle, process, reuse, and otherwise use such Recyclable Materials or any part thereof, in any lawful fashion or for any lawful purpose consistent with the hierarchy and goals of AB 939 with the exception of use as Alternative Daily Cover. Subject to the provisions of this Agreement, Franchisee shall have the right to retain any benefit resulting from its right to retain, recycle, process or reuse the Recyclable Materials that it Collects. Recyclable Materials or any part thereof, which are delivered to a Facility (processing Facility, transformation Facility, transfer station, or Material Recovery Facility) shall become the property of the owner or operator of the Facility(ies) once deposited there by Franchisee.

4.9 County's Right To Perform Service; Tagging of Improper Set-Outs

4.9.1 In the event Franchisee fails to Collect, remove, and dispose of Solid Waste or Recyclable Material 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 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.

4.9.2 In the event Franchisee does not Collect any item or Container of Solid Waste, Recyclable Materials or greenwaste material due to a customer's non-compliance with rules and regulations for proper set-out, 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.

4.10 Franchisee as Arranger

4.10.1 County and Franchisee mutually agree that County's granting of this franchise shall not be construed as County "arranging for" the Collection and disposal of solid waste or recyclables within the meaning of CERCLA. The parties further mutually agree that the granting of this Agreement to Franchisee by County shall be construed as an action whereby Franchisee is granted, and accepts the rights, responsibilities, benefits and liabilities of collection and disposal of solid waste. Commencing on the effective date of this Agreement and, to the extent that Franchisee's performance under this Agreement requires the collection and disposal of solid waste, and may be construed as "arranging for" collection and disposal of solid waste within the meaning of CERCLA, such actions shall be the sole responsibility of Franchisee and Franchisee expressly agrees to be solely responsible for all such actions.

4.11 Annexations

4.11.1 The Franchisee shall automatically adjust to any area as a result of any annexation process.

4.12 County Right to Direct Disposal

4.12.1 The County may, at any time require Franchisee to dispose of all or a portion of the solid waste or recyclables collected pursuant to this Agreement in such manner as may be reasonably designated by County. In the event that County designates a different manner of, or location for, processing or disposal of solid waste or recyclables than anticipated in this Agreement, County shall defend, indemnify and save harmless Franchisee its officers, agents and employees from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities arising out of, or connected with the manner, or location for processing or disposing of the solid waste, as designated by County.

ARTICLE 5
DIRECT SERVICES

5.1 General

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 businesses within the county are provided reliable, courteous and high-quality Solid Waste and Recycling 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.

5.1.2 If provided for in the collection rate paid by the customer, all customers shall be provided with solid waste, recycling or green waste collection service, consistent with County approved collection programs, within seven (7) days of the customer's request.

5.1.3 Complaints received from customers or County shall be acted upon immediately and Franchisee shall make every reasonable effort to resolve said complaints within seventy-two (72) hours of customer's notification of Franchisee.

5.1.4 All collection activities shall be conducted in such a manner that public and private property will not be damaged.

5.1.5 Premises shall be left in a neat and clean condition and containers shall be handled in a manner to not damage them.

5.1.6 Franchisee shall replace containers and covers where found and shall not place them in the street or on adjoining property.

5.2 Collection

5.2.1 Franchisee shall conduct all operations in accordance with County Code Chapter 8.12 in a manner which minimizes obstruction or disruption to the peace and quiet of the areas in which collections are made.

5.2.2 Franchisee shall establish a routine collection schedule for all areas serviced under this Agreement and provide County with the collection schedule annually by September First of each year and within seven calendar days of any changes.

5.2.3 Franchisee shall be allowed to provide extra and special services, at rates approved by the County Board of Supervisors, in addition to the normal, scheduled collection services. Franchisee shall quote to the customer the rate for such services prior to performing said services. Said services shall be considered part of the revenue gained under this Agreement and thereby subject to the franchise fee requirement.

5.2.4 Unless waived in writing by County, Franchisee shall provide collection of roadway litter set out under County's "Adopt-A-Road" program.

5.2.5 Franchisee shall provide, with one week's notice, collection of bulky wastes from County Road Yards. The collection of not more than twenty-five (25) items per year shall be at no expense to County. Franchisee shall be entitled to recover the

expense of disposal charges in excess of the twenty-five (25) items per year through an appropriate rate setting adjustment as provided by County rate setting process. Disposal costs for the waste shall be reported to Director along with copies of disposal site weigh tickets within thirty (30) days of collection.

5.2.6 Handicapped residents who reside in Family Dwelling Units shall have the option of placing their Containers near their dwelling, visible from the curb and Franchisee will collect their Containers at this location and return the Containers to the same location at no additional cost to those customers. To be eligible for this Collection option, residents must present proof of their physical incapacity to Franchisee and declare that no other persons in the household are capable of placing containers at designated collection locations.

5.3 Solid Waste, Recycling and Greenwaste Services

5.3.1 Franchisee shall provide weekly collection of solid waste and recyclables 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.

5.3.2 Franchisee shall Collect and remove all Recyclable Materials including greenwaste placed in designated Containers (one Container for all commingled Recyclable Materials and a second Container for greenwaste) at the designated Collection locations for Single Family Dwelling Units and Multifamily Dwelling Units and shall also collect and remove all Commercially Generated Recyclable Materials including greenwaste, all at the rates established by the Board of Supervisors. Residential Recyclable Material and greenwaste 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 greenwaste, 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.

5.3.3 Franchisee recognizes that because of an unusual circumstance, a Single Family Dwelling Unit may generate more Recyclable Material than will fit in the blue Recyclable Materials Container. The excess Recyclable Material may be neatly placed next to the blue Container and Franchisee will Collect the excess Recyclable Material at no additional charge. This extra service to a Single Family Dwelling Unit shall be limited to a frequency of once per month and a quantity to an amount that will fit into the existing blue Recycling Materials Container.

5.3.4 Franchisee shall service, at Board of Supervisors approved rates, all public recycling containers at beaches, parks, golf courses, along sidewalks, and in other public areas.

5.4 Recyclable Materials To Be Collected

5.4.1 To the extent that the San Luis Obispo County Source Reduction, Recycling Element (SRRE), a two volume set currently existing and as hereafter amended or updated, has been implemented by County, Franchisee agrees to comply with its

provisions. Franchisee must also comply with the California Integrated Waste Management Act. The SRRE selects recycling programs as a means of diverting waste. Green waste and other recyclable materials collected under this Agreement shall, absent extenuating circumstances as determined by County, be converted into a functional and marketable product in order that the materials may be diverted from landfill disposal in compliance with County's SRRE and the Integrated Waste Management Act. Franchisee's collection and processing methods and the facility used shall, at all times, absent extenuating circumstances as determined by County, comply with the Integrated Waste Management Act and the SRRE, to the extent the SRRE has been implemented by County. Franchisee shall give notice to County at least thirty (30) days prior to any proposed change in processing. County shall at all times have the right to determine the suitability and cost-effectiveness of the diversion process.

5.4.2 Subject to rates established by 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. Recyclable Materials to be collected are to include but not be limited to: newspaper, aluminum, tin and bi-metal cans, clear and colored glass containers, all plastic containers, corrugated cardboard, mixed paper (including white and colored ledger paper, chipboard, junk mail, magazines and phone books) and motor oil and oil filters (which shall be separately collected from the Recycling Container). In addition, greenwaste shall also be Collected in a separate Container. Changes to this list can only be made with the written approval of the Director.

5.4.3 Franchisee shall provide green waste collection service to all solid waste customers included in the rate schedule established by the Board of Supervisors through the rate setting process. The green waste collection is to include at least the following materials: brush (maximum 4 foot lengths), tree trimmings, branches (<6" dia.), untreated scrap lumber, scrap wood (not painted), grass, weeds, leaves, Christmas trees and dead plants, except yucca. Changes to this list can only be made with the written approval of the Director.

5.4.4 Green waste collection shall only use containers that are reusable and capable of being emptied at the curb. Green waste shall not be collected in non-compostable bags.

5.5 Refusal to Provide Collection Services

5.5.1 Franchisee may refuse to Collect Recyclable Materials or greenwaste and shall not be obligated to continue to provide Container(s) to any participant in the Recycling or greenwaste program who, after reasonable warning by Franchisee, fails to properly sort and set out Recyclable Materials or greenwaste, including excessive contamination. Franchisee shall report monthly to County any warning notices issued.

5.6 Marketing and Sale of Recyclable Materials

5.6.1 Franchisee shall be responsible for the marketing and sale of all Recyclable Materials including greenwaste 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.

5.7 Hazardous Waste and Medical Waste

5.7.1 Franchisee, shall not, knowingly or under circumstances where Franchisee should reasonably know, collect hazardous waste or medical waste as a service within the terms of this Agreement.

5.7.2 Franchisee shall develop and maintain written hazardous waste and medical waste response procedures to assure compliance with all applicable local, state, and federal laws, rules or regulations. Performance of the procedures shall be the sole responsibility of Franchisee.

5.7.3 The procedures shall be submitted to the Director and the County Health Officer/Environmental Health Services within six (6) months after the effective date of this Agreement. At a minimum, the procedures shall provide instruction to employees and agents of Franchisee on actions to be followed in the event hazardous wastes or medical wastes are found in the possession of Franchisee.

5.7.4 The purpose of the procedures will be to ensure that any hazardous waste or medical waste collected by Franchisee is handled and disposed of safely by Franchisee in compliance with all Federal, State and local laws, rules and regulations.

5.7.5 To the extent required by Franchisee's hazardous and medical waste response procedures, Franchisee shall either provide proof of an agreement or other suitable arrangement with a certified hazardous and medical waste hauler, or procure and maintain in force and effect all necessary governmental permits and licenses, including registrations to transport hazardous waste and medical waste. Franchisee shall be responsible for all charges and notices necessary for the due and lawful performance of the response procedures.

5.8 Responsibility for waste

5.8.1 All solid waste removed by Franchisee from the premises where produced, generated, and/or accumulated pursuant to this Agreement shall be the responsibility of Franchisee; provided, however, that Franchisee shall be entitled to reject or return hazardous and medical waste to the customer who generated the waste, if the customer can be identified. Any hazardous waste or medical waste that Franchisee collects shall be the responsibility of Franchisee, as between Franchisee and County. The parties expressly agree that in no event shall the ownership of any solid waste, hazardous waste, medical waste or any other waste be construed to be the property of County, either explicitly or implicitly.

5.9 Operations

5.9.1 To preserve peace and quiet, no Solid Waste, Recyclable Materials including greenwaste 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 including greenwaste 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 greenwaste Franchisee shall collect the missed pickups within one (1) business day of notification.

5.9.2 When a regular collection day occurs on a holiday, Franchisee shall either provide collection on the holiday or one (1) calendar day before or after the holiday. Franchisee shall notify residential and commercial customers of their respective holiday collection schedules in the annual customer information flyer and with a reminder thirty (30) days in advance of the Holiday. The holiday schedule shall be added to the information in outgoing messages on telephone lines and, if applicable, company internet web sites.

5.9.3 During the first week of September each year, Franchisee shall notify County of the collection schedule for holidays occurring in the succeeding twelve (12) months.

5.9.4 If Franchisee finds any graffiti on its equipment, containers or premises, Franchisee shall remove it as soon as possible, not to exceed forty eight (48) hours.

5.10 Vehicles

5.10.1 Franchisee shall provide a fleet of Collection vehicles sufficient in number and capacity to perform the work required by this Agreement and in strict accordance with its terms. Franchisee shall have available on Collection days sufficient back-up vehicles in order to respond to complaints and emergencies.

5.10.2 Franchisee shall annually provide County a detailed description concerning the number, age and type of vehicles necessary for performance under this Agreement.

5.10.3 All equipment used by Franchisee to perform work under this Agreement shall be free of any advertising, slogans, signs, symbols, political statements, or any other writing or communication except public service information regarding the recycling programs. All written communication on equipment used under this Agreement shall have the prior written approval of the Director regarding form, content and any other part or character of the communication.

5.10.4 All vehicles used by Franchisee in providing Solid Waste, Recyclable Materials, and greenwaste Collection services under this Agreement shall conform to industry standards and comply with all federal, state, and local requirements for such vehicles as they now exist or may be amended in the future, including all applicable air emissions and fuel efficiency requirements, and shall be registered with the California Department of Motor Vehicles. All such vehicles shall have watertight bodies designed to prevent leakage, spillage or overflow.

5.10.5 Collection trucks shall be equipped with reliable voice communications equipment. The voice communications equipment shall have a reasonable expectation of functioning during any emergency.

5.10.6 All vehicles shall comply with U.S. Environmental Protection Agency noise emission regulations and other applicable noise control regulations. The Franchisee will, in good faith, consider incorporating natural gas or other County approved, environmentally-acceptable trucks into its Collection fleet, to the extent practicable.

5.10.7 Franchisee shall inspect each vehicle daily to ensure that all equipment is operating properly. Vehicles which are not operating properly and represent a safety hazard shall be taken out of service until they are repaired and do operate properly and safely. Franchisee shall perform all scheduled maintenance functions in accordance with the manufacturer's specifications and schedule. Franchisee shall keep accurate records of all vehicle maintenance, recorded according to date and mileage and shall make such records available to County upon request.

5.10.8 Franchisee shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition. Franchisee shall maintain accurate records of repair, which shall include the date/mileage, nature of repair and the signature of a maintenance supervisor that the repair has been properly performed.

5.11 Property Condition

5.11.1 Franchisee shall maintain all of its properties, facilities, and equipment used in providing service under this Agreement in a safe, neat, clean and operable condition at all times.

5.11.2 Franchisee shall arrange all vehicles and other equipment in safe and secure location(s) in accordance with all applicable zoning regulations. Franchisee shall not store any vehicle on any public street or other public property.

5.12 Vehicle Identification

5.12.1 A distinct identification number and company code, approved by Director shall be assigned to each vehicle used for collection activities. Said numbers and code shall be prominently displayed on the front, sides and rear of the appropriate vehicle and shall be at least eight (8) inches in height. Each vehicle shall also permanently display in a prominent place Franchisee's common name in the region served and telephone number.

5.12.2 Franchisee shall obtain and display on each vehicle the annual sticker issued by the County Health Officer/Environmental Health Services.

5.13 Operation

5.13.1 Vehicles shall be operated in compliance with the California Vehicle Code, and all applicable safety and local ordinances. Franchisee shall not load vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local weight restrictions on vehicles.

5.14 Solid Waste, Recycling and Greenwaste Containers

5.14.1 If Franchisee is providing recycling services at rates established by the Board of Supervisors, then Franchisee 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 commingled Recyclable Materials except greenwaste and a ninety-six (96) gallon Container for greenwaste. If

requested by customer, Franchisee shall provide to the customer a thirty-two (32), sixty-four (64) or ninety-six (96) gallon Recyclable Container and either a thirty-two (32) or ninety-six (96) gallon greenwaste Container.

5.14.1.1 Additional containers shall be provided as requested at rates approved by the County Board of Supervisors. Customers needing smaller sized containers shall be provided with those sufficient to achieve the subscribed capacity rate level at no additional charge.

5.14.2 Franchisee shall supply each multi-family complex and commercial or governmental agency with appropriately sized Containers for Solid Waste, commingled Recyclables and Greenwaste if needed. Franchisee agrees to provide additional Containers, as requested, by all Persons at the Board-approved rate. Note that all multi-family complex and commercial or governmental agency customers shall be entitled to the free Collection of an unlimited quantity of Recyclable Material picked up twice per week. Franchisee agrees not to limit the specific type of Recyclable Material (such as cardboard only) that can be placed in a Container unless approved by County on a customer by customer basis.

5.14.3 For residential customers, all Solid Waste Containers shall be brown or grey, all Recyclable Materials Containers shall be blue and all greenwaste Containers shall be green. For commercial customers, all Solid Waste Containers shall be grey, all Recyclable Materials Containers shall be blue and all greenwaste Containers shall be green. Within the first six (6) months of this Agreement, Franchisee shall replace any existing Container that is not the proper color with a Container that is the proper color that is either a new Container or a Container that is in the existing Franchisee's inventory. Any new Containers for Recyclable Materials shall include an in-molded graphic or sticker which provides instructions to the generator. The final color and signage, including the in-molded graphic or sticker on the Containers shall be approved by the Director or his/her designee.

5.14.4 All Franchisee supplied Containers for Solid Waste, Recyclables, and Greenwaste shall remain the property of Franchisee. Containers damaged due to lack of reasonable care by the customer, or Containers damaged by graffiti may be replaced by Franchisee. Franchisee may recover by any legal means, Containers being used by customers for other than their intended purpose.

5.15 Litter Abatement/Solid Waste Accumulation

5.15.1 Franchisee shall not litter premises while collecting solid waste or recyclables or allow such materials to blow or fall from any collection vehicle.

5.15.2 All solid waste or recyclables in Franchisee's vehicles, conveyances, or containers used by Franchisee shall be completely covered when en route from the last collection station to a disposal area or processing facility to prevent spillage, overflow, blowing, or dropping out of said vehicles, conveyances, or containers. Any material dropped or spilled in collection, transfer, or transport shall be immediately removed by Franchisee. Appropriate equipment for this purpose shall be carried at all times on each vehicle, including an oil spill kit.

5.15.3 Debris that has escaped Franchisee's trucks or containers in transfer or transport and that litters the public rights of way or private property shall be removed by Franchisee within three (3) days of escaping.

5.15.4 Franchisee shall direct its drivers to note the addresses of any premises at which they observe that solid waste is accumulating and is not being delivered for collection or to disposal; and the address, or other location description, at which solid waste has been dumped in an unauthorized manner. Franchisee shall report the address or description to County within seventy-two (72) hours of such observation.

5.16 Personnel

5.16.1 Franchisee shall furnish such qualified drivers, mechanical, supervisory, clerical, and other personnel as may be necessary to provide services required by this Agreement in a safe, efficient and effective manner. If County adopts a living wage ordinance, Franchisee agrees to voluntarily comply with the ordinance.

5.16.2 Franchisee shall ensure that while on duty each Collection worker wears a clean uniform that displays Franchisee's company name and the worker's name or identification number.

5.16.3 Franchisee 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 any services performed under this Agreement except as provided in Article 8 (Franchisee's Compensation and Rates).

5.16.4 All drivers shall be properly trained and qualified in the operation of vehicles they operate and must possess a valid license, of the appropriate class, issued by the California Department of Motor Vehicles.

5.16.5 Franchisee shall provide adequate operations, health and safety training, and Hazardous Waste identification and handling training for all of its employees who use or operate equipment or who are otherwise directly involved in Collection or other related operations.

5.16.6 Franchisee shall properly train its employees in customer courtesy, shall prohibit the use of loud or profane language, and shall instruct Collection crews to perform the work quietly and in a respectful manner. Franchisee shall use its best efforts to ensure that all employees present a neat appearance and conduct themselves in a courteous manner. If any employee is found to be discourteous or not to be performing services in the manner required by this Agreement, Franchisee shall take all necessary corrective measures. If County has notified Franchisee of a complaint related to discourteous or improper behavior, Franchisee will reassign the employee to duties not entailing contact with the public while Franchisee is pursuing its investigation and corrective action process.

5.17 Disposal Requirements

5.17.1 Franchisee shall dispose of all Solid Waste and Recyclable Materials 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 of San

Luis Obispo for disposal of all Solid Waste and processing of all Recyclable Materials Collected by Franchisee pursuant to this Agreement.

5.17.2 Franchisee shall secure within ninety (90) days of the effective date of this Agreement, sufficient disposal site capacity commitment including landfill disposal site capacity to adequately serve the reasonable anticipated Solid Waste disposal needs of Franchisee's customers. County reserves the right to review and require approval for said disposal capacity commitments.

5.17.3 If Franchisee determines all local facilities within the County of San Luis Obispo are not appropriate disposal or processing facilities/sites, and an out-of-county site would be more appropriate and an efficient part of the operation, Franchisee shall obtain the written agreement of County. The Board of Supervisors specifically delegates to the Director of the Department of Public Works the authority to enter into a written agreement to change the disposal or processing site to an out-of-county site. The County must be notified in writing three hundred sixty five (365) days in advance if Franchisee desires to use a facility/disposal site outside San Luis Obispo County at any time during the term of this Agreement. County reserves the right to review disposal capacity commitments. Notwithstanding the foregoing, the parties agree that the requirement for advance notice may be waived at the sole discretion of County for good cause. As used herein, "good cause" shall mean, without limitation, the appearance or existence of one or more conditions at a facility/disposal site within San Luis Obispo County that reflects or constitutes, in the judgment of Franchisee and the Public Works Director, an unsafe practice or that may give rise to potential liability to County or Franchisee under CERCLA or any other applicable pollution, environmental or other law.

5.17.4 If Franchisee receives notice from the landfill operator or recyclables processor or otherwise finds, during the term of the Agreement, to be prevented, through no action of Franchisee, from delivering Solid Waste to the designated site, Franchisee shall immediately notify, in writing, the Director, stating the reason(s) Franchisee is prevented, or expects to be prevented, from delivering solid waste or recyclables at the designated facility. Franchisee shall expeditiously identify and evaluate alternative sites. An alternative designated site or sites shall be arranged for and secured by Franchisee.

5.17.5 The parties understand and agree that County intends to continue to participate in waste diversion and resource recovery programs pursuant to regional and/or local implementation of the California Integrated Waste Management Act of 1989 (and as amended from time to time), or such other programs as may be established by County or State.

5.17.6 Franchisee shall deliver all Solid Waste to any landfill which collects the San Luis Obispo County AB 939 Tipping Fee Surcharge and Waste Management Program Fund Fee, pursuant to County Resolution No. 90-383. If Franchisee delivers Solid Waste to a landfill which does not collect the County Tipping Fee Surcharge and Waste Management Program Fund Fee, Franchisee will make, on a monthly basis, the equivalent payment directly to County's Waste Management Tipping Fee - AB 939 Trust Fund #4304000000 and Waste Management Tipping Fee Trust - Site Fund #5912000000. Franchisee acknowledges that the San Luis

Obispo County Board of Supervisors has the sole and exclusive right to change the fees and rates at least annually and otherwise as needed, as allowed by law.

5.17.6.1 Payment of the equivalent fees shall be made to County within thirty (30) days after the end of each calendar month, or prorated portion thereof, in which Franchisee delivers waste to an alternate facility. In the event that Payment is not received by County within thirty (30) days after the date specified, then Franchisee shall pay a penalty of ten percent (10%) on the outstanding balance, and Franchisee shall also pay to County interest on the outstanding balance at a rate of ten percent (10%) per annum, or the maximum legal rate of interest, whichever is greater, from the date of Franchisee's failure to pay.

5.17.6.2 As of March 1, 2007 the Tipping Fee Surcharge for Fund #4304000000 is $3.00 per ton and the Waste Management Program Fund Fee for Fund #5912000000 is $0.40 per ton. Payments made by Franchisee shall be sent to County along with an itemized statement regarding how the payment was calculated. Payments shall be adjusted to reflect any future changes in the amount of these fees.

5.18 Cleaning Commercial Bins

5.18.1 Franchisee shall steam clean and refurbish all commercial bins at Franchisee's own expense every six (6) months upon request. Customers desiring more frequent cleaning may arrange additional cleaning with Franchisee at a rate established by County, including pick-up, cleaning, and replacement of dumpster. Commercial customers shall be notified annually of the availability of the free cleaning service and the charges for additional service.

5.19 Clean-Up Days

5.19.1 At least twice per year throughout the term of this Agreement, Franchisee shall provide, in addition to regularly scheduled service, two (2) clean-up events pursuant to guidelines established by Franchisee and approved by County, for solid waste placed at the curb by single family dwelling units and at pre-arranged locations for multi-family residential properties in addition to each customer's normal collection service. The dates for each event shall be proposed by Franchisee and approved by the Director prior to September first of each year.

5.19.2 Each collection event shall be provided by Franchisee at no additional cost for customers requesting collection except for certain items identified by County as subject to a charge.

5.19.3 Franchisee shall record, and report to County, by class and weight (in tons) the solid waste, white goods, etc., collected during the clean-up events. Franchisee shall record the kinds and weights (in tons) of solid waste diverted during these clean-ups from the landfill through recycling, reuse, transformation or other means of diversion. Franchisee shall provide the report to County no later than ten (10) days after the event.

5.20 Material Processing

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 greenwaste generated in the county.

5.20.2 Any Materials Recovery Facility used by Franchisee must be designed and constructed in accordance with all applicable state and local laws (e.g., CEQA, California Code of Regulations, etc). The 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.

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

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.

5.21 Disposition of Unauthorized Waste

5.21.1 It is understood that Franchisee is not authorized and is not required hereunder to collect and transport Hazardous Waste or restricted or other waste that is not acceptable or permitted for disposal at a transfer station, Material Recovery Facility, or disposal site. In addition, Franchisee shall not be required to collect containers that are not set out or filled in accordance with, or do not meet Franchisee's collection requirements. Regardless of the reason, when any Solid Waste, Recyclable Material or other material is not collected by Franchisee, Franchisee shall leave a company imprinted tag with Franchisee contact information on the material stating the reasons for Franchisee's refusal to collect the same. Adequate records of the tags shall be maintained by Franchisee and shall be available to County for inspection upon reasonable notice during business hours.

5.21.2 If Franchisee observes any substances which it or its employees reasonably believe or suspect to contain Hazardous Waste unlawfully disposed of or released in reportable quantities in the county, including on, in, under or about County

property, including streets, easements, rights of way and County waste containers, Franchisee shall immediately notify County of the same.

5.21.3 If Franchisee discovers Hazardous Waste, or other material that may not be legally accepted, among materials that it has inadvertently accepted, Franchisee may either return such materials to the applicable generator or dispose of such waste at its own expense and pursue all legal rights and remedies it may have against the generator(s) of such Hazardous Waste, if the generator(s) can be identified.

5.22 Disposal

5.22.1 Franchisee shall ensure that the residual from the Recyclable Materials delivered to the Materials Recovery Facility by Franchisee are disposed of at a permitted disposal site in full regulatory compliance. Monthly residue from said facility from loads delivered by Franchisee pursuant to services under this Agreement shall not exceed ten percent (10%) of the monthly Recyclable Materials delivered to the Materials Recovery Facility. If County directs Franchisee to deliver Recyclable Materials to a different facility for processing, then such other facility shall be responsible for disposal of residual and the processing requirements as described above and County shall use its best efforts to enforce such requirements against the other processor.

ARTICLE 6
OTHER SERVICES: BILLING, REPORTING, RECORD-KEEPING AND PUBLIC EDUCATION

6.1 Billing

6.1.1 The Board of Supervisors shall establish rates for the services provided by Franchisee. Franchisee shall bill and collect these rates. Franchisee's billing format and billing frequency shall be subject to approval of County and County shall have the right to revise the billing format to itemize certain charges. The Franchisee shall issue to the Director, on the same schedule as the customers, a sample residential bill and a sample commercial bill for the most popular level of service offered by Franchisee to those customers.

6.1.2 All residential and commercial billing statements shall clearly list:

6.1.2.1 the customer's level of service,

6.1.2.2 the monthly rate,

6.1.2.3 a local company telephone number to call with questions, and a telephone number designated by the County Public Works Department for customers unable to resolve a problem with Franchisee.

6.1.3 The County may also direct Franchisee to insert mailers relating to Franchisee-provided service with the billings at no additional cost to County. The mailers must fit in standard envelopes and not increase the required postage. The County will provide not less than sixty (60) days notice to Franchisee prior to the mailing date of any proposed mailing to permit Franchisee to make appropriate arrangements for inclusion of County materials.

6.1.4 Franchisee shall maintain copies of said billings and receipts, each in chronological order, for a period of five (5) years after the date of service for inspection by County, or for such longer term as County directs. Franchisee may, at its option, maintain those records in computer form, on microfiche, or in any other manner, provided that the records cannot be altered, and can be preserved and retrieved for inspection and verification in a timely manner. Franchisee shall, in addition, provide an adequate backup system for billing records, regardless of the form in which the records are maintained. Any such backup system shall be subject to the prior approval of County.

6.2 Responsible for Payment

6.2.1 The property owner shall be responsible and liable for paying the solid waste collection and disposal fees for that property.

6.2.2 Bills shall be considered delinquent if not paid within thirty (30) days of the date due. Delinquent bills shall be subject to a late fee. Franchisee shall be solely responsible for the collection of delinquent accounts.

6.3 Maintenance of Accounting Records

6.3.1 Franchisee shall maintain accounting records in accordance with generally accepted standards and principles of accounting. In its accounting records, Franchisee shall discreetly maintain and clearly identify all items of revenue pertaining to County's franchised operations. Revenue information for County shall be segregated from other geographical areas served by Franchisee. Revenue information for County, in addition, shall be segregated from other business activities of Franchisee. Separate detailed records shall be maintained by Franchisee with respect to all transactions with affiliated entities that affect the Revenue of Franchisee in providing the franchise collection services.

6.4 Right to Audit Records

6.4.1 In addition to other reporting requirements in this Agreement, County may review, test and audit the books and records of Franchisee or may engage a Certified Public Accountant for this purpose. The cost of such inspection or review will be an allowable cost under the rate setting methodology unless there are findings pursuant to Article 12.9.

6.5 Inspection by County

6.5.1 The designated representatives of County shall have the right to observe and review Franchisee operations and enter Franchisee's premises for the purpose of such observation and review at all reasonable hours with reasonable notice.

6.6 Office/Office Operation

6.6.1 Franchisee's principal place of business and location of books and records shall be within the Franchise Area or other such convenient location approved by County, where customers may apply for service, pay bills, and register complaints.

6.6.2 At a minimum, Franchisee shall staff this office from 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays observed by County. Franchisee's office shall be open to public during normal business hours.

6.6.3 Responsible Franchisee personnel, conversant in English and Spanish, shall be available during office hours to communicate with the public in person and directly by telephone.

6.6.4 If the office is not in the community served, Franchisee shall make arrangements for a convenient customer drop box in the community served or in a city or community services district within Franchisee's permit territory for bill paying purposes.

6.6.5 Franchisee shall return all customer calls seeking a response by the close of the next business day.

6.6.6 Franchisee shall provide to County a local emergency telephone number and contact person accessible twenty-four (24) hours per day.

6.6.7 Complaints received from customers or County shall be acted upon immediately and Franchisee shall make every reasonable effort to resolve said complaints within seventy-two (72) hours of notification.

6.6.8 Franchisee's office and collection vehicles shall be equipped with reliable voice communications equipment. The voice communications equipment shall have a reasonable expectation of functioning during any emergency.

6.7 Customer Information

6.7.1 Franchisee shall prepare and keep current a flier acceptable to County which summarizes solid waste regulations, all services provided by Franchisee, solid waste collection rates, telephone numbers, special collection events, the Clean Up Week schedule and rules, regular and Holiday collection schedules, complaint procedures, office hours, office location, and other pertinent information such as free dumpster cleaning for commercial customers. County contact information shall be included. Franchisee shall have copies of this flier available at all times in Franchisee's office; shall distribute copies to all new customers; shall annually mail copies to all of its current customers; and shall mail updated copies to all customers as notification of changes in service or rates, thirty (30) days prior to such changes. Franchisee's employees and agents shall inform customers that said flier is available upon request.

6.7.2 The Franchisee may provide information through means other than described above if previously approved in writing by the Director. Franchisee shall include the Director in the list of recipients of the information.

6.7.3 Franchisee shall fully participate with County in preparing, processing, mailing and tabulating customer satisfaction surveys to residential and commercial customers. In the event that County wishes to have a customer survey performed by Franchisee, County will seek Franchisee's input regarding proposed questions. Franchisee will conduct the survey within ninety (90) days of a request by County, but not more than once a year.

6.8 Regulatory Reporting

6.8.1 Franchisee shall, within thirty (30) days of receipt, provide County copies of each adverse report from, and each regulatory action from local, state or federal regulatory agencies. In addition, Franchisee shall send copies to County of any reports that Franchisee submits to regulatory agencies with respect to performance of this Agreement.

6.8.2 Franchisee shall provide County promptly with copies of any notices and correspondence from other facilities, including disposal sites, utilized by Franchisee in performance of this Agreement, concerning any breach of agreement with such facility or violation of regulations, including delivery of unauthorized wastes. Franchisee shall direct such facilities to, at all times, simultaneously send copies of such notices and correspondence to County.

6.8.3 Franchisee shall promptly provide County with copies of any reports and correspondence concerning the status of permits with respect to Franchisee and such disposal sites and facilities referenced above.

6.9 Public Education

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 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.

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. Every billing cycle Franchisee shall include an additional message promoting participation in recycling and green waste programs as their billing format allows. 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 AB 939 activities and other solid waste management techniques at community events and local activities. Such participation would normally include providing, without cost, educational and publicity information promoting the goals and programs of County's solid waste program.

6.10 Records Retention

6.10.1 Franchisee shall maintain the above records, reports and data set forth in this Agreement for five years or such longer time as County may direct. Franchisee agrees to make all such records, reports and data available for inspection by County or County's authorized representatives, upon reasonable notice by County.

ARTICLE 7
PAYMENTS TO COUNTY

7.1 Franchise Fee

7.1.1 In consideration of the granting of this franchise, and for the privilege of providing solid waste service along and within the rights-of-way of the county, Franchisee shall pay to County a franchise fee equal to ten percent (10%) of Franchisee's annual gross receipts attributable to services provided under this Agreement.

7.1.2 Franchisee shall submit to Director an annual detailed revenue statement and Franchisee shall pay its franchise fee to County, submitted to Director on a monthly basis. Payment of the monthly portion of the franchise fee shall be rendered to County monthly on or before the last business day of the following month in which Franchisee derives receipts for the services provided under the terms of this Agreement..

7.1.3 In the event that payment is not received by County within thirty (30) days after the date specified in this Section, then Franchisee shall pay a penalty of ten percent (10%) on the outstanding balance, and Franchisee shall also pay to County interest on the outstanding balance at a rate of ten percent (10%) per annum, or the maximum legal rate of interest, whichever is greater, from the date of Franchisee's failure to pay.

7.1.4 The parties agree that such late charges represent a fair estimate of County's added administrative expenses caused by such delinquent payments.

7.1.5 In the event of an underpayment of franchise fees by Franchisee, within thirty (30) days of being notified of such underpayment, Franchisee shall tender the amount of the underpayment to County, together with any penalties and/or interest owed County for the period of the underpayment.

7.1.6 Payments of franchise fees made by Franchisee to County shall be considered in addition to and exclusive of any and all authorized taxes, business license fees, permit fees, other fees, other levies or assessments presently in effect, or subsequently adopted.

7.1.7 No acceptance of any payment shall be construed as a release, accord or satisfaction of any claim that County might have for further or additional sums payable under the terms of this Agreement.

7.1.8 The franchise fee is a pass through expense for purposes of this Agreement, and as such, if County changes the franchise fee, Franchisee's rates under this Agreement shall be adjusted accordingly, subject to all applicable laws and regulations. The franchise fee shall be included in the rates charged by Franchisee and shall not be separately itemized on bills to Franchisee's customers.

7.2 AB 939 Fee

7.2.1 If requested by County, Franchisee shall pay an AB 939 fee, to be specified annually by County. In addition, if the San Luis Obispo County Integrated Waste Management Authority "IWMA" currently implements an AB 939 fee, Franchisee shall pay that fee directly to the IWMA. All AB 939 fees paid to County or IWMA

shall be considered a pass-through cost for purposes of rate setting, and, as such, if County or IWMA changes these fees, Franchisee's rates shall be adjusted accordingly subject to all applicable laws and regulations.

7.3 Business License Tax

7.3.1 Franchisee shall pay an annual business license tax and shall obtain and pay for any and all other applicable licenses or permits.

7.4 Other Fees

7.4.1 The County shall reserve the right to set "Other" Fees, as it deems necessary to offset any additional County costs associated with this Agreement. These expenses will be determined and a fee designed to reimburse County. Such fees shall be set annually by County and may be considered a pass-through cost for purposes of rate setting, and as such if County adopts or changes these fees, Franchisee's rates shall be adjusted accordingly.

7.5 Adjustment of Fees

7.5.1 The Board reserves the right to adjust the rate of the franchise fee and /or the amount of other fees annually. Such adjustment shall be reflected in the rates that Franchisee is allowed to charge and collect from customers.

7.6 Review of Fee Payments

7.6.1 In addition to any other reporting requirements of this Agreement, and pursuant to County Code Chapter 8.12, County may review, test, and audit the books and records of Franchisee, or County may engage a Certified Public Accountant for the purpose of obtaining an Auditor's Report or an Auditor's Special Report in accordance with Generally Accepted Auditing Standards, and Franchisee shall make all the books and records available to County or any Certified Public Accountant engaged by County. In the event that material errors or irregularities are identified, then the costs associated with County or the Certified Public Accountant engaged by County shall be paid by Franchisee to County.

7.6.2 In the case of errors, materiality shall be deemed to be one percent (1%) or greater of gross revenues of Franchisee for services performed under this Agreement.

ARTICLE 8
FRANCHISEE'S COMPENSATION AND RATES

8.1 General

8.1.1 Franchisee's compensation provided for in this Article shall be the full, entire and complete compensation due to Franchisee pursuant to this Agreement for all labor, equipment, materials and supplies, taxes, insurance, bonds, overhead, transfer and transport, processing, division, disposal, profit and all other things necessary to perform all the services required by this Agreement in the manner and

at the times prescribed. Franchisee will not be entitled to any further rate adjustments as a result of customer delinquencies and other bad debt issues.

8.1.2 Franchisee does not look to County for payment of any sums under this Agreement in consideration of the right to charge and collect from customers for services rendered at rates fixed by County from time-to-time. The County shall have the right to structure those rates as it deems appropriate so long as the revenues forecasted to be received by Franchisee from charging such rates can reasonably be expected to generate sufficient revenues to provide for Franchisee's compensation.

8.2 Collection Rates

8.2.1 Pursuant to County Code Chapter 8.12, Franchisee may only charge rates approved by the Board for the services performed or rendered under this Agreement.

8.3 Rate Review

8.3.1 Franchisee shall submit to County an application for rate analysis and adjustment every three (3) years unless otherwise agreed between Franchisee and County or as otherwise provided in this Agreement, except as that may be modified by County from time to time. In addition, Franchisee shall submit any and all data requested by and in the format prescribed by County. In the event Franchisee shall fail to meet the schedule, a revision of rates for the following year shall not be authorized until the first day of the first calendar month following a one hundred twenty (120) day period from the date that the complete application is submitted and such revision shall contain no consideration for Franchisee's failure to submit the application in accordance with the schedule.

8.3.2 If at any time during the term of this Agreement, Franchisee requests and is granted a rate increase by County that when the new rate is compared to the rate at the effective date of this Agreement exceeds the cumulative cost of living increases from the effective date of the Agreement, County shall have the option of terminating the Agreement. The cumulative cost of living is based on the Consumer Price Index. By example, if a rate increase results in an overall cumulative six percent (6%) increase in rates since the effective date of this Agreement, and the Consumer Price Index for that same period would indicate a cumulative increase of five point eight percent (5.8%), then County shall have the option of terminating the Agreement, without further process and procedures as would be required by a default or breach circumstance. Such option to terminate shall be available for a period of nine (9) months following the effective date of the rate increase by the Board of Supervisors. Rate increases that result from County's designation of a disposal site area not included in the computation of the cumulative rate increases granted to Franchisee.

8.3.3 When calculating the change in the rate, costs resulting from Article 7, Payments to County, Section 4.5 County Request to Direct Changes and new, mandated regulatory costs will not be included. However any increase resulting from an increase in the pass-through costs associated with the processing and/or disposal of Solid Waste and Recyclable Material including greenwaste shall be

included in the rate change calculation, unless a disposal or processing facility has been designated by County.

8.3.4 If Franchisee chooses to operate in any manner or use facilities that cause increased costs, County is not obligated to include those costs in setting a reasonable rate of return.

8.3.5 In the event Franchisee intends to request inclusion of the expenses of recycling and waste reduction information and public education activities through the rate review process, Franchisee shall be required to obtain the prior review and approval of the Director in advance of publication and education. The public education and waste reduction costs shall be stated as a separate line item within all rate review requests.

8.4 Special Interim Rate Review

8.4.1 The County or Franchisee may request an extraordinary or consequential adjustment outside of the base year and interim year adjustment schedules. To be extraordinary and consequential, cost changes must be significant enough to require a greater than five percent (5%) decrease or increase in monthly rates for basic residential service.

8.4.2 Franchisee's rates are also subject to adjustment under the following circumstances:

8.4.2.1 In the event that County adjusts the rate of the franchise fee payable to County pursuant to this Agreement, Franchisee shall be entitled to pass through any change in the amount of franchise fee, subject to County's right to conduct a rate review. In the event that such review results solely from the adjustment of the franchise fee, the expense of the review shall be borne by County. Any increase in the rate of the franchise fee shall not be effective until Franchisee's rates have been reviewed and adjusted.

8.4.2.2 If during the performance term of this Agreement, County approves an adjustment in the tipping fee at a solid waste disposal facility that Franchisee uses, which County reserves the right to do in its sole discretion, collection rates for residential and commercial customers shall be adjusted correspondingly. The Board of Supervisors intends to make a reasonable effort to adjust Franchisee's collection rate at the same time as the facility rate. In the event there is a delay between the tipping fee increase and the corresponding rate adjustment being approved by the Board of Supervisors, the rate adjustment may be made retroactive to the date the tipping fee was increased, if Franchisee so requests.

8.4.3 Except in years when a rate review is required, the collection rates shall be adjusted according to practices and procedures of the Auditor-Controller. In rate review years, any prior adjustment is incorporated into the rate review process. In years when a rate review is not required, County will endeavor to make the interim rate adjustment on the anniversary of this Agreement or within a reasonable time period thereafter. In the event there is a delay in making the adjustment, the adjustment may be made retroactive on agreement of both parties.

8.4.4 In the event that Franchisee suffers an increase in operating costs significantly exceeding the "All Urban Consumers, US City Average, Not Seasonally

Adjusted, Consumer Price Index" (CPI), caused by compliance with additions, updates or amendments to any laws or as a result of additional performance standards being required by County pursuant to an amendment to this Agreement, Franchisee may request a rate adjustment. The application for a rate adjustment must include documentation demonstrating the following: (1) a significant increase in operating costs; (2) that the increase was caused by compliance with additions, updates or amendments to any laws or as a result of additional performance standards being required by County; and (3) why the requested increase needs to be addressed on an expedited basis rather than during the rate review process.

8.4.5 In the event that Franchisee's costs decrease or increase as a result of County designating a different manner of, or location for, processing or disposal of solid waste or recyclables than anticipated in this Agreement, either Franchisee or County may request an adjustment in collection rates which adjustment shall be effective at the time the designated manner of disposal begins. County will not unreasonably deny any such adjustment. In the event Franchisee receives any additional compensation for the value, if any, of the solid waste or recyclables disposed in such a manner, such compensation shall be considered in connection with future rate reviews.

8.5 Allowable Profit

8.5.1 The allowable profit on expenses shall be calculated using targeted operating ratio of ninety-three percent (93%), with a range of ninety-one percent (91%) to ninety-five percent (95%), applied to Franchisee's reasonable and necessary allowable costs incurred in the performance of its obligations under this Agreement.

8.6 Publication of Rates

8.6.1 Franchisee shall provide written notice to subscribers a minimum of thirty (30) days prior to all rate changes. The notice will include information about all rates and services available to the customer. The form and content of the notice shall be approved by the Director It shall include a brief explanation for the rate change and ways each customer can determine which level of service will meet the customer's needs. Further requirements for this notice are identified elsewhere in this Agreement.

8.7 Rate Adjustments and Assignment of Agreement

8.7.1 In the case of any assignment, sale, lease, subcontract or transfer of all or any part of Franchisee's assets or stock, the acquiring party shall not be entitled to request any adjustment in rates based on the purchase price or any other consideration associated with said assignment, purchase, lease, subcontract or transfer. In addition, any such acquiring party shall not be entitled to request any adjustment in rates under this Agreement for any costs which said acquiring party incurs prior to the assignment, sale, lease, subcontract or transfer of Franchisee's assets or stock. County reserves the right to solicit competitive bids for services if any assignment results in a request by the assignee for rate increases that are higher then the inflationary index and do not reflect value changes in service standards as determined solely by County.

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

9.1 Records

9.1.1 Franchisee shall maintain records required to conduct its operations, to support requests it may make to County, and to respond to requests of County. 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 County.

9.1.2 The following records shall be maintained for County in form and detail satisfactory to County, relating to:

9.1.2.1 Customer services and billing;

9.1.2.2 Weight of solid waste, especially as related to reducing and diverting solid waste. Information is to be separated by kind of account;

9.1.2.3 Special annual clean-up event results;

9.1.2.4 Routes;

9.1.2.5 Facilities, equipment and personnel used;

9.1.2.6 Facilities and equipment operations, maintenance and repair;

9.1.2.7 Processing and disposal of solid waste;

9.1.2.8 Complaints; and

9.1.2.9 Missed pick-ups.

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 County, Franchisee shall provide all records of diversion and disposal of all solid waste collected within the county to County within thirty (30) days of discontinuing service. Records shall be in chronological order, and organized in a form readily and easily interpreted.

9.1.4 Records for other programs shall be tailored to specific needs. In general, they shall include:

9.1.4.1 Plans, tasks, and milestones; and,

9.1.4.2 Accomplishments in terms such as dates, activities conducted, quantities of products used, produced or distributed, and numbers of participants and responses.

9.2 Customer List

9.2.1 Subject to reasonable prior notice, Franchisee agrees to permit County access to review and inspect Franchisee's customer list and current route lists. Franchisee shall keep such information current at all times. The customer list shall include the names, addresses and type and size of service, at a minimum, as well as any other information requested by County.

9.3 Waste Generation/Characterization Studies

9.3.1 Franchisee acknowledges that County must perform solid waste generation and disposal characterization studies periodically to develop programs for compliance with AB 939 or other State mandated requirements. Franchisee agrees to participate and cooperate with County and its agents, at no cost to County, to accomplish studies and data collection, and prepare reports, as needed, to determine weights and volumes of solid waste and characterize solid waste generated, diverted, disposed, transformed, or otherwise handled or processed to satisfy AB 939 requirements.

9.4 Report Formats and Schedule

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. Reports are intended to compile recorded data into useful forms of information that can be used to, among other things:

9.4.1.1 Determine and set rates, and evaluate the financial efficacy of operations; and

9.4.1.2 Evaluate past and expected progress towards achieving goals and objectives; and

9.4.1.3 Determine needs for adjustment to programs; and

9.4.1.4 Evaluate customer service and complaints.

9.4.2 The County may at no cost to itself request that Franchisee provide such additional information in the reports set forth below as County deems necessary or appropriate to meet its needs, including provision of AB 939 report information.

9.4.3 Franchisee may propose report formats that are responsive to the objectives and audiences for each report. The format of each report shall be subject to approval by County.

9.4.4 Monthly reports shall be submitted within ten (10) calendar days after the end of the report month. Quarterly reports shall be submitted within fifteen (15) calendar days after the end of the quarter. Quarters end on March 31, June 30, September 30 and December 31.

9.4.5 At the request of County, but not more then once every six (6) months, Franchisee shall report the number of set outs by service type and geographic area to the Director.

All reports shall be submitted to:

Director, Public Works Department
County Government Center, Room 207
San Luis Obispo CA 93408

9.5 Monthly Reports

9.5.1 In addition to any other reporting requirements pursuant to any Federal, State or local laws, rules and regulations, other terms of this Franchise Agreement, or other provisions of Chapter 8.12 of the San Luis Obispo County Code, monthly

Franchisee shall report the following information to the Director. The information listed shall be the minimum reported for each service:

9.5.1.1 Solid Waste, green waste and Recyclable Material, collected, transferred, diverted or delivered to a processor or material recovery facility, and disposed of, by sector (commercial, industrial, residential) of waste generator-collected by Franchisee, in tons, by month, by community of origin as identified by the Director.

9.5.1.2 Complaint summary, for month and cumulative for report year, as above, summarized by nature of complaints.

9.5.1.3 Narrative summary of problems encountered and actions taken with recommendations for County, as appropriate.

9.6 Quarterly Report

9.6.1 Quarterly reports shall be quarterly summaries of the monthly information in addition to the following:

9.6.1.1 Status report on applications for renewals of existing permits or any new permits which may be required to continue operations at the designated disposal site within existing permitted areas.

9.6.1.2 Solid Waste and Recyclable Material, collected, diverted or delivered to a processor or material recovery facility, and disposed of, in tons, during the semi-annual residential clean-up weeks, if applicable during that quarter.

9.6.1.3 The number of Adopt-A-Road bags collected and the roadway where they were collected.

9.6.1.4 Point of origin of solid waste collected and delivered to a landfill.

9.6.1.5 For each new program, provide activity related and narrative reports on goals and milestones and accomplishments. Describe problems encountered, actions taken and any recommendations to facilitate progress.

9.6.1.6 Provide a summary assessment of the overall solid waste program from Franchisee's perspective relative to financial and physical status of program. The physical status is to relate to how well the program is operating for efficiency, economy and effectiveness relative to meeting all the goals and objectives of this Agreement. Provide recommendations and plans to improve it. Highlight significant accomplishments, problems and proposed solutions.

9.7 Annual Financial Audit/Statements

9.7.1 Franchisee shall submit to the Director annual financial statements prepared in accordance with Generally Accepted Accounting Principles (GAAP), at Franchisee's expense, and audited by an independent Certified Public Accountant not later than one hundred eighty (180) days following the expiration of Franchisee's fiscal year.

9.7.2 The financial statements shall include a supplemental detailed revenue statement if said revenue statement is not separately submitted to County pursuant to this Agreement.

9.7.3 The detailed revenue statement shall clearly show the annual gross revenues of Franchisee, its parent or any related party, attributable to the collection of solid waste within the county for the year just ended, and audited by a Certified Public Accountant, attesting to the fairness of said detailed revenue statement. Said

detailed revenue statement shall separately classify revenues consistent with the classification of revenues as approved by County, pursuant to this Agreement, and said classification of revenues shall illustrate the amount of revenues collected by Franchisee for each separate rate approved by the Board. Said detailed revenue statement shall also reconcile annual gross receipts to annual gross revenues. The Franchisee may choose to submit the detailed revenue statement to County as a supplemental statement to Franchisee's annual financial statements pursuant to this Agreement.

9.7.4 The annual report shall separate out information with respect to revenues and expenses in relation to performance of this Agreement, including detailed information concerning overhead claimed by Franchisee. Operations by Franchisee concerning activities not related to performance of this Agreement shall be maintained in a separate portion of the annual financial statement.

9.7.5 County shall have the right to inspect or review the payroll tax reports, specific documents or records required expressly or by inference pursuant to this Agreement, or any other similar records or reports of Franchisee that County shall deem, in its sole discretion, necessary to evaluate annual reports, compensation applications provided for in this Agreement and Franchisee's performance provided for in this Agreement. The County retains the right to have an independent third party or agent of County's choosing, such as a CPA, participate in the records inspection. The cost of such inspection or review will be an allowable cost under the rate setting methodology unless there are findings pursuant to Article 12.9 (Financial Material Errors, Omissions or Irregularities).

9.7.6 The financial statements shall include an opinion of a Certified Public Accountant which attests to the fairness of any information submitted to satisfy the requirements of this paragraph. Any opinion which reflects a breach of the terms and conditions of the Franchise Agreement by Franchisee may result in a limitation or loss of Franchisee's right to perform services in accordance with the procedures set forth in this Agreement.

9.7.7 Franchisee shall annually disclose to the Director the entire nature and extent of transactions with related parties, as such parties are recognized by Generally Accepted Accounting Principles. The related parties known at the execution of this Agreement shall be disclosed by Franchisee in accordance with County Code Chapter 8.12.

ARTICLE 10
INSURANCE, BOND AND INDEMNIFICATION

10.1 Insurance

10.1.1 Franchisee, at its sole cost, shall purchase and maintain the insurance policies set forth below on all of its operations under this Agreement. All of the insurance companies providing insurance for Franchisee shall have, and provide evidence of, an A.M. Best & Co. rating of A:VII or above, unless exception is granted by County Risk Manager. Further, all policies shall be maintained for the full term of this Agreement and related warranty period if applicable.

10.2 Scope and Limits of Required Insurance Policies

10.2.1 The Commercial General Liability Policy shall include coverage at least as broad as set forth in Insurance Services Office Commercial General Liability Coverage (CG 00 01) with policy limits of not less than five million dollars combined single limit per occurrence. Policy shall be endorsed with the following specific language or contain equivalent language in the policy:

10.2.1.1 The County of San Luis Obispo, its officers and employees, is named as an additional insured for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement.

10.2.1.2 The insurance provided herein shall be considered primary coverage to the County of San Luis Obispo with respect to any insurance or self-insured retention maintained by County. Further, County's insurance shall be considered excess insurance only and shall not be called upon to contribute to this insurance.

10.2.1.3 The policy shall not be cancelled or subject to non-renewal without first giving forty-five (45) days prior written notice to County. Franchisee is required to send that notice by certified mail, return receipt requested, to the County of San Luis Obispo, Director of the Department of Public Works.

10.2.2 The Business Automobile Policy shall include coverage at least as broad as set forth in the liability section of Insurance Services Office Business Auto Coverage (CA 00 01) with policy limits of no less than five million dollars combined single limit for each occurrence. Said insurance shall include coverage for owned, non-owned, and hired vehicles. Policy shall be endorsed with the following specific language or contain equivalent language in the policy:

10.2.2.1 The County of San Luis Obispo, its officers and employees, is named as an additional insured for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement.

10.2.2.2 The policy shall not be cancelled or subject to non-renewal without first giving forty-five (45) days prior written notice to County. Franchisee is required to send that notice by certified mail, return receipt requested, to the County of San Luis Obispo, Director of the Department of Public Works.

10.2.3 Workers' Compensation policy shall provide statutory limits as required by State of California. Policy shall be endorsed with the following specific language or contain equivalent language in the policy:

10.2.3.1 Franchisee and its insurer shall waive all rights of subrogation against County, its officers and employees for workers' compensation losses arising out of this Agreement.

10.2.3.2 The policy shall not be cancelled or subject to non-renewal without first giving forty-five (45) days prior written notice to County. Franchisee is required to send that notice by certified mail, return receipt requested, to the County of San Luis Obispo, Director of the Department of Public Works.

10.2.4 Employer's Liability Insurance policy shall provide two million dollars per accident for bodily injury or disease.

10.2.5 Pollution Legal Liability, if on a Claims made form:

10.2.5.1 The retroactive date must be shown, and must be before the date of the contract or beginning of the contract work.

10.2.5.2 Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract work.

10.2.5.3 If coverage is canceled or non-renewed, and not replaced with another claims made policy form with a retroactive date prior to the contract effective date, Franchisee must purchase an extended period coverage for a minimum of five (5) years after completion of contract work.

10.2.6 The minimum limits of insurance may be reviewed by County every three years and adjusted at County's sole discretion.

10.3 Prior Approval of Deductibles and Retentions

10.3.1 All deductibles and/or self-insured retentions which apply to the insurance policies required herein will be declared in writing and approved by County prior to commencement of this Agreement.

10.4 Submittal of Certificates of Insurance

10.4.1 Prior to commencement of work and annually thereafter for the term of this Agreement, Franchisee will provide to the County of San Luis Obispo, Director of the Department of Public Works properly executed certificates of insurance clearly evidencing the coverage, limits, and endorsements specified in this Agreement. Further, at County's request, Franchisee shall provide certified copies of the insurance policies within thirty days of request.

10.5 Inadequate Insurance

10.5.1 County may direct Franchisee to immediately cease all activities with respect to this Agreement if it determines that Franchisee fails to carry, in full force and effect, all insurance policies with coverage levels at or above the limits specified in this Agreement. Any delays or expense caused due to stopping of work and change of insurance shall be considered Franchisee's delay and expense.

10.6 Subcontractors

10.6.1 Franchisee shall include all subcontractors as insured under its policies or shall furnish copies of required insurance policies and endorsements for each subcontractor. All coverages for subcontracts shall be subject to all of the requirements stated herein.

10.7 Occurrence Based Coverage

10.7.1 All policies, except the Pollution Legal Liability policy, secured by Franchisee shall be occurrence and not claims based unless County so consents in writing.

10.8 Performance Surety

10.8.1 Franchisee shall provide to County within ten (10) days after execution of this Agreement, a cash or surety bond in an amount at least equal to the yearly average of two months gross revenue provided by a Surety Company with a Best rating of "A" or better and licensed to do business in the State of California, conditioned upon the full faithful performance of all covenants and conditions of this Agreement and any extensions or amendments thereto and Chapter 8.12 of the San Luis Obispo

County Code. Said surety bond must be approved by County prior to performance of any work under this Agreement. A certificate of deposit or an irrevocable letter of credit for the required amount from a bank acceptable to County may be provided in lieu of said surety bond.

10.8.2 The bond, letter of credit or other similar instrument shall be issued for a period of not less than one (1) year and Franchisee shall provide a new bond, letter of credit or similar instrument, and evidence reasonable satisfactory to County of its renewability, no less than thirty (30) calendar days prior to the expiration of the bond, letter of credit or other similar instrument then in effect. County shall be notified in writing of any cancellation by the issuer of the bond at least thirty (30) says prior to such cancellation.

10.8.3 Subject to the notice and hearing procedures set forth herein, if County determines that Franchisee has substantially failed to keep and perform any covenant or condition of this Agreement and any extensions or amendments thereto, County may require Surety to perform or may resort to any certificate of deposit or irrevocable letter of credit received in lieu of a bond. In that event, County shall notify the Surety of Franchisee's failure to keep and perform a covenant or condition, as well as the amount of time necessary for performance as determined by County. If the Surety fails to perform, County may perform and assess the Surety on its bond for all costs associated with such performance. The costs of performance may include all labor, equipment, insurance, and any and all other reasonably necessary resources as determined by County to perform the work required under this Agreement.

10.8.4 County shall annually review the adequacy of the amount of the surety bond and increase or decrease the bond in an amount at least equal to the yearly average of two months gross revenue or an amount determined adequate by County. County shall notify Franchisee in writing of any changes in the required bond amount not later than thirty (30) days after the completion of said review. Franchisee shall renew said surety bond as necessary and file it with County at least thirty (30) days prior to the expiration of the bond; provided, however, that Franchisee shall not be required to increase or decrease the amount of the bond prior to six (6) months after any such bond adjustment required pursuant to this paragraph.

10.9 Indemnification

10.9.1 Franchisee shall defend, indemnify and save harmless County, its officers, agents and employees from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities arising out of this Agreement or connected with the performance or attempted performance of provisions hereof, including but not limited to any act or omission to act on the part of Franchisee or its agents, employees, or subcontractors directly responsible to it, except those claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities resulting solely from the negligence or willful misconduct of County.

10.9.2 Franchisee's obligations shall include, but are not limited to, the obligation to defend and indemnify County for all actions of Franchisee associated with

Franchisee's role as the arranger of solid waste service, or as a "potentially responsible party" within the meaning of CERCLA in performing solid waste service under any Federal, State or local laws, rules or regulations. The Franchisee shall further defend and indemnify County from any and all legal actions against County on the basis of the assertion that County is an arranger of solid waste services as a result of this Agreement as long as County has not exercised flow control in accordance with this Agreement.

10.9.3 Franchisee's obligations shall include, but are not limited to, the obligation to defend and indemnify County for any fines or penalties imposed by the California Integrated Waste Management Board or its agents in the event that Franchisee's delays in providing information or reports required pursuant to this Agreement prevent County from submitting reports or attaining goals in a timely manner as required by the Integrated Waste Management Act.

10.9.4 Franchisee's obligations shall include, but are not limited to, the obligation to defend and indemnify County against all fines and/or penalties imposed by the California Integrated Waste Management Board in the event the source reduction and recycling goals or any other requirement of the Integrated Waste Management Act are not met by County with respect to the waste stream collected under this Agreement if such failure is due in substantial part to the failure of Franchisee to meet its obligations under this Agreement or for delays in providing information that prevents County from submitting reports in a timely manner, as presently required by the Integrated Waste Management Act (Stats 1989, c.1095) or as amended in the future.

10.9.5 Franchisee's obligations to defend and indemnify County are subject to the limitations provided in Public Resources Code section 40059.1.

ARTICLE 11
COUNTY'S RIGHT TO PERFORM SERVICE

11.1 General

11.1.1 In the event that Franchisee, for any reason whatsoever, fails, refuses, or is unable to Collect, transport, process or market any or all Solid Waste or Recyclable Materials which it is required by this Agreement to Collect, transport, process, market, and/or dispose at the time and in the manner provided in this Agreement, for a period of more than seven (7) calendar days, and if, as a result thereof, Solid Waste or Recyclable Materials should accumulate in the county to such an extent, in such a manner, or for such a time that the Director or his/her designee should find that such accumulation endangers or menaces the public health, safety or welfare, then County shall have the right, but not the obligation, upon twenty-four (24) hour prior written notice to Franchisee during the period of such emergency as determined by the Director or his/her designee: (1) to perform, or cause to be performed, such services itself with its own or other personnel without liability to Franchisee; and/or (2) to take temporary possession of any or all of Franchisee's land equipment and other property, including the current list of customer names, addresses, service type and size and route lists, to Collect, transport, process,

market and/or dispose any Solid Waste or Recyclable Materials generated within the county which Franchisee would otherwise be obligated to Collect, transport, process, market and/or dispose pursuant to this Agreement. In the event County takes possession of Franchisee's equipment and other property, County shall be entitled to have another Franchisee or Franchisees operate such equipment and property under County direction. In the event County takes possession of Franchisee's equipment and other property, County shall pay a reasonable rental fee for such equipment but County does not guarantee repair of existing problems with equipment and facilities. Should County repair existing problems or defects, Franchisee will be billed for County cost of the repairs.

11.1.2 If Franchisee is providing billing services and County performs the collection services, Franchisee will promptly forward to County all gross revenues Franchisee has collected in advance, or otherwise, to County for the period in duration equal to County's performance of the services. If Franchisee does not promptly forward those rates, County may draw on the performance bond or other approved security for those amounts without further notice to Franchisee. Claiming the performance bond or surety does not limit County from pursuing any other legal remedy.

11.1.3 During such time that County is providing solid waste services, as above provided, Franchisee shall continue to bill and collect payment from all users of the above-mentioned services. Franchisee further agrees that, in such event, it shall reimburse County for any and all costs and expenses incurred by County in taking over possession of the above-mentioned property for solid waste and recycling collection services in such manner and to an extent as would otherwise be required of Franchisee under the terms of this Agreement. Such reimbursement shall be made from time to time after submission by County to Franchisee of each statement listing such costs and expenses, but in no event later than five (5) working days from and after each such submission. County shall have the right, at its sole discretion, to take over billing and payment collection activities. County shall then pay any net revenues to Franchisee, after deducting all expenses, including County-incurred expenses.

11.1.4 Notice of Franchisee's failure, refusal or neglect to Collect, transport, process, market and/or dispose Solid Waste or Recyclable Materials may be given orally by telephone to Franchisee at its principal office and shall be effective immediately. Written confirmation of such oral notification shall be sent to Franchisee within twenty-four (24) hours of the oral notification.

11.1.4.1 Franchisee further agrees that in such event:

11.1.4.1.1 It will take direction from County to immediately affect the transfer of possession of property and equipment to County for County's use.

11.1.4.1.2 It will, if County so requests, keep in good repair and condition all of such property and equipment, 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.

11.1.4.1.3 County may immediately engage all or any personnel necessary or useful for the Collection, transportation, processing marketing and/or disposing of Solid Waste or Recyclable Materials, including, if County so desires, employees previously or then employed by Franchisee. Franchisee further

agrees, if County so requests, to furnish County the services of any or all management or office personnel employed by Franchisee whose services are necessary or useful for Solid Waste or Recyclable Materials Collection, Transportation, processing, marketing and/or disposal operations and for the billing and collection of fees for these services.

11.1.5 County agrees that it assumes complete responsibility and liability for the proper and normal use of such equipment and facilities while in its possession.

11.1.6 If the interruption or discontinuance in service is caused by any of the reasons listed in this Agreement, County shall pay to Franchisee the reasonable rental value of the equipment and facilities, possession of which is taken by County, for the period of County's possession, if any, which extends beyond the period of time for which Franchisee has rendered bills in advance of service.

11.1.7 Except as otherwise expressly provided in the previous paragraph, County's exercise of its rights under this Article 11: (1) does not constitute a taking of private property for which compensation must be paid; (2) will not create any liability on the part of County to Franchisee; and (3) does not exempt Franchisee from the indemnity provisions of Article 10, Indemnification, Insurance and Bond, which are meant to extend to circumstances arising under this Article, provided that Franchisee is not required to indemnify County against claims and damages arising from the negligence of County officers, employees and agents in the operation of Collection vehicles or performance of services during the time County has taken possession of such equipment.

11.2 Temporary Possession of Franchisee's Property

11.2.1 If County suffers an interruption or discontinuance of service as described in this Article (including interruptions and discontinuance due to events described in Article 12.8), County may take temporary possession of and use all of Franchisee's property described above until other suitable arrangements can be made for the provision of such services. County options include but are not limited to contracting with another company. The same notice requirements of Article 11.1 are applicable.

11.3 County's Right to Relinquish Possession

11.3.1 It is further mutually agreed that County may at any time at its discretion relinquish possession of any or all of the above-mentioned property to Franchisee and thereupon demand that Franchisee resume the services as provided in this Agreement, whereupon Franchisee shall be bound to resume the same.

11.4 Duration of County's Possession

11.4.1 County's right pursuant to this Article to retain temporary possession of Franchisee's facilities and equipment, and to render Collection services, shall terminate when County determines that such services can be resumed by Franchisee, or when County no longer reasonably requires such facilities or equipment. In any case, County has no obligation to maintain possession of Franchisee's property and/or continue its use for any period of time and may at any time, in its sole discretion, relinquish possession to Franchisee.

ARTICLE 12
DEFAULT, REMEDIES AND LIQUIDATED DAMAGES

12.1 Events of Default

12.1.1 All provisions of this Agreement to be performed by Franchisee are considered material. Each of the following shall constitute an event of default.

12.1.2 Fraud or Deceit. If Franchisee practices, or attempts to practice, any fraud or deceit upon County.

12.1.3 Insolvency or Bankruptcy. If at any time during the term of this Agreement Franchisee becomes insolvent, or if proceedings in bankruptcy are instituted by Franchisee, or if Franchisee is adjudged bankrupt or insolvent by any court, or if a receiver or trustee in bankruptcy is appointed in any suit or proceeding brought by Franchisee, or if there is an assignment for the benefit of its creditors. then and in each and every such case, this Agreement shall be subject to immediate termination and cancellation upon written notice by County and without the necessity of suit or other proceeding.

12.1.4 Failure to Maintain Coverage. If Franchisee fails to provide or maintain in full force and effect the Workers' Compensation, liability, indemnification coverage or any insurance coverage or bond required under this Agreement.

12.1.5 Violations of Regulation. If Franchisee facilities fall out of full regulatory compliance or if Franchisee violates any orders or filings of any regulatory body having jurisdiction over Franchisee relative to this Agreement, provided that Franchisee may contest any such orders or filings by appropriate proceedings conducted in good faith, in which case no breach of the Agreement shall be deemed to have occurred unless and until regulatory non-compliance is established through the appropriate proceedings.

12.1.6 Failure to Perform. If Franchisee ceases to provide Solid Waste, Recycling or Greenwaste services as required under this Agreement for a period of two (2) days or more, for any reason within the control of Franchisee.

12.1.7 Failure to Pay/Report. If Franchisee fails to make any timely payments, including liquidated damages and penalties, required under this Agreement and/or fails to provide County with required information, reports, and/or records in a timely manner as provided for in the Agreement.

12.1.8 Acts or Omissions. Any other act or omission by Franchisee which violates the terms, conditions, or requirements of this Agreement, the California Integrated Waste Management Act of 1989, as it may be amended from time to time, or any order, directive, rule, or regulation issued thereunder and which is not corrected or remedied within the time set in the written notice of the violation or, if Franchisee cannot reasonably correct or remedy the breach within the time set forth in such notice, if Franchisee should fail to commence to correct or remedy such violation within the time set forth in such notice and diligently effect such correction or remedy thereafter.

12.1.9 False or Misleading Statements. Any representation or disclosure made to County by Franchisee in connection with or as an inducement to entering into this Agreement, or any future amendment to this Agreement, which proves to be false or

misleading in any material respect as of the time such representation or disclosure is made, whether or not any such representation or disclosure appears as part of this Agreement.

12.1.10 Attachment. Seizure of, attachment of, or levy on, the operating equipment of Franchisee, including without limits its equipment, maintenance or office facilities, or any part thereof.

12.1.11 Suspension or Termination of Service. Any termination or suspension of the transaction of business by Franchisee, including without limit, due to labor unrest including strike, work stoppage or slowdown, sickout, picketing, or other concerted job action, lasting more than two business days, unless caused by a force majeure event.

12.2 Written Notice

12.2.1 Upon default by Franchisee, the Director or his/her designee shall provide written notice to Franchisee of the violation. The Director or his/her designee shall include in the notice, a demand that Franchisee correct the violation. The Franchisee shall thereafter have thirty (30) days to cure the violation, of if the violation cannot be cured within such timeframe, Franchisee shall have commenced to cure said violation in a manner that is acceptable to County, in its reasonable discretion. For purposes of this Agreement and any notice required thereunder, the term "days" shall mean calendar days.

12.3 Right to Terminate Upon Default or for Cause

12.3.1 All terms and conditions of this Agreement are material and binding and failure by either party to perform in accordance with this Agreement, or in accordance with any covenants and conditions described herein, shall be considered a breach of this Agreement. In the event this Agreement is breached in any manner, including, but not limited to the defaults listed in paragraph 12.1 through 12.1.10 or any other serious, material breach, and Franchisee has failed to remedy to the satisfaction of County said breach within the thirty (30) days after receiving County's written notice, described in paragraph 12.2, setting forth the nature of the breach, County in its sole option, may terminate this Agreement for cause. Notices will be delivered to the place designated in this Agreement for receiving notices. The notice of breach is effective upon actual receipt by Franchisee or, if mailed by first class mail with proper postage affixed, then it shall be deemed received five (5) days after mailing. The notice of termination after the thirty (30) days has expired plus proof of delivery or the expiration of five (5) days after posting, without a sufficient cure and without approval by County shall be effective upon mailing. Such termination is subject to the approval of the Board of Supervisors. Franchisee shall thereafter have no further rights, powers, or privileges against County under or arising out of this Agreement. In the event a breach does not result in termination, but does result in costs being incurred by County, said costs shall be charged to and paid by Franchisee, which costs may include, but are not limited to, costs incurred by County in investigating and communicating with Franchisee regarding said breach, including staff time, and any penalties provided in accordance with this Agreement.

12.3.2 In the event County terminates this Agreement as provided herein, Franchisee shall pay to County on the effective date of termination all customer revenues collected in advance for all services which would have been provided by Franchisee after the effective date of termination. Franchisee shall also pay to County any unearned revenues received after the date of termination. The provisions of this Section shall not be exclusive, but shall be cumulative and in addition to any other remedies provided herein or pursuant to law.

12.4 Liquidated Damages

12.4.1 County finds, and Franchisee agrees, that as of the time of the execution of this Agreement, it is impractical, if not impossible, to reasonably ascertain the extent of damages which shall be incurred by County as a result of a breach by Franchisee of its obligations under this Agreement.

12.4.2 The parties acknowledge that consistent, reliable Solid Waste, Recycling and Greenwaste service is of utmost importance to County and that County has considered and relied on Franchisee's representations as to its quality of service commitment in awarding the Agreement to Franchisee. The parties further recognize that some quantified standards of performance are necessary and appropriate to ensure consistent and reliable service and performance. The parties further recognize that if Franchisee fails to achieve the performance standards, comply with complaint resolution criteria, or fails to submit required documents in a timely manner, County and its residents will suffer damages and that it is and will be impractical and extremely difficult to ascertain and determine the exact amount of damages that County will suffer. Therefore, without prejudice to County's right to treat such non-performance as an event of default under this Article 12, the parties agree that the following liquidated damage amounts represent a reasonable estimate of the amount of such damages considering all of the circumstances existing on the date of this Agreement, including the relationship of the sums to the range of harm to County that reasonably could be anticipated and the anticipation that proof of actual damages would be costly or inconvenient.

12.4.3 Recognizing the importance of resolving any failure to meet the service performance standard, County shall contact Franchisee within two (2) working days of any failing reported directly to County. In addition, Franchisee agrees to meet with the Director within two (2) working days of a requested meeting to discuss Franchisee's performance.

12.4.4 Franchisee agrees to pay (as liquidated damages for the violations specified and not as a penalty) the amount specified below. The parties further agree that Franchisee shall pay liquidated damages of five hundred dollars ($500) per day per occurrence, unless otherwise specifically described below, for the unexcused failure to meet one or more of the requirements of the County Code or of this Agreement, or the unexcused failure by Franchisee to meet or complete a requirement by a prescribed date, or the unexcused failure by Franchisee to provide a service. Liquidated damages flow from a violation of this Agreement and are in addition to any penalty imposed for violations of the San Luis Obispo County Code or any other environmental laws by County or any other government agency.

12.4.5 Violations – General

12.4.5.1 For failure by Franchisee to provide scheduled solid waste collection service in mandatory collection areas as required by County Code now and as may be amended during the term of this Agreement;

12.4.5.2 For failure by Franchisee to maintain and possess a valid permit for collection of solid waste from the County Health Officer at any time during the term of this Agreement;

12.4.5.3 For failure by Franchisee to submit to the Director a written Response Procedure for hazardous waste/medical waste, within six (6) months from the effective date of this Agreement;

12.4.5.4 For failure by Franchisee to properly comply with written Response Procedures for hazardous waste or medical waste;

12.4.5.5 For failure by Franchisee to maintain an office, and/or to keep the office open and/or to maintain a toll-free telephone for calls in English and Spanish and/or a customer payment drop box within Franchisee's Permit Collection Area and/or maintain a log of customer complaints, as required by County Code Chapter 8.12 and pursuant to this Agreement;

12.4.5.6 For charging or collecting rates not approved by the Board of Supervisors for any service subject to this Agreement.

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 Greenwaste, which as 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 Greenwaste, which have been properly set out for Collection, from the same customer on two (2) consecutive scheduled pickup days:$150.00

12.4.6.4 For each occurrence over two (2) annually of damage to private property:$250.00

12.4.6.5 For each occurrence over two (2) annually of discourteous behavior:$250.00

12.4.6.6 For each failure to clean up Solid Waste, Recyclables or Greenwaste, spilled from Containers:$150.00

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

12.4.6.8 For each failure to respond to a customer complaint within twenty-four (24) working hours:$100.00

12.4.7 Violations: Timeliness of Submissions to County

12.4.7.1 Reports. Any report shall be considered late until such time as County receives a correct and complete report. For each calendar day a report is late, the daily assessment shall be:

12.4.7.1.1 Monthly Reports: For each infraction: $100 per day

12.4.7.1.2 Annual Reports: For each infraction: $500 per day

12.5 Liquidated Damages Notice and Assessment

12.5.1 Liquidated damages will only be assessed after Franchisee has been given the opportunity but failed to rectify the damages, as described in this Agreement (e.g., twenty-four (24) working hours to respond to a complaint).

12.5.2 Prior to assessing liquidated damages, County shall give Franchisee notice of its intention to do so. The notice will include a brief description of the incident(s)/non-performance. Franchisee may review (and make copies at its own expense) all information in the possession of County relating to incident(s)/non-performance. Franchisee may, within ten (10) days after receiving the notice, request a meeting with County. If a meeting is requested, it shall be held by the Director or his/her designee. Franchisee may present evidence in writing and through testimony of its employees and others relevant to the incident(s)/non-performance. The Director or designee will provide Franchisee with a written explanation of his or her determination on each incident(s)/non-performance prior to authorizing the assessment of liquidated damages. The decision of the Director or designee shall be final.

12.5.3 County may determine the occurrence of events giving rise to liquidated damages through the observation of its own employees or representative or investigation of customer complaints.

12.6 Amount

12.6.1 The Director or his/her designee may assess liquidated damages for each calendar day or event, as appropriate, that Franchisee is determined to be liable in accordance with this Agreement.

12.6.2 The liquidated damages set forth above shall be in addition to any other penalties or remedies otherwise provided by law or in accordance with this Agreement.

12.7 Timing of Payment

12.7.1 Franchisee shall pay any liquidated damages assessed by County within ten (10) days after they are assessed. If they are not paid within the ten (10) day period, County may proceed against the security required by this Agreement or order the termination of this Agreement, or both. In the event of an appeal of the imposition of liquidated damages by the Director, payment will be due within ten (10) days of the Board's decision affirming or modifying the action of the Director.

12.8 Force Majeure

12.8.1 The parties shall be excused from performing their respective obligations hereunder in the event they are prevented from so performing by reason of floods, earthquakes, other "acts of God", war, civil insurrection, riots, acts of any government (including judicial action), unavailability of third party disposal or processing facilities designated by County, and other similar catastrophic events which are beyond the control of and not the fault of the party claiming excuse from performance hereunder ("Force Majeure").

12.8.2 Labor unrest, including but not limited to strike, work stoppage or slowdown, sick-out, picketing, or other concerted job action conducted by Franchisee's employees or directed at Franchisee or its selected facilities is not an excuse from performance and Franchisee shall be obligated to continue to provide service notwithstanding the occurrence of any or all such events.

12.8.3 The party claiming excuse from performance shall, within two (2) days after such party has notice of such cause, give the other party notice of the facts constituting such cause and asserting its claim to excuse under this Article.

12.8.4 The interruption or discontinuance of Franchisee's services caused by one or more of the events excused shall not constitute a default by Franchisee under this Agreement. Notwithstanding the foregoing, however, if Franchisee is excused from performing its obligations hereunder for any of the causes listed in this Article for a period of seven (7) days or more, County shall have the right to review the circumstances under which the excuse from performance was granted. After such review, if County determines the excuse from service is no longer valid, County shall notify Franchisee in writing to resume service within two (2) days from the receipt of such notification. If Franchisee fails to resume service within the two (2) days, County shall have the right to terminate this Agreement by giving ten (10) days notice, in which case the provisions relative to taking possession of Franchisee's land, equipment and other property and engaging Franchisee's personnel in Article 11, County's Right to Perform Services, and this Article 12 shall apply.

12.9 Financial Material Errors, Omissions or Irregularities

12.9.1 The County may review, test and audit the books and records of Franchisee for the purpose of determining whether Franchisee is complying with the terms of the Agreement. In the event that material errors or omissions or irregularities are identified, then the cost associated with the audit, test or review shall be paid by Franchisee to County. In the case of financial errors, materiality shall be deemed to be one percent (1%) or greater of the gross revenues of Franchisee from activities performed under this Agreement. Recovery of any overpayment will be negotiated on a case by case basis, either immediately or through the next rate setting evaluation.

ARTICLE 13
OTHER AGREEMENTS OF THE PARTIES

13.1 Relationship of Parties

13.1.1 The parties intend that Franchisee shall perform the services required by this Agreement as an independent Franchisee engaged by County and not as an officer or employee of County nor as a partner of or joint venture with County. No employee or agent of Franchisee shall be or shall be deemed to be an employee or agent of County. Except as expressly provided herein, Franchisee shall have the exclusive control over the manner and means of conducting the Recycling services performed under this Agreement, and all Persons performing such services.

Franchisee shall be solely responsible for the acts and omissions of its officers, employees, subcontractors and agents. Neither Franchisee nor its officers, employees, subcontractors and agents shall obtain any rights to retirement benefits, workers compensation benefits, or any other benefits which accrue to County employees by virtue of their employment with County.

13.2 Compliance with law/Standards of the Industry

13.2.1 County and Franchisee acknowledge that Franchisee will have the affirmative obligation to comply with all laws in effect during the duration of this Agreement, including all additions, updates and amendments to the laws and all applicable regulations promulgated by federal, state, regional or local administrative and regulatory agencies. Further, County and Franchise acknowledge and agree that this Agreement may be amended as needed to add additional performance standards that come into effect during the duration of this Agreement as a result of changes in the standards of the industry.

13.3 Governing Law

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

13.4 Jurisdiction

13.4.1 Any lawsuits between the parties arising out of this Agreement shall be brought and concluded in the courts of the State of California, which shall have exclusive jurisdiction over such lawsuits. Venue of any such lawsuits shall be in San Luis Obispo County.

13.5 Transition to Next Franchisee

13.5.1 If the transition of services to another Franchisee occurs through expiration of term, default and termination, or otherwise, Franchisee will cooperate with County and subsequent Franchisee(s) to assist in an orderly transition which will include Franchisee providing route lists and billing information. In the event of such a transition, and upon written request of County, County shall be provided and shall own the customer lists, route lists and billing information. Franchisee will provide current customer lists, route lists and billing information to County within ten (10) days of receiving a written request. Franchisee will not be obliged to sell Collection vehicles or Containers to the next Franchisee. Depending on Franchisee's circumstances at the point of transition, Franchisee at its option may enter into negotiations with the next Franchisee to sell (in part or all) Collection vehicles and/or containers.

13.6 Parties in Interest

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

13.7 Waiver and Estoppel

13.7.1 The waiver by either party of any breach or violation of any provisions of this Agreement shall not be deemed to be a waiver of any breach or violation of any other provision nor of any subsequent breach of violation of the same or any other provision. The subsequent acceptance by either party of any monies that become due hereunder shall not be deemed to be a waiver of any pre-existing or concurrent breach or violation by the other party of any provision of this Agreement.

13.8 Failure to Enforce

13.8.1 County's failure to enforce any provision of County Code, or of this Agreement, for a breach or violation by Franchisee of said County Code or Agreement, shall not constitute an acquiescence, waiver, estoppel, or bar on County pursuing and seeking enforcement in the event that one or more of the same provisions of County Code or this Agreement are subsequently breached or violated by Franchisee.

13.9 Franchisee's Investigation

13.9.1 Franchisee has relied on its own investigations, and not on any representations of County or its agents of the conditions and circumstances surrounding the Agreement and the work to be performed by it.

13.10 Notice

13.10.1 All notices, demands, requests, proposals, approvals, consents and other communications which this Agreement requires, authorizes or contemplates shall be in writing and shall either be personally delivered to a representative of the parties at the address below or be deposited in the United States mail, first class postage prepaid, addressed as follows:

If to County:

Director, Public Works Department
County Government Center, Room 207
San Luis Obispo CA 93408

If to Franchisee:

Contact Name
Company Name
Street Address
Mailing Address

13.10.2 The address to which communications may be delivered may be changed from time to time by a notice given in accordance with this Article. The notice, if mailed, is deemed served three (3) days after the mailing.

13.11 Representatives of the Parties

13.11.1 References in this Agreement to the "County" shall mean the County of San Luis Obispo and all actions to be taken by County shall be taken by the Board of Supervisors except as provided below. The Board may delegate, in writing, authority to the Director of Public Works or his/her designee or to other County employees and may permit such employees, in turn, to delegate in writing some or all of such authority to subordinate employees. Franchisee may rely upon actions taken by such delegates if they are within the scope of the authority properly delegated to them.

13.11.2 Franchisee shall, by the effective date, designate in writing a responsible officer who shall serve as the representative of Franchisee in all matters related to the Agreement and shall inform County in writing of such designation and of any limitations upon his or her authority to bind Franchisee. County may rely upon action taken by such designated representative as actions of Franchisee unless they are outside the scope of the authority delegated to him/her by Franchisee as communicated to County.

13.12 County Free to Negotiate with Third Parties

13.12.1 County may investigate all options for the Collection, processing and marketing of Recyclable Materials after the expiration of the Term. Without limiting generality of the foregoing, County may solicit proposals from Franchisee and from third parties for the provision of Solid Waste and Recycling services, and any combination thereof, and may negotiate and execute Agreements for such services that will take effect upon the expiration or earlier termination under Article 12.1 (Events of Default) of this Agreement.

13.13 Compliance with the San Luis Obispo County Code

13.13.1 Franchisee shall comply with all provisions of the San Luis Obispo County Code and with any and all amendments to these provisions during the Term of this Agreement.

13.14 Privacy

13.14.1 Franchisee 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 Franchisee, unless upon the authority of a court of law, by statute, or upon valid authorization of the customer. This provision shall not be construed to preclude Franchisee from preparing, participating in, or assisting in the preparation of waste characterization studies or waste stream analyses that may be required by AB 939.

ARTICLE 14
ASSIGNMENT

14.1 Prior Consent

14.1.1 No interest in this Agreement may be assigned, sold, subcontracted or transferred, either in whole or in part, without the prior written consent of County. Any such assignment made without the consent of County shall be null and void and the attempted assignment shall constitute a material breach of this Agreement. Franchisee shall promptly notify the Director in writing in advance of any proposed assignment, sale, subcontract or transfer. In the event that the Board approves of any assignment, sale, subcontract or transfer, said approval shall not relieve Franchisee of any of its obligations or duties under this Agreement unless this Agreement is modified in writing to that effect. Franchisee shall also notify the Director of any change in control and/or ownership of Franchisee. For purposes of this Agreement, change of ownership or control is presumed to include, without limitation, the sale or transfer of at least twenty five percent (25%) of Franchisee's assets or at least twenty-five percent (25%) of Franchisee's voting stock. County will not unreasonably withhold consent to any assignment, sale, subcontract or transfer. The County may, however, assign its rights and delegate its obligations under this Agreement to a joint powers authority, district or similar governmental entity without the prior written consent of Franchisee.

14.2 Franchise Assignment

14.2.1 For purposes of this Article when used in reference to Franchisee, "assignment" shall include, but not be limited to:

14.2.1.1 a sale, exchange or other transfer to a third party of at least twenty five percent (25%) of Franchisee's assets dedicated to service under this Agreement; and

14.2.1.2 a sale, exchange or other transfer to a third party, including other shareholders, of outstanding common stock of Franchisee which may result in a change of control of Franchisee; and

14.2.1.3 any dissolution, reorganization, consolidation, merger, recapitalization, stock issuance or re-issuance, voting trust, pooling agreement, escrow arrangement, liquidation or other transaction which Franchisee or any of its shareholders is a party which results in a change of ownership or control of Franchisee; and

14.2.1.4 any assignment by operation of law, including insolvency or bankruptcy, assignment of the benefit of creditors, writ of attachment for an execution being levied against this Agreement, appointment of a receiver taking possession of Franchisee's property, or transfer occurring in the event of a probate proceeding;

14.2.1.5 and any combination of the foregoing (whether or not in related or contemporaneous transactions) which has the effect of any such transfer or change of ownership, or change of control of Franchisee.

14.3 Attributes of Franchisee

14.3.1 Franchisee warrants that they have the required expertise, skills, reputation, equipment, understanding, knowledge and capacity of every kind to perform this contract. Franchisee acknowledges that this Agreement involves rendering a vital

service to County residents and businesses, and that County has selected Franchisee to perform the services specified herein based on:

14.3.1.1 Franchisee's warranty that Franchisee has the required experience, skill and reputation for conducting its solid waste management operations in a safe, effective and responsible fashion, at all times in keeping with applicable local, state and federal environmental laws, regulations and best waste management practices; and

14.3.1.2 Franchisee's financial resources to maintain the required equipment and to support its indemnity obligations to County under this Agreement;

14.3.1.3 County will rely on each of these factors, among others, in choosing Franchisee to perform the services provided under this Agreement.

14.4 County's Discretion

14.4.1 If Franchisee requests County's consideration of and consent to an assignment, County may deny or approve such request at its complete discretion.

14.5 Maintenance of Quality Service

14.5.1 The County is concerned about the possibility that assignment could result in significant rate increases, as well as a change in the quality of service. Accordingly, the following standards have been set to ensure that assignment will result in continued quality service. In addition, County reserves the right to solicit competitive bids for these services if the assignment results in a request by the assignee for rate increases that are higher than the inflationary index and do not reflect value changes in service standards.

14.6 Conditions for Consideration of Assignment

14.6.1 Under no circumstances shall County be obliged to consider any proposed assignment by Franchisee, if Franchisee is in default at any time during the period of consideration. At a minimum, no request by Franchisee for consent to an assignment need be considered by County unless and until Franchisee has met the following requirements:

14.6.1.1 Franchisee has advanced payment to County for estimated expenses to be incurred by County in investigating the suitability of any proposed assignee, and reviewing and finalizing any documentation, which will include, but is not limited to, reasonable attorney's fees and other professional services. Advance payment of the expenses is a condition that must be satisfied prior to County undertaking any review of the propriety of an assignment.

14.6.1.2 Franchisee has furnished County with audited financial statements of the proposed assignee's operations for the immediately preceding three (3) operating years;

14.6.1.3 Franchisee has furnished County with satisfactory proof:

14.6.1.3.1 that the proposed assignee has at least ten (10) years of solid waste management experience on a scale equal to or exceeding the scale of operations conducted by Franchisee under this Agreement; and

14.6.1.3.2 that the proposed assignee has at least ten (10) years of Recyclable Material management experience on a scale equal to or exceeding the scale of operations conducted by Franchisee under this Agreement; and

14.6.1.3.3 that in the last five (5) years, the proposed assignee has not suffered any significant citations or other censure from any federal, state or local agency having jurisdiction over its solid waste or recyclables management operations due to any significant failure to comply with state, federal or local Environmental Laws and that the assignee has provided County with a complete list of such citations and censures; and

14.6.1.3.4 that the proposed assignee has at all times conducted its operations in an environmentally safe and conscientious fashion; and

14.6.1.3.5 that the proposed assignee conducts its solid waste and recyclables management practices in accordance with sound waste management practices, which may include, but is not limited to, the quality of the equipment to be used under this Agreement; and

14.6.1.3.6 that the proposed assignee conducts its solid waste and recyclables management practices in accordance with sound waste management practices in full compliance with all federal, state and local laws regulating the Collection, transportation, processing, marketing and disposal of solid waste and recyclables including Hazardous Wastes; and

14.6.1.3.7 that the proposed assignee, and any of its officers, directors or employees have not been convicted of

14.6.1.3.7.1 fraud or criminal offense in connection with obtaining, attempting to obtain, procuring or performing a public or private agreement related to Recyclables or Solid Waste services of any kind (including collection, hauling, transfer, processing, composting or disposal), including this Agreement or any amendment thereto or

14.6.1.3.7.2 bribery or attempting to bribe a public officer or employee of a local, state, or federal agency in that officer or director's of Franchisee's employee's official capacity; or

14.6.1.3.7.3 embezzlement, extortion, racketeering, false claims, false statements, forgery, falsification or destruction of records, obstruction of justice, knowingly receiving stolen property, theft, or misprision (failure to disclose) of a felony; or

14.6.1.3.7.4 unlawful disposal of hazardous or designated waste the occurrence of which Franchisee knows or should have known; and,

14.6.1.3.8 any other information required by County to ensure the proposed assignee can fulfill the Terms of this Agreement in a timely safe and effective manner.

14.7 Subcontracting

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 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.

14.8 Binding on Assigns

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

ARTICLE 15
PUBLIC RECORDS ACT

15.1 Disclosure

15.1.1 Franchisee acknowledges that information and documentation provided to County pursuant to this Agreement is subject to disclosure pursuant to the California Public Records Act (Government Code section 6250 et. seq.) unless an exemption from disclosure is applicable. Public Resources Code section 40062 exempts information from disclosure that has been properly identified by Franchisee as a "trade secret", as defined in subdivision (d) of Section 3426.1 of the Civil Code. Franchisee agrees to identify all "trade secret" information on documents provided to County.

15.2 Franchisee Notice

15.2.1 In the event that County receives a request for disclosure of information, which has been identified by Franchisee as a trade secret, County will promptly provide Franchisee with a copy of the request and identify the information County believes to be responsive to the request. Within forty-eight (48) hours of receipt of the aforementioned documents, Franchisee must notify the Public Works Director in writing that Franchisee wishes to waive any and all confidentiality protections and authorize disclosure of the information to the requestor.

15.3 Disclosure Indemnification

15.3.1 If County does not receive written notice of waiver from Franchisee, as provided herein, and a requestor prevails in an action to compel County to disclose information that has been identified as a trade secret by Franchisee, Franchisee agrees to indemnify and hold County harmless, which shall include without limitation, payment of all attorney's fees and costs. Franchisee further acknowledges that any information that is not identified as a trade secret shall be made available to the public unless County determines that it is exempt from disclosure by another provision of law.

15.4 Notice to Secure Order

15.4.1 If County determines that the trade secret designation by Franchisee cannot be supported by law, County will provide Franchisee written notice of this determination to provide Franchisee the opportunity to secure an order from a court of competent jurisdiction directing County not to disclose the requested information.

Should Franchisee fail to secure such an order, the requested information will be provided in accordance with the provisions of the Public Records Act.

15.5 Designation Effect

15.5.1 The parties agree that the trade secret designation by Franchisee will carry no presumptive or conclusive effect in the event of any dispute or litigation between Franchisee and County.

ARTICLE 16
MISCELLANEOUS AGREEMENTS

16.1 Entire Agreement

16.1.1 This Agreement, including the exhibits, represents the full and entire Agreement between the parties with respect to the matters covered herein. This Agreement supersedes all previous agreements between the parties hereto on the same subject matter and constitutes the entire understanding of the parties hereto on the subject matter of this Agreement. Franchisee shall be entitled to no other benefits than those specified herein. Franchisee relies solely upon the provisions contained in this Agreement and no others.

16.2 Article Headings

16.2.1 The article headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to modify, limit, restrict, alter or affect any of its provisions contained in one or all of the Sections of this Agreement.

16.3 References to Laws and Other Agreements

16.3.1 All references in this Agreement to laws shall be understood to include such laws as they may be subsequently amended or recodified, unless otherwise specifically provided. The Franchisee is informed that County has a sovereign right to ordain, pass or adopt, in addition to the provisions contained in the current County Code Chapter 8.12, such additional rules, regulations, laws, resolutions and/or ordinances as the Board may find necessary in the exercise of its police powers.

16.3.2 In the event of any conflict between this Agreement and the San Luis Obispo County Code, the terms, conditions, and provisions of the County Code shall control.

16.4 Interpretation

16.4.1 This Agreement, including the exhibits attached hereto, shall be interpreted and construed reasonably and neither for nor against either party, regardless of the degree to which either party participated in its drafting. Nothing is construed against any drafter.

16.5 Modifications in Writing

16.5.1 Any change, amendment, modification, extension, or renewal to this Agreement shall be in writing, and shall be executed by duly authorized representatives of both County and Franchisee before the effective date of the change.

16.6 Severability

16.6.1 If any provision of this Agreement, or the application thereof to any person or circumstance, is held to be unconstitutional or to be otherwise invalid by a final judgment of any court of competent jurisdiction, such invalidity shall not affect other provisions or applications thereof which can be implemented without the invalid provisions or application and, to this end, the provisions of this Agreement are severable.

16.7 Exhibits or Attachments

16.7.1 Each of exhibits or attachments is attached hereto and incorporated herein and made a part hereof by this reference.

ARTICLE 17
PERFORMANCE REQUIREMENTS

If Franchisee requests a renewal or an extension of this Agreement, Franchisee must demonstrate each of the following conditions and standards have been satisfied throughout the term of the Agreement, subject to County's reasonable approval and prior to County's consideration of any renewal or extension request. Further, compliance with all aspects of this Agreement during the term of the Agreement shall be reviewed by County if consideration of a renewal or extension is requested. County reserves the right to waive Franchisee's compliance with any franchise extension requirements.

17.1 At the time of requesting and exercising the Agreement extension option, Franchisee is not in breach of this Agreement or in violation of the County Code and applicable state and federal laws.

17.2 Franchisee has fully participated with County in preparing, processing, mailing and tabulating customer satisfaction surveys to residential and commercial customers.

17.3 Franchisee has consistently delivered to an approved and, where applicable, permitted recycling facility, one hundred percent (100%) of the uncontaminated recyclables set out for collection.

17.4 Franchisee has consistently delivered to an approved and, where applicable, permitted green waste processing or composting facility, one hundred percent (100%) of the uncontaminated green waste set out for collection.

17.5 Thirty-two (32), sixty-four (64) and ninety-six (96) gallon cart solid waste, green waste and recycling services and rate levels (and others as agreed by County) are available for all residential customers requesting service.

17.6 Franchisee has had no more than two (2) violations of this Agreement which resulted in liquidated damages or other penalties.

17.7 Residential recycling and green waste collection programs are established and are ongoing throughout the franchise urbanized area with collection every week, on the same day as solid waste collection.

17.8 Residential recycling programs are established and are ongoing throughout the rural franchise area with collection a minimum of every other week on the same day as solid waste collection.

17.9 All commercial customers have recycling and green waste collections at least once during the week, on a solid waste collection day.

17.10 Franchisee has actively sought to achieve the goal of including ninety-five percent (95%) of eligible households and establishments within the Franchise Area in the solid waste collection program.

17.11 Green waste and recyclables have not been collected in non-compostable bags or containers.

17.12 Throughout the term of this Franchise, and in conformance with County Code Chapter 8.12, not more than two (2) substantiated early-morning operating complaints have been received.

17.13 Throughout the term of this Agreement, within any twelve (12) month period, not more than two (2) substantiated non-early-morning operating complaints have been received.

17.14 Franchisee has maintained County's rate review schedules, including base reviews and has fully cooperated with requests for additional information.

17.15 Franchisee has operated in the most efficient manner, as determined by County, with respect to equipment, routes, and the disposal and recycling facilities used.

17.16 Throughout the term of this Agreement, Franchisee has not failed to correct any litter violations for material blowing out of trucks or left behind after collection.

17.17 Franchisee has conducted three (3) customer satisfaction surveys

17.18 Customer satisfaction survey results indicate a satisfactory level of performance, as determined by County

17.19 Franchisee has suffered no suspensions during the term of this Agreement .

17.20 During the term of this Agreement all liquidated damages have been paid within 10 days of County's assessment or resolution of a liquidated damages appeal.

[signature page to follow]

IN WITNESS WHEREOF, County and Franchisee have executed this Agreement as shown by signatures below.

APPROVED AS TO FORM AND LEGAL EFFECT:

San Luis Garbage Company, Inc.

By _____
Ron Mittelstaedt, CEO,
Waste Connections, Inc.

By _____
Rob Cloninger, Corporate Counsel
Waste Connections, Inc.

Dated: _____

WARREN R. JENSEN
County Counsel

By: Kathleen Bouchard
Kathleen Bouchard, Deputy County Counsel

Dated: November 18, 2008

COUNTY OF SAN LUIS OBISPO

James R. Patterson

By _____
Chair of the Board of Supervisors

ATTEST:

JULIE L. RODEWALD
County Clerk and Ex-Officio Clerk of the Board of Supervisors of the County of San Luis Obispo

By: Vicki McKenna

Dated: 12/15/08

EXHIBIT A
FRANCHISE AREA

EXHIBIT A

DESCRIPTION OF SERVICE TERRITORY OF

SAN LUIS GARBAGE COMPANY, INC.

(AS AMENDED AUGUST, 1993)

Commencing at Cuesta Pass; following an imaginary line Southeast to the Southern terminus of Burrito Creek Road, then following an imaginary line Southeast to the Northwesterly end of Hi Mountain Lookout Road (but not providing service to any customers on that road, or to any customers on any non-through access roads off of that road), then continuing along Hi Mountain Lookout Road to Hi Mountain Peak, following an imaginary line Southeast to the Southeasterly corner of the Lopez Lake Recreation Area (Lopez Lake). San Luis Garbage services Lopez Canyon Road and Lopez Lake.

The San Luis Garbage service area then continues from the dam at Lopez Lake, along an imaginary line to the Southernmost intersection of Varian Circle and Orcutt Road, so as to provide service to the Varian Ranch Subdivision. San Luis Garbage does not service Orcutt Road south of its intersection with Tiffany Ranch Road, and does not provide any service of Tiffany Ranch Road, and does not provide any service on Corbett Canyon Road.

San Luis Garbage services both sides of Orcutt Road north from the intersection of Tiffany Ranch Road and Orcutt Road, including all non-through access roads.

From the intersection of Tiffany Ranch Road and Orcutt Road, the San Luis Garbage service area follows an imaginary line

Northwesterly to the intersection of Corbett Canyon Road and Highway 227.

San Luis Obispo Garbage will service both sides of Highway 227 from its intersection with Corbett Canyon Road, South to Cold Canyon Landfill, and all non-through access roads off of Highway 227 in the area from Cold Canyon Landfill to Price Canyon Road.

At the intersection of Price Canyon Road and Highway 227, the Southern boundary runs West along an imaginary line to Indian Knob, then Northwest along an imaginary line to the intersection of Higuera Street and Highway 101, then West along an imaginary line to the intersection of See Canyon and Perfumo Canyon Roads. This service area does not include any of See Canyon Road, nor any non-through access roads off of See Canyon Road.

From the intersection of See Canyon and Perfumo Canyon Roads, the boundary runs North along an imaginary line to a point one lot East of the intersection of Turri Road and Los Osos Valley Road (not including any part of Turri Road) and continues North along an imaginary line to Hollister Peak.

From Hollister Peak the Northern boundary of San Luis Garbage Company follows the Northern boundary of Camp San Luis Obispo East to the point of commencement at Cuesta Pass.

Service Territory of
San Luis Garbage Company, Inc.

