

**SECOND AMENDMENT TO AGREEMENT**

**BETWEEN THE**

**CITY OF RANCHO CUCAMONGA**

**AND**

**BURRTEC WASTE INDUSTRIES, INC.**

**FOR**

**INTEGRATED SOLID WASTE MANAGEMENT SERVICES**

This Second Amendment to the Agreement for Integrated Solid Waste Management Services (the "Second Amendment") is entered into this 17<sup>th</sup> day of August, 2022, by and between the City of Rancho Cucamonga (the "City") and Burrtec Waste Industries, Inc. ("Contractor") (collectively "Parties," or individually "Party").

**RECITALS**

WHEREAS, the City and Contractor previously entered into that certain Agreement for Integrated Solid Waste Management Services dated 15<sup>th</sup> day of June, 2016 the "Agreement", including amendments thereto; and,

WHEREAS, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (AB 939) (California Public Resources Code Section 40000, et seq.), has declared that it is in the public interest to authorize and require local agencies to make adequate provisions for Solid Waste handling within their jurisdictions; and,

WHEREAS, the State of California has found and declared that the amount of Solid Waste generated in California, coupled with diminishing Disposal capacity and interest in minimizing potential environmental impacts from landfilling and the need to conserve natural resources, have created an urgent need for State and local agencies to enact and implement an aggressive integrated waste management program. The State has, through enactment of AB 939 and subsequent related legislation including, but not limited to: the Jobs and Recycling Act of 2011 (AB 341), the Event and Venue Recycling Act of 2004 (AB 2176), SB 1016 (Chapter 343, Statutes of 2008 [Wiggins, SB 1016]), the Mandatory Commercial Organics Recycling Act of 2014 (AB 1826), and the Short-Lived Climate Pollutants Bill of 2016 (SB 1383), directed the responsible State agency, and all local agencies, to promote a reduction in Landfill Disposal and to maximize the use of feasible waste reduction, reuse, recycling, and composting options in order to reduce the amount of material that must be disposed; and,

WHEREAS, SB 1383 establishes regulatory requirements for jurisdictions, generators, haulers, Solid Waste facilities, and other entities to support achievement of State-wide Organic Waste Disposal reduction targets; and

WHEREAS, SB 1383 Regulations require the City of Rancho Cucamonga to implement collection programs, meet Processing facility requirements, conduct contamination monitoring, provide education, maintain records, submit reports, monitor compliance, conduct enforcement, and fulfill other requirements; and, the City of Rancho Cucamonga has chosen to delegate some

of its responsibilities to the Contractor, acting as the City's designee, and Contractor desires to take on these responsibilities; and

WHEREAS, the City and Contractor desire to amend the Agreement as set forth herein.

NOW, THEREFORE, in consideration of the promises above stated and the terms, conditions, covenants, and agreements contained herein, the Parties do hereby agree as follows:

### **AMENDMENT**

**1. Article 1 "Definitions" of the Agreement is hereby amended by the addition of the following definitions.**

"Back-Haul" means generating and transporting Organic Waste to a destination owned and operated by the Generator using the Generator's own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).

"Black Container" has the same meaning as in 14 CCR Section 18982(a)(28) and shall be used only for the purpose of storage and collection of Black Container Waste. Notwithstanding the foregoing, functional containers purchased prior to January 1, 2022, that are used for the storage and collection of Black Container Waste and that do not comply with the color requirements of 14 CCR Section 18982(a)(28) shall be deemed to be Black Containers and are not required to be replaced until the end of the useful life of those containers or January 1, 2036, whichever is earlier.

"Black Container Waste" means Solid Waste that is collected in a Black Container that is part of the City's three-container Organic Waste collection service that prohibits the placement of Organic Waste in the Black Container as specified in 14 CCR Sections 18984.1(a) and (b); or, as otherwise defined in 14 CCR Section 17402(a)(6.5). Notwithstanding the preceding sentence, Black Container Waste includes carpets and textiles.

"Blue Container" has the same meaning as in 14 CCR Section 18982(a)(5) and shall be used only for the purpose of storage and Collection of Source Separated Recyclable Materials Notwithstanding the foregoing, functional containers purchased prior to January 1, 2022 that are used for the storage and collection of Source Separated Recyclable Materials and that do not comply with the color requirements of 14 CCR Section 18982(a)(5) shall be deemed to be Blue Containers and are not required to be replaced until the end of the useful life of those containers or January 1, 2036, whichever is earlier.

"Brown Container" has the same meaning as in 14 CCR Section 18982(a)(5.5) and shall be used only for the purpose of storage and collection of Source Separated Food Waste. Notwithstanding the foregoing, functional containers purchased prior to January 1, 2022 that are used for the storage and collection of Source Separated Food Waste and that do not comply with the color requirements of 14 CCR Section 18982(a)(5.5) shall be deemed to be Brown Containers and are not required to be replaced until the end of the useful life of those containers or January 1, 2036, whichever is earlier.

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

“CalRecycle” means California's Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations on the City and others.

“Commercial Edible Food Generators” includes a Tier One or Tier Two Commercial Edible Food Generator, as defined herein. For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR Section 18982(a)(7).

“Compostable Plastics” or “Compostable Plastic” means plastic materials that meet the ASTM D6400 standard for compostability, or as otherwise described in 14 CCR Section 18984.1(a)(1)(A) or 18984.2(a)(1)(C).

“Compost” means the product resulting from the controlled biological decomposition of organic Solid Wastes that are Source Separated from the municipal solid waste stream, as specified in 14 CCR Section 17896.2(a)(4).

“Diversion (or any variation thereof including “Divert”)” means activities which reduce or eliminate Discarded Materials from Disposal, including, but not limited to, source reduction, Reuse, salvage, Recycling, and composting.

“Edible Food” means food intended for human consumption; or, as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this agreement or as otherwise defined in 14 CCR Section 18982(a)(18), “Edible Food” is not Solid Waste if it is recovered and not discarded. Nothing in this chapter or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the State Retail Food Code.

“Excluded Waste” means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the City and its Generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in the City's Enforcement Official's or its Designee's, reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose the City, or its Designee, to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the State Public Resources Code.

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

“Food Recovery Organization” unless otherwise defined in 14 CCR Section 18982(a)(25), means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities, including, but not limited to:

1. A food bank as defined in Section 113783 of the Health and Safety Code;
2. A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,
3. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this agreement and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

“Food Recovery Service” means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery; or, as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this agreement and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

“Food Scraps” means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. Food Scraps excludes fats, oils, grease, and liquids, including, but not limited to broth and beverages, when such materials are Source Separated from other Food Scraps

“Food-Soiled Paper” means compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons.

“Food Waste” means all food and food scraps such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells Food Waste excludes fats, oils, liquids, and grease when such materials are Source Separated from other Food Waste. Food Waste is a subset of Source Separated Green Container Organic Waste. Edible Food separated for Food Recovery shall not be considered Food Waste.

“Gray Container” has the same meaning as in 14 CCR Section 18982(a)(28) and shall be used for the purpose of storage and Collection of Gray Container Waste. Notwithstanding the foregoing, functional containers purchased

prior to January 1, 2022 that are used for the storage and collection of Gray Container Waste and that do not comply with the color requirements of 14 CCR Section 18982(a)(28) shall be deemed to be Gray Containers and are not required to be replaced until the end of the useful life of those containers or January 1, 2036, whichever is earlier.

“Gray Container Waste” means Solid Waste that is collected in a Gray Container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(6.5). Notwithstanding the preceding sentence, Gray Container Waste includes carpets and textiles.

“Green Container” has the same meaning as in 14 CCR Section 18982(a)(29) and shall be used only for the purpose of storage and collection of Source Separated Green Container Organic Waste. Notwithstanding the foregoing, functional containers purchased prior to January 1, 2022, that are used for the storage and collection of Source Separated Green Container Organic Waste and that do not comply with the color requirements of 14 CCR Section 18982(a)(29) shall be deemed to be Green Containers and are not required to be replaced until the end of the useful life of those containers or January 1, 2036, whichever is earlier.

“Hauler Route(s)” means the designated itinerary or sequence of stops for each segment of the City’s collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).

“Landscape Waste” means tree and shrubbery trimmings, vegetation from land clearing, grass cuttings, leaves, garden organic materials, sawdust, straw, wood chips and other discarded plant or vegetation material.

“Large Event” means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event; or, as otherwise defined in 14 CCR Section 18982(a)(38).

“Large Venue” unless otherwise defined in 14 CCR Section 18982(a)(39), means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this agreement and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this chapter and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue.

“Local Education Agency” means a school district, charter school, or county office of education that is not subject to the control of the City’s regulations related to Solid Waste; or, as otherwise defined in 14 CCR Section 18982(a)(40).

“Multi-Family Residential Dwelling(s)” or “Multi-Family” means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.

“Non-Compostable Paper” includes, but is not limited to, paper that is coated in a plastic material that will not breakdown in the composting process, or as otherwise defined in 14 CCR Section 18982(a)(41).

“Non-Local Entity” means the following entities that are not subject to the City’s enforcement authority; or, as otherwise defined in 14 CCR Section 18982(a)(42):

1. Special district(s) located within the jurisdictional boundaries of the City;
2. Federal facilities, including military installations, located within the jurisdictional boundaries of the City;
3. Prison(s) located within the jurisdictional boundaries of the City;
4. Facilities operated by the State Park system located within the jurisdictional boundaries of the City;
5. Public universities (including community colleges) located within the jurisdictional boundaries of the City;
6. County fairgrounds located within the jurisdictional boundaries of the City; and
7. State agencies located within the jurisdictional boundaries of the City.

“Non-Organic Recyclables” means non-putrescible and non-hazardous recyclable wastes including, but not limited to, bottles, cans, metals, plastics and glass; or, as otherwise defined in 14 CCR Section 18982(a)(43).

“Notice of Violation” or “NOV” means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties; or, as otherwise defined in 14 CCR Section 18982(a)(45) or further explained in 14 CCR Section 18995.4.

“Organic Waste” means Solid Wastes containing material originated from living organisms and their metabolic waste products including, but not limited to, food, yard trimmings, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges, or as

otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined in 14 CCR Section 18982(a).

“Paper Products” include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling; or as otherwise defined in 14 CCR Section 18982(a)(51).

“Printing and Writing Papers” include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications; or as otherwise defined in 14 CCR Section 18982(a)(54).

“Processing” means the controlled separation, recovery, volume reduction, conversion, or Recycling of Solid Waste including, but not limited to, organized, manual, automated, or mechanical sorting, the use of vehicles for spreading of waste for the purpose of recovery, and/or includes the use of conveyor belts, sorting lines, or volume reduction equipment, or as otherwise defined in 14 CCR Section 17402(a)(20).

“Prohibited Container Contaminants” unless otherwise defined in 14 CCR Section 18982(a)(55), means the following:

1. Discarded materials placed in the Blue Container that are not identified by the City as acceptable Source Separated Recyclable Materials for the Blue Container;
2. Discarded materials placed in the Brown Container that are not identified as acceptable Food Waste for the City’s Brown Container;
3. Discarded materials placed in the Green Container that are not identified by the City as acceptable Source Separated Green Container Organic Waste for the Green Container, including carpet, hazardous wood waste and Non- Compostable Paper;
4. Discarded materials placed in the Black Container that are identified by the City as acceptable Source Separated Recyclable Materials to be placed in the Blue Container or Source Separated Organic Waste to be placed in the City’s Green and/or Brown Container; and,
5. Excluded Waste placed in any container.

“Recovery” means any activity or process described in 14 CCR Section 18983.1(b); or, as otherwise defined in 14 CCR Section 18982(a)(49).

“Recycle” or “Recycling” means the process of Collecting, sorting, cleansing, treating, and reconfiguring materials for the purpose of returning them to the economic mainstream in the form of raw material for new, Reused, or reconstituted products that meet the quality standards necessary to be used in the

marketplace. Recycling includes processes deemed to constitute a reduction of Landfill Disposal pursuant to 14 CCR, Division 7, Chapter 12, Article 2. Recycling does not include gasification or transformation as defined in Public Resources Code Section 40201.

“Recycled-Content Paper” means Paper Products and Printing and Writing Papers that consist of at least 30 percent, by fiber weight, postconsumer fiber; or, as otherwise defined in 14 CCR Section 18982(a)(61).

“Restaurant” means an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption; or, as otherwise defined in 14 CCR Section 18982(a)(64).

“Reuse” or any variation thereof, means the use, in the same, or similar, form as it was produced, of a material which might otherwise be discarded, or as otherwise defined in 14 CCR Section 17402.5(b)(2).

“SB 1383” means Senate Bill 1383 of 2016 approved by the Governor of the State on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the State Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the State Public Resources Code, establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants.

“SB 1383 Regulations” or “SB 1383 Regulatory” means the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of 14 CCR and 27 CCR.

“Self-Hauler” or “Self-Haul” means a person, who, in compliance with all applicable requirements of the City Code, hauls Solid Waste, Organic Waste or recyclable material he or she has generated directly to the appropriate facility, as required by SB 1383 Regulations. Self-hauler also includes a person who Back-Hauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66).

“Service Level” refers to the number and size of a Customer’s Container(s) and the frequency of Collection service, as well as ancillary services such as lock/unlock service, Container push/pull service, etc.

“Single-Family” means of, from, or pertaining to any residential premises with fewer than five (5) units.

“Solid Waste” unless otherwise defined in State Public Resources Code Section 40191, means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, 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 semi-solid wastes, and other discarded solid and semisolid wastes, with the exception that Solid Waste does not include any of the following wastes:



1. Hazardous waste, as defined in the State Public Resources Code Section 40141;
2. Radioactive waste regulated pursuant to the Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code); and,
3. Medical waste regulated pursuant to the Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in State Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the State Public Resources Code.

“Source Separated” means materials, including commingled recyclable materials, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace; or, as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of this agreement, Source Separated shall include separation of materials, at the point of generation, by the Generator, property owner, property owner’s employee, property manager, or property manager’s employee into different containers for the purpose of collection such that Source Separated materials are separated from Black Container Waste, Gray Container Waste or other Solid Waste for the purposes of collection and processing of those materials.

“Source Separated Blue Container Organic Waste” means Source Separated Organic Waste that can be placed in a Blue Container that is limited to the collection of that Organic Waste and Non-Organic Recyclables. Source Separated Blue Container Organic Waste includes Paper Products, Printing and Writing Papers, unless otherwise specified by the City, but excludes Source Separated Green Container Organic Waste and Food Waste.

“Source Separated Green Container Organic Waste” means Source Separated Organic Waste that can be placed in a Green Container that is limited to the collection of that Organic Waste; or as otherwise specified in 14 CCR 18984.1 (a) and (b), excluding Source Separated Blue Container Organic Waste, carpets, Non-Compostable Paper, and textiles. For purposes of Single-Family Generators, Source Separated Green Container Organic Waste includes Food Waste. For purposes of Commercial Businesses, including Multi-Family Residential Dwellings, Source Separated Green Container Organic Waste excludes Food Waste.

“Source Separated Recyclable Materials” means Source Separated Non-Organic Recyclables and Source Separated Blue Container Organic Waste.

“Standard Compliance Approach” means the method for complying with the SB 1383 Regulations through implementation of a collection system pursuant to 14 CCR, Division 7, Chapter 12, Article 3, and all associated program and policy requirements.

“State” means the State of California.

“Supermarket” means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items; or, as otherwise defined in 14 CCR Section 18982(a)(71). “Tier One Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following, each as defined in 14 CCR Section 18982(a)(73):

1. Supermarket;
2. Grocery Store with a total facility size equal to or greater than 10,000 square feet;
3. Food Service Provider;
4. Food Distributor; or,
5. Wholesale Food Vendor.

If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this Agreement.

“Tier Two Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following, each as defined in 14 CCR Section 18982(a)(74):

1. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet;
2. Hotel with an on-site food facility and 200 or more rooms;
3. Health facility with an on-site food facility and 100 or more beds;
4. Large Venue;
5. Large Event;
6. A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet; or,
7. A local education agency facility with an on-site food facility.

If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this Agreement.

“Uncontainerized Service” means the seasonal collection of Landscape Waste that is bundled for collection on the street in front of a Generator’s house for collection and transport by a permitted hauler to a facility that recovers Source Separated Organic Waste; or, as otherwise defined in 14 CCR Section 189852(a)(75).

“Wholesale Food Vendor” means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination; or, as otherwise defined in 14 CCR Section 189852(a)(76).

Definitions otherwise contained in the Agreement and/or any previous amendment(s), which are addressed above, shall be deemed repealed and replaced with the definitions found here. Definitions otherwise contained in the Agreement and/or any previous amendment(s), but which are not addressed above, shall remain the same.

**2. Section 2.4 “Term of Agreement” of the Agreement is hereby amended and restated in its entirety to read as follows:**

The initial term of this agreement commenced on July 1, 2016, and is scheduled to expire on June 30, 2038 (the "Initial Term"), subject to extension or earlier termination as provided herein.

**3. Section 2.9 “Limitations to Scope” of the Agreement is hereby amended and restated in its entirety to read as follows:**

Notwithstanding any provision to the contrary contained herein, the exclusive franchise, right and privilege to provide Solid Waste Services granted to Contractor by this Agreement specifically excludes the following services, which services may be provided by Persons other than Contractor and which may be the subject of other permits, licenses, franchises or agreements issued or entered by City.

The Collection, transfer, transport, Recycling, processing, and/or Disposal of:

a) The collection and removal of Recyclables for donation or sale by the owner or occupant of a residential or commercial premises that are separated either for reuse, for processing at recycling facilities, or for manufacture of new products. No cost or fees of any sort, including those for hauling, processing, sorting, or use of containers may be charged by the recycler, non-profit, or agency collecting the recyclables;

b) Solid Waste, including Organic Materials and Bulky Items, and Recyclable Materials which are removed from any Premises by the Waste Generator, and which is transported personally by such Generator (or by his or her full-time employees utilizing waste generator’s equipment) to a Disposal or Processing Facility in a manner consistent with Applicable Law;

- c) Green Waste removed from a Premises by a gardening, landscaping, or tree trimming contractor, utilizing its own equipment, as an incidental part of a total service offered by that contractor rather than as a hauling service; to a Facility in a manner consistent with Applicable Law;
- d) Animal waste and remains from slaughterhouse or butcher shops for use as tallow;
- e) By-products of sewage treatment, including sludge, sludge ash, grit and screenings;
- f) Hazardous Substances, Hazardous Waste, Household Hazardous Waste and radioactive waste regardless of its source;
- g) Construction and Demolition Debris which is removed by a duly-licensed construction or demolition company as part of a total service offered by that licensed company rather than as a hauling service, where the licensed company utilizes its own employees and equipment and has City approved C&D self-permit;
- h) Construction and Demolition Debris which is Collected by other hauling companies permitted and approved by City to operate within the City, consistent with the Municipal Code. This exclusion shall be suspended during any period that Contractor is authorized by Section 4.15 of this Agreement to provide exclusive Construction and Demolition Debris Collection services within the City;
- i) The casual or emergency collection of Solid Waste generated at City Facilities, or Collected from the public right-of-way by City through City officers or employees in the normal course of their City employment;
- j) The collection of Solid Waste from public works projects, during any period that Contractor does not have the exclusive right to provide Construction and Demolition Debris Collection Services pursuant to Section on 4.15;
- k) Solid Waste generated by or at governmental agencies other than City, which may have facilities within the City, but over which City has no jurisdiction in connection with the regulation of Solid Waste;
- l) Containers delivered for Recycling under the California Beverage Container Recycling Litter Reduction Act, Section 14500, et seq., California Public Resources Code;
- m) Organic waste byproducts generated by agricultural or industrial sources, from the processing of food or beverages, diverted from the landfill for use as animal feed, provided the organic waste byproducts are source separated from other solid waste by the generator and does not include any animal or fish processing byproducts, in accordance with Public Resources Code Section 40059.4.

**4. Section 3.2 “Household Hazardous Waste (HHW) Fee” of the Agreement is hereby amended and restated in its entirety to read as follows:**

In order to support City’s efforts in HHW management, Contractor shall quarterly pay to City a Household Hazardous Waste Fee (“HHW Fee”) equal to one and seventy-five hundredths of one percent (1.75%) of the Gross Receipts received by the Contractor. The quarterly HHW Fee payment to City is due on January 31, April 30, July 31, and October 31 of each calendar year.

**5. A new paragraph 4.1.1 “Collection System” is hereby added to Section 4.1 “Direct Services” of the Agreement to read as follows:**

A. General. Contractor shall provide an approved Collection program for the separate Collection of Source Separated Recyclable Materials, Source Separated Green Container Organic Waste, Source Separated Brown Container Food Waste, and Black Container Waste as specified in this Agreement, using Containers that comply with the requirements of this Agreement and SB 1383 Regulations. Contractor shall not knowingly Collect Blue, Brown, Green, or Black Containers that include Prohibited Container Contaminants. For the purposes of this agreement, Black Container shall have the same meaning as Gray Container and Black Container Waste shall have the same meaning as Gray Container Waste.

B. Source Separated Recyclable Materials Collection (Blue Container). Contractor shall provide Blue Containers to Customers for Collection of Source Separated Recyclable Materials and shall provide Source Separated Recyclable Materials Collection service, Contractor shall Transport the Source Separated Recyclable Materials to Facility that recovers the materials designated for Collection in the Blue Containers, in accordance with SB 1383 Regulations.

C. Source Separated Food Waste Collection (Brown Container). Contractor shall provide Brown Containers to Customers for Collection of Source Separated Food Waste and shall provide Source Separated Food Waste Collection service, Contractor shall Transport the Source Separated Food Waste to Facility that recovers the materials designated for Collection in the Brown Containers, in accordance with SB 1383 Regulations.

D. Source Separated Green Container Organic Waste Collection (Green Container). Contractor shall provide Green Containers to Customers for Collection of Source Separated Organic Waste and shall provide Source Separated Organic Waste Collection service, Contractor shall Transport the Source Separated Organic Waste to Facility that recovers the materials designated for Collection in the Green Containers, in accordance with SB 1383 Regulations.

E. Compostable Plastics. Contractor may Collect compliant Compostable Plastics, as defined, in the Green Containers for Processing. If the Contractor elects to Collect Compostable Plastics in the Green Container, then Contractor shall provide annual written notification to the City that the Facility has and will continue to have the capabilities to Process and recover the Compostable Plastics. If the Facility cannot process and recover Compostable Plastics, then Contractor will not Collect Compostable Plastics in the Green Container.

F. Black Container Waste Collection. Contractor shall provide Black Containers to Customers for Collection of Black Container Waste and shall provide Black Container Waste Collection service. Contractor shall Transport the Black Container Waste to a Facility in accordance with the SB 1383 Regulations. Contractor may allow carpets and textiles to be placed in the Black Containers. Prohibited Container Contaminants shall not be Collected in the Black Containers.

G. Container Labeling Requirements. In an amount not less than the quantity specified in the calculations used to determine the Compliance Fee as set forth in Exhibit 5(D), Compliance Fee Components, Contractor shall place a label on the body or lid of each Container that has been provided to a Customer that includes language or graphic images, or both, that indicate the primary materials accepted and the primary materials prohibited in that Container. Labels shall clearly indicate primary items that are Prohibited Container Contaminants for each Container.

G. Contractor is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of SB 1383 prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.

**6. A new paragraph 4.1.2 “Use of Plastic Bags for Source Separated Green Container Organic Waste Collection” is hereby added to Section 4.1 “Direct Services” of the Agreement to read as follows:**

Contractor may require Customers and Generators to place Food Waste in plastic bags or other paper wrappings and put the bagged or wrapped Food Waste in the Green Container. Contractor shall provide written notification to the City that allowing the use of bags does not inhibit the ability of the City to comply with SB 1383 Regulations, and that the Facility can Process and remove plastic bags when it recovers Source Separated Green Container Organic Waste. Contractor shall provide annual written notification to the City that the Facility has and will continue to have the capabilities to Process and remove plastic bags when it recovers Source Separated Green Container Organic Waste.

**7. Paragraph 4.3.1.2 “Regulatory Compliance” of Section 4.3 “Recycling and Organic Materials” of the Agreement is hereby amended and restated in its entirety to read as follows:**

Contractor shall provide all Customers required to participate in a Recyclable Materials Diversion program with a program(s) compliant with State and CalRecycle mandatory Commercial and Multi-Family Recycling requirements under AB 341 and SB 1383.

**8. Paragraph 4.3.2.1 “Regulatory Compliance” of Section 4.3 “Recycling and Organic Materials” of the Agreement is hereby amended and restated in its entirety to read as follows:**

Contractor shall provide all Customers required to participate in an Organic Materials Diversion program with a program(s) compliant with State and CalRecycle mandatory Organics Recycling requirements under AB 1826 and SB

1383 and subject to all other terms and conditions of this Agreement. In the event Contractor believes its compliance with the requirements of AB 1826 and SB 1383 requires, or can be accomplished through, alternative methods or procedures, not specified in or otherwise permitted by this Agreement, City shall meet and confer with Contractor regarding whether Contractor can or should be allowed to use such alternative methods or procedures.

**9. Paragraph 4.3.2.2 “Green Waste and Manure Collection for Cart Refuse Customers” of Section 4.3 “Recycling and Organic Materials” of the Agreement is hereby repealed and replaced in its entirety with a new paragraph 4.3.2.2 “Organic Waste Collection for Cart Refuse Customers” to read follows:**

Contractor shall have an Organic Waste Recycling program whereby it, at a minimum, Collects the types of Organic Waste authorized for collection in the Green Container and/or Brown Container. Horse stable matter, and livestock manure are also acceptable materials to be placed in Single Family Dwelling Green Containers.

Contractor shall provide all Residential Single Family Dwelling Customers receiving Cart Refuse Collection, with a ninety-five (95) gallon Cart for Collection of Organic Waste and manure (“Source Separated Green Container Organic Waste”). Contractor shall Collect all Source Separated Green Container Organic Waste and manure placed in Green Carts and put out for Collection by Customers not less than once per week on the same day as Refuse Collection. Green Cart Customers shall be instructed to place the Cart(s) in the same location as Refuse Carts. Following Collection, Contractor shall relocate Carts when necessary, and return them to their original position.

Contractor shall only be obligated to Collect additional seasonal, Uncontainerized Green Waste set out for Collection by Customers up to two (2) times per year, if it is tied, bundled and placed beside Green Waste Cart(s), and a maximum of four (4) feet long and eighteen (18) inches in diameter. Contractor may request Customer to call in unusually large Green Waste loads or bundled Green Waste in advance but will collect all material properly set out for collection. The Collection of Green Waste bundles under this Section is not considered a Bulky Item pickup.

Customers may request additional Carts for Organic Waste Collection for an additional charge per Cart per month in accordance with the Rate Schedule.

**10. Paragraph 4.6.4.1 “Carts” of Section 4.6 “Operations” of the Agreement is hereby amended and restated in its entirety to read as follows:**

A. Cart Selection, Distribution and Exchanges

Contractor shall provide Residential Customers with Containers as specified in Sections 4.2.1, 4.3.1.3, and 4.3.2.2

Residential Customers may each request one free Container exchange per calendar year. Commercial Customers may request one free Black, Blue, or Green Cart exchange per calendar year. One exchange includes all Cart size changes

included in the same Customer request and may include changes made to any number of the Customer's Carts. If a second request is made in any calendar year, or a customer requests a Brown container exchange, Contractor may charge for each request, regardless of the number of Carts exchanged, in accordance with the Rate Schedule. This procedure shall be described in Contractor's public education materials.

#### B. Cart Design Requirements

Carts and Cart lids must meet color, size, uniformity, and quality requirements of outlined in the City's ordinance. City will not permit Carts and Cart lids with inconsistent colors or in poor condition to be used within the City at any time during the term of this Agreement, and may require Contractor to replace such Carts.

All Carts provided by Contractor utilized in the performance of this Agreement shall be manufactured by injection or rotational molding and meet the Cart design and performance requirements as specified below. All Carts selected shall be subject to City's approval prior to Contractor placing order for Carts.

#### C. Capacity

The references in Sections 4.2.1, 4.3.1.3, and 4.3.2.2 to Cart sizes of ninety-six (96), sixty-four (64) gallons, thirty-five (35) gallons, and fifteen (15) gallons may be approximate. The Cart size, excluding lid capacity, may fall within the following range:

- 10- 20 gallons
- 30 - 40 gallons
- 60 - 70 gallons
- 90- 101 gallons

The selected sizes must be consistent throughout City for a uniform appearance.

#### D. Cart Color and Appearance

The Refuse Carts shall be black, the Recycling Carts blue the Organic Waste Carts green, and source separated food waste carts Brown in color and consistent with SB 1383 regulations.

The colors shall be colorfast and resistant to fading as a result of weathering or ultraviolet degradation. Color must be approved in advance by City. Cart colors shall be consistent throughout City.



**11. Paragraph 4.6.4.3 “Bins” of Section 4.6 “Operations” of the Agreement is hereby amended and restated in its entirety to read as follows:**

A. Cleaning. Contractor shall provide Customers with Bins required during the Term at no extra charge. Contractor shall maintain Bins in a clean, sound condition free from putrescible residue. All Bins in use shall be constructed of heavy metal, or other suitable, durable material, and shall be watertight and well painted. Wheels, forklift slots, and other apparatuses, which were designed for movement, loading, or unloading of the Bin shall be maintained in good repair.

Upon Customer or City request, or if required to maintain the Containers in a clean condition, Contractor shall clean all Bins for a fee in accordance with the Rate Schedule. When a Bin is removed for cleaning, Contractor shall replace the Bin, either temporarily or as a change-out, with another Container. Contractor shall remove graffiti from any Container within two (2) Working Days of request by City or Customer. Contractor is required to proactively look for graffiti when Collecting Bins, with all graffiti removed from Containers in no later than one (1) Working Day after any Collection without notification.

B. Bin Identification and Color. Each Bin placed within the City by Contractor shall have the name of Contractor and phone number high on the exterior of the Bin so as to be visible when the Bin is placed for use. Contractor shall label Bins with languages as required and graphic instruction on what materials should and should not be placed in each Bin. Contractor shall repaint Bins upon City's request if City deems it necessary to maintain a neat appearance. All Bins shall be painted a uniform color in accordance with SB 1383 requirements.

**12. Paragraph 4.14.2 “Warning Notice” of Section 4.14 “Diversion Requirements” of the Agreement is hereby amended and restated in its entirety to read as follows:**

A. Actions upon Identification of Prohibited Container Contaminants. Upon finding Prohibited Container Contaminants in a Container, Contractor shall follow the protocols set forth in this Section.

1. Record Keeping. The driver or other Contractor representative shall record each event of identification of Prohibited Container Contaminants in a log or in the on-board computer system including date, time, Customer's address, type of Container (Blue, Brown, Green, or Black Container); and maintain photographic evidence, when possible.

2. Courtesy Pick-Up Notices. Upon identification of Prohibited Container Contaminants in a Customer's Container, Contractor shall provide the Customer a courtesy pick-up notice. The courtesy pick-up notification shall:

(i) Inform the Customer of the observed presence of Prohibited Container Contaminants;

(ii) Include the date and time the Prohibited Container Contaminants were observed;

(iii) Include information on the Customer's requirement to properly separate materials into the appropriate Containers, and the accepted and prohibited materials for Collection in the Blue Container, Brown Container, Green Container, and/or Black Container;

(iv) Inform the Customer of the courtesy pick-up of the contaminated materials on this occasion with information that consecutive instances of Prohibited Container Contaminants, Contractor may assess recycling contamination fees; and,

(v) Contractor may include photographic evidence.

Contractor shall leave the courtesy pick-up notice attached to or adhered to the Generators' contaminated Containers; at the Premises' door or gate; or, may deliver the notice by mail, e-mail, text message, or other electronic message.

3. Notice of Assessment of Contamination Fees. If the Contractor observes Prohibited Container Contaminants in a Generator's Container on more than one occasion within a six-month time period, and issued a courtesy pick-up notice on the first occasion, the Contractor may impose a contamination fee. The contamination fee will be automatically assessed if hazardous or biohazardous materials are placed in any collection container. Contractor shall notify the City in its monthly report of Customers for which contamination fees were assessed. Contractor shall leave a contamination fee notice attached to or adhered to the Generators' contaminated Containers; at the Premises' door or gate; or, deliver the notice by mail, e-mail, text message, or other electronic message. The contamination fee notice shall describe the specific material(s) of issue, explain how to correct future set outs, and indicate that the Customer will be charged a contamination fee on its next bill. The format of the warning and contamination fee notice shall be approved by the City.

B. Disposal of Contaminated Materials. If the Contractor observes Prohibited Container Contaminants in a Generator's Container(s), Contractor may Dispose of the Container's contents, provided Contractor complies with the noticing requirements in subsection A above.

**13. Paragraph 4.14.4 "Provision for Recovered Organic Waste Product" is hereby added to Section 4.14 "Diversion Requirements" of the Agreement to read as follows:**

Contractor agrees to act as a direct service provider on behalf of the City. Contractor shall coordinate and cooperate with the City in meeting its recovered Organic Waste product procurement target, as required by SB 1383 Regulations, 14 CCR Section 18993.1.

Contractor shall continue to provide Recovered Organic Waste Products, at no cost to the City or residents, for community compost and mulch giveaway events, or use in community or school gardens. Quantity of free Recovered Organic Waste Products provided by Contractor shall not exceed 2,400 cubic yards per year.

Upon City direction, Contractor shall procure an annual quantity of Recovered Organic Waste Products in an amount not less than the quantity specified in the calculations used to determine the Compliance Fee as set forth in Exhibit 5(D), Compliance Fee Components; in a quantity specified by the City for purchase with grant funds; or in a quantity specified by the City on behalf of the City's contract landscapers, for use in City landscape areas. Recovered Organic Waste Products shall comply with 14 CCR 18993.1(f).

Contractor shall "giveaway" procured material on behalf of the City. Contractor is authorized to use procured materials to comply with this section and fulfill City requirements either requested or in the Agreement including but not limited to compost and mulch giveaways, for the community garden, for City parks, and used on City landscapes. Contractor shall keep the following records and make them available to the City upon request:

- A. Dates provided
- B. Source of product including name, physical location and contact information for each entity, operation or facility from whom the Recovered Organic Waste Products were procured;
- C. Type of product;
- D. Quantity provided; and,
- E. Invoice or other record or documentation demonstrating purchase, procurement, or transfer of material to giveaway location

**14. Paragraph 5.2.2.1 "SB 1383 Complaints" is hereby added to Section 5.2 "Customer Service" of the Agreement to read as follows:**

- A. Contractor shall coordinate with the City and/or investigate any applicable complaints, if required by and in accordance with SB 1383 Regulations.
- B. Contractor agrees to maintain a log of all applicable oral and written SB 1383 complaints received by Contractor from anonymous individuals, Customers or other Persons.

**15. Paragraph 5.3.5 "SB 1383 Education and Outreach" is hereby added to Section 5.3 "Education and Public Awareness" of the Agreement to read as follows:**

- A. Contractor shall, create all applicable education materials and conduct all education programs and activities as provided by and in accordance with the SB 1383 Regulations and this section in an amount not less than the quantity specified in the calculations used to determine the Compliance Fee as set forth in Exhibit 5(D), Compliance Fee Components. Contractor shall cooperate and coordinate with the City on public education activities.
- B. Contractor shall maintain a list of Food Recovery Organizations and Food Recovery Services operating within the City, maintain the list on the Contractor's City-specific website, share the list with the City if the City wants to

post the list on additional City websites, and update the list annually. The list shall include, at a minimum, the following information about each Food Recovery Organization and each Food Recovery Service:

1. Name and physical address;
2. Contact information;
3. Collection service area; and
4. An indication of types of Edible Food the Food Recovery Service or Food Recovery Organization can accept for Food Recovery.

C. At least annually, the Contractor shall provide Commercial Edible Food Generators with the following information:

1. Information about the City's Edible Food Recovery program;
2. Information about the Commercial Edible Food Generator requirements under 14 CCR, Division 7, Chapter 12, Article 10;
3. Information about Food Recovery Organizations and Food Recovery Services operating within the City, and where a list of those Food Recovery Organizations and Food Recovery Services can be found; and
4. Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

D. The Contractor may provide the information required above by including it with regularly scheduled notices, education materials, billing inserts, or other information disseminated to Commercial Businesses.

E. Contractor shall comply with all applicable public education and outreach record keeping and reporting requirements as provided by SB 1383 and the SB 1383 Regulations.

**16. Section 5.5 "Container Contamination Minimization" is hereby added to the Agreement read as follows:**

Contractor shall meet its SB 1383 Regulations contamination monitoring requirements in an amount not less than the quantity specified in the calculations used to determine the Compliance Fee as set forth in Exhibit 5(D), Compliance Fee Components. Commencing upon execution of this amendment, Contractor is required to use either Route Reviews or Waste Evaluations as outlined herein for each service sector (Residential, Multi-Family, Commercial, & Roll Off generators):

A. Route Reviews

1. If Contractor elects to perform Route Reviews, Contractor shall, conduct Hauler Route reviews for Prohibited Container Contaminants in Collection Containers in a manner that is deemed safe by the Contractor; is

approved by the city; is conducted in a manner that results in all Hauler Routes being reviewed annually, and is consistent and in accordance with SB 1383 Regulations. Containers may be randomly selected along the Hauler Route. This Section should not be construed to require that every container on a Hauler Route must be sampled annually. Contractor may prioritize the inspection of Customers that are more likely to be out of compliance.

2. Upon finding Prohibited Container Contaminants in the Container, Contractor shall follow the contamination monitoring noticing procedures in Section 4.14.2 Warning Notices.

B. Waste Evaluations. Alternatively, if Contractor elects to perform Waste Evaluations, Contractor shall, conduct waste evaluations that comply with and meet the requirements of 14 CCR Section 18984.5(c). The City maintains the right to observe, or hire a third party to observe, the waste evaluations.

1. Sampling Method, Study Protocols. The Contractor shall conduct waste evaluations for Prohibited Container Contaminants by sampling the contents of Containers on Hauler Routes in the following manner:

a. If using a Standard Compliance Approach, Contractor shall conduct waste evaluations at least twice per year and in two distinct seasons of the year in a manner that complies with the requirements of 14 CCR section 18984.5(c).

b. The Contractor's waste evaluations shall include samples of Source Separated Recyclable Materials, Source Separated Green Container Organic Waste, Source Separated Food Waste, and Black Container Waste.

c. The waste evaluations shall include samples from each Container type served by the Contractor and shall include samples taken from different areas in the City that are representative of the City's waste stream.

d. The waste evaluations shall include at least the minimum number of samples specified in SB 1383 Regulations.

e. The Contractor shall Transport all of the material Collected for sampling to a sorting area at a permitted solid waste Facility where the presence of Prohibited Container Contaminants for each Container type shall be measured to determine the ratio of Prohibited Container Contaminants present in each material stream by weight. To determine the ratio of Prohibited Container Contaminants, the Contractor shall use protocols established in accordance with SB 1383 regulations.

2. Contamination Response. If the sampled weight of Prohibited Container Contaminants exceeds twenty-five percent (25%) of the

measured sample for any material stream, the Contractor shall complete one of the following:

a. Within fifteen (15) working days of the waste evaluation, notify all Generators on the sampled Hauler Route of their requirement to properly separate materials into the appropriate Containers. The Contractor may provide this information by placing a written notice on the Generators' Containers or the gate or door of the Premises; and/or by mail, email, or electronic message to the Generators. The format of the warning notice shall be approved by the City; or

b. Perform a targeted route review of containers on the routes sampled for waste evaluations to determine the sources of contamination and notify those generators of their obligation to properly separate materials. Contractor may prioritize the inspection of Customers that are more likely to be out of compliance. Upon finding Prohibited Container Contaminants in the Container, Contractor shall follow the contamination monitoring noticing procedures in Section 4.14.2 Warning Notices.

3. Material Exceptions. Organic Waste that is textiles, carpet, hazardous wood waste, human waste, pet waste, or material subject to a quarantine on movement issued by a County agricultural commissioner is not required to be measured as Organic Waste when calculating the amount of Organic Waste present in the Black Container Waste.

C. Recordkeeping Requirements. Contractor shall maintain all applicable records required under SB 1383 Regulations, and report to the City on contamination monitoring activities, route reviews and/or waste evaluations, and actions taken.

D. Alternative Compliance. Nothing in this section shall prohibit Contractor from meeting its compliance requirements by any alternative methods or procedures, provided it complies with SB 1383, the SB 1383 Regulations, and/or any other applicable law, as may be amended from time to time.

**17. Section 5.6 "Generator Waiver Program Coordination" is hereby added to the Agreement to read as follows:**

5.6.1 General

In accordance with SB 1383 Regulations and section 8.15.050 in Title 8 Health and Safety of the Rancho Cucamonga Municipal Code, the City may grant waivers to Generators that impact the scope of Contractor's provision of service for those Customers. Waivers issued shall be subject to compliance with SB 1383 Regulatory requirements, pursuant to 14 CCR Section 18984.11.

5.6.2 Requests Submitted to Contractor

Generators may submit requests for waivers to the Contractor. Contractor shall review the Generator's waiver application and inspect the Generator's Premises to verify the accuracy of the application. Contractor shall provide

documentation of the inspection, including the Contractor's recommendation to approve or deny the waiver request to the City for the City's review and approval. The City ultimately retains the right to approve or deny any application, regardless of the Contractor's recommendation. Contractor shall report information regarding waivers reviewed to the City.

#### 5.6.3 Contractor Change in Customers' Service Levels

When the City grants a waiver to a Generator, the City shall notify the Contractor within ten (10) business days of the waiver approval with information on the Customer and any changes to the Service Level or Collection service requirements for the Customer. Contractor shall have five (5) business days to modify the Customer's Service Level and billing statement, as needed.

#### 5.6.4 Reverification of Waivers

Contractor shall conduct such reverifications of waivers through inspection of each Generator's Premises and review of applicable records at least once every five (5) years from the date of issue for de minimis and physical space constraint waivers. Contractor shall maintain a record of each waiver verification and provide a report to the City documenting the waiver reverifications performed and recommendations to the City on those waivers that Contractor concludes are no longer warranted. The City shall make a final determination of the waiver eligibility of Generators.

#### 5.6.5 Contractor Recordkeeping of Generators Granted Waivers

Upon Contractor request, the City shall provide Contractor an updated listing of waivers approved by the City, including the Generators' names, mailing address, service address, and type of waiver. Contractor shall maintain waiver-related records and report on waiver verifications, as required herein.

**18. Section 5.7 "Compliance Inspections" is hereby added to the Agreement to read as follows:**

Upon execution of this amendment, Contractor shall assist the City with and/or conduct applicable inspections and enforcement, to the extent delegable, as required by SB 1383 Regulations.

Contractor shall maintain all applicable records from inspection and enforcement in accordance with SB 1383 Regulations.

**19. Section 5.8 "Edible Food Recovery Program" is hereby added to the Agreement to read as follows:**

Upon the effective date of this Section 5.8, Contractor shall implement an Edible Food Recovery Program fulfilling the requirements outlined below in an

amount not less than specified in the calculations used to determine the Compliance Fee as set forth in Exhibit 5(D), Compliance Fee Components.

- 14 CCR Section 18991.1(a)(1) – Educate commercial edible food generators
- 14 CCR Section 18991.1(a)(3) – Monitor commercial edible food generator compliance
- 14 CCR Section 18991.2 – Recordkeeping Requirements for Jurisdiction Edible Food Recovery Program

Contractor may use a subcontractor to complete some or all of the requirements in this section. Upon mutual agreement with the contractor, City may add additional requirements to the extent delegable, set forth in Title 14, Division 7, Chapter 12, Article 10 Jurisdiction Edible Food Recovery Programs, Food Generators, and Food Recovery. Additional requirements shall be included in the Compliance Fee as set forth in Exhibit 5(D).

**20. Section 6.2 “Schedule of Future Adjustments” of the Agreement is hereby amended and restated in its entirety to read as follows:**

Beginning with the Rate Period starting July 1, 2023, and ending on June 30, 2025, and for all subsequent Rate Periods, Contractor may request an annual adjustment biennially to the maximum rates set forth in the Rate Resolution approved by City Council in 2021. The Contractor shall submit its request in writing, to be received by City in Person or via certified mail or by other means approved by City, by the preceding April 1st, and shall be based on the method of adjustment described in Section 6.3 and Exhibit 5. The rate adjustment request shall include rate worksheets; invoices to verify cost of equipment, materials or services obtained by the Contractor for SB1383 compliance; methodology and calculations for SB 1383 fee; disposal and processing fee confirmation from disposal and processing facility(s); and CPI data. Should the rate packet or associated supporting materials include Contractor’s proprietary information, Contractor shall be required to find reasonable means to provide City and third-party consultant access to the necessary information to verify the accuracy of the proposed rates. Failure to submit a written request by April 1st shall result in Contractor waiving the right to request such an increase for the subsequent Rate Period. Missed rate adjustments may not be added to rate adjustment applications in ensuing years. Adjustment to the maximum rates is subject to the approval of the City Council at a public hearing, although the Council's discretion shall be limited to determining, based on substantial evidence, whether the requested maximum rate adjustment meets the requirements as set forth herein; provided that in the event an adjustment is not approved as a result of a valid majority protest in compliance with Article XIID of the California Constitution, City and Contractor agree to meet and confer to determine if minimum State mandated programs and services can be maintained without increased rates through adjustments and changes to the existing service levels and programs.



Contractor shall reimburse City for costs associated with a third-party consultant, of City's choosing, up to \$10,000 per rate review, with an annual CPI adjustment, to review rate request and associated rate packet and worksheets.

**21. Paragraph 6.3.1 "General" of Section 6.3 "Method of Adjustment" of the Agreement is hereby amended and restated in its entirety to read as follows:**

Pursuant to Section 6.2, the Contractor may request an adjustment to the maximum rates according to the method described below and the detailed formulas shown in Exhibit 5, subject to review and approval of City. All future adjustments are to be effective July 1 of the same year.

City may, but is not required to, implement the biennial rate adjustment if Contractor does not request it. If a biennial adjustment that would have resulted in a rate decrease is not implemented for any reason, the next rate adjustment will be measured based on the change in indices from the last implemented rate adjustment; the intent is to ensure subsequent rate increases shall be offset with any decrease not previously implemented.

**22. Section 6.3.2 "Minimum and Maximum Rate Adjustments" is hereby amended and restated in its entirety to read as follows:**

From September 1, 2022 to June 30, 2023, Contractor shall absorb all costs and fees associated with SB 1383 implementation and increased HHW fees that Contractor incurs between September 1, 2022, and June 30, 2023, including but not limited to food waste collection for all single-family and multi-family residents, expanded outreach, expanded record keeping and reporting requirements, and other SB 1383 requirements as outlined in this amendment.

Beginning with the Rate Period starting July 1, 2023, Contractor may collect an SB 1383 Implementation Fee to offset its costs and fees associated with SB 1383 implementation. From July 1, 2023 to June 30, 2028, Contractor may recover the costs it will have incurred from September 1, 2022 to June 30, 2023 for Single-family residential mixed organics processing through the single family residential SB 1383 Implementation Fee by dividing such costs evenly in equal parts over that five-year period.

Beginning with the Rate Period starting July 1, 2023, and ending on June 30, 2025, and for all subsequent Rate Periods, in no event may the adjustment to the Service Component pursuant to this Article 6 and Exhibit 5, be an increase of more than the calculated twelve (12) month average change in the CPI for the previous calendar year or 5% whichever is less compared to the previous Rate Period.

**23. Section 6.4 "Extraordinary Adjustments" of the Agreement is hereby repealed and replaced in its entirety with a new Section 6.4 "Disposal and Processing Cost Study/Analysis" to read as follows:**

Beginning in 2023 and thereafter no less often than every five years, there shall be a requirement to conduct a disposal and processing cost study. The study shall include both a comparison and analysis of landfill tipping fees, processing

fees for recyclables, and processing fees for organics at facilities within a reasonable driving distance from the City, as well as those facilities located outside of a reasonable driving distance.

The study/analysis shall be conducted by a third-party consultant of the City's choosing. Contractor shall reimburse the City for the cost of the study/analysis, up to \$10,000 per study/analysis with an annual CPI adjustment.

City shall review the study/analysis results and, in City's sole judgement and absolute, unfettered discretion, make the final determination as to whether an adjustment to the rates will be made, and if an adjustment is permitted, the appropriate amount of the adjustment.

**24. A new paragraph, 8.3.3.1 "SB 1383 Recordkeeping and Reporting" is hereby added to Section 8.3 "Reports" of the Agreement to read as follows:**

Contractor shall maintain all applicable records necessary to ensure compliance with the SB 1383 Regulations and shall assist City in meeting all applicable reporting requirements of the SB 1383 Regulations. Contractor shall allow City to audit and inspect such records and reports upon reasonable request.

**25. A new subparagraph "d" is hereby added to paragraph 11.3.B.1. "Collection Reliability" of Section 11.3 "Liquidated Damages" of the Agreement to read as follows:**

d) For each failure to offer, or upon Customer's request provide, mandatory organics and recycling service to a new Customer account within thirty (30) days after the account has been established: \$100

The parties agree that the above liquidated damages amount represents a reasonable estimate of the amount of such damages for such specific breaches, considering all of the circumstances existing on the date of this Second Amendment, including the relationship of the sums to the range of harm to City that reasonably could be anticipated and the anticipation that proof of actual damages would be costly or impractical. In placing their initials at the places provided, each party specifically confirms the accuracy of the statements made above and the fact that each party has had ample opportunity to consult with legal counsel and obtain an explanation of the liquidated damage provisions in the Agreement and this Second Amendment at the time the Second Amendment was agreed to:

Contractor's Initials: \_\_\_\_\_

City's Initials: \_\_\_\_\_

**26. Exhibit 5 "Rate Adjustment Methodology" to the Agreement is hereby amended and restated in its entirety read as set forth in the Attachment to this Second Amendment.**

**27. Other Terms and Conditions Unchanged.** Except as expressly amended by the Second Amendment, all other terms and conditions of the Agreement shall remain unchanged. In the event of any conflict between the terms and conditions of this Second Amendment and the terms and conditions of the Agreement and/or any previous amendment thereto, the terms and conditions of this Second Amendment shall prevail and control.

**28. Counterparts.** This Second Amendment may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

*[Signatures appear on the following page]*

IN WITNESS WHEREOF, the parties hereto have caused this Second Amendment to be executed by and through their respective authorized officers, as of the date first above written.

**CITY OF RANCHO CUCAMONGA**

**BURRTEC WASTE INDUSTRIES, INC.**

By:

\_\_\_\_\_  
L. Dennis Michael, Mayor

By:

\_\_\_\_\_

Its:

\_\_\_\_\_

*Attest:*

By:

\_\_\_\_\_  
Janice C. Reynolds, City Clerk

*Approved as to Form:*

By:

\_\_\_\_\_  
Nick Ghirelli, City Attorney

## ATTACHMENT

### EXHIBIT 5 Rate Adjustment Methodology

#### General

Subject to the terms herein, the Contractor shall be entitled to an annual adjustment of all Rates. Each Rate, excluding special charges, includes a "Service Component", "Disposal Component", "Processing Component", "Fee Component" and "Compliance Component" which are annually adjusted.

Notwithstanding the 2022 Rate Adjustments adopted by the City, Contractor shall submit its application for a Rate adjustment to the City Manager on or before April 1st preceding the start of each Rate Period that begins July 1 where Rates will be adjusted, or no adjustment shall be made for that Rate Period. Contractor's Rate application shall document all calculations and include all supporting schedules, documentation of Disposal or Processing tipping fee changes (including supporting calculations where applicable), documentation of tonnage calculations and/or assumptions, and any other documentation or evidence determined by the City Manager to be necessary to ensure that the calculation of Rate adjustments has been performed in strict conformance with the requirements of this Exhibit 5.

The City Council shall make a good faith effort to approve Rates by June 1, and such Rates shall be effective on each subsequent July 1. If Rates are not effective by July 1 due to a delay caused solely by City, City shall allow Contractor to retroactively bill Customers for the amount of the Rate increase for any period of delay that is solely caused by City. If Rates are not effective by July 1 as a result of Contractor's error or delay in submitting the Rate application in a complete and accurate form, then prior Rates remain in effect and no adjustment shall be made for that Rate Period.

In no event may the adjustment of the Service Component pursuant to this Exhibit, and Article 6 of the Agreement, be an increase in an amount greater than 5% of the Service Component, compared to the previous Service Component. In the event that calculations in accordance with this Exhibit result in an increase above five percent (5%) of the Service Component, any amount above five percent (5%) shall be carried forward and applied to the Service Component in subsequent Rate Adjustments until such time as the carried over amount has been applied in full.

#### Definitions

Certain terms which are specific to this Exhibit 5 are defined below:

1. Annual Percentage Change means the average value of an index for the twelve (12) month period ending December of most recently completed calendar year, minus the average index value for the twelve (12) month period ending December of the calendar year one year prior (year before last), divided by the average index value for the twelve (12) month period ending December of the calendar year one year prior. The Annual Percentage Change shall be rounded to the nearest thousandth (1,000th).

For example, if the Contractor is preparing its Rate application for Rates to be effective for July 1, 2022, the Annual Percentage Change in CPI shall be calculated as follows:  $[(\text{Average CPI for January 2021 through December 2021}) - (\text{Average CPI for January 2020 through December 2020})] / (\text{Average CPI for January 2020 through December 2020})$ .

2. Bureau of Labor Statistics (BLS) shall mean the U.S. Department of Labor, Bureau of Labor Statistics or its successor agency.
3. City Fees shall mean the Franchise Fee and HHW Fee specified in Sections 3.1 and 3.2 of the Agreement.
4. Consumer Price Index (CPI) shall mean the All Urban Consumers Index (CPI-U) compiled and published by the BLS, using the following parameters:

Area – Riverside-San Bernardino-Ontario, CA

Item - All Items

Base Period - December 2017 = 100

Not seasonally adjusted

Series Identification Number – CUURS49C SA0
5. Disposal/Processing Fee shall mean the fee charged per ton or unit of material delivered to an approved facility. The "Current Approved" Disposal/Processing Fee for any Approved Facility shall be the Disposal/Processing Fee in place on January 1 immediately preceding the submission of the Rate Application.
6. Rate means the maximum amount, expressed as a dollar unit, approved by City that the Contractor may bill for providing services under this Agreement.
7. Rate Adjustment Factor shall mean the amount, expressed as a percentage, by which the Service Component of each Rate is adjusted.
8. Service Component shall mean portion of Rate set by Contractor for costs related to service of Solid Waste as described in this Agreement, including, but not limited to fuel, personnel costs, and vehicle maintenance. The Service Component shall not include costs related to providing Street Sweeping services, Disposal and Processing Fees, Tipping Fees, Compliance Component, or City Fees.
9. Tipping Fee shall mean the Rate or tipping fee charged for each ton or unit of material delivered to an approved facility. The "Current Approved" Tipping Fee for any Approved Facility shall be the Tipping Fee in place on January 1 immediately preceding the submission of the Rate Application.
10. Compliance Component shall mean portion of the Rate charged to customers for program elements related to legislative requirements such as AB 939, AB 341, AB 1826, and SB 1383 as described in this agreement including but not limited to edible food recovery programs, procurement activities, equipment, contamination minimization requirements, education and outreach activities, container contamination minimization efforts, record keeping, and future compliance cost elements resulting from new legislation as mutually agreed upon by the Parties. The Compliance Component shall not include costs related to providing Street Sweeping services, Disposal and Processing Fees, or Tipping Fees.
11. Disposal Component shall mean portion of the Rate set by Contractor for costs related to disposal of Solid Waste materials as described in this agreement including but not limited to Tipping Fees,

Solid Waste Tons, and Customer counts. The Disposal Component shall not include costs related to providing Street Sweeping services, collection services, Compliance Component, or City Fees.

12. Processing Component shall mean portion of the Rate set by Contractor for costs related to processing of Solid Waste materials such as commingled recyclables, organic waste, and other materials as described in this agreement including but not limited to Tipping Fees, Solid Waste Tons, and Customer counts. The Processing Component shall not include costs related to providing Street Sweeping services, collection services, Compliance Component, or City Fees.
13. Fee Component shall mean portion of the Rate set by City for costs related to franchise fees as described in this agreement including but not limited to HHW Fees, Franchise Fees and other fees authorized by the City. The contractor shall collect, at the City's request, pass-through fees as funding for the City's programs

## **Methodology**

The Rate adjustment methodology involves modifying: (A) the Service Component for the current Rate Period by CPI; (B) the Disposal, and/or Processing Component(s) by the actual changes to those components; (C) the Franchise Fee and HHW Fee Components based on the agreed upon percentage of Gross Receipts; and (D) the Compliance Component to determine the Rates for the coming Rate Period.

If the CPI is discontinued or revised during the Term by the BLS, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the CPI had not been discontinued or revised.

### **A. Service Component**

Contractor shall calculate the adjustment to Single Family Dwelling, Multi-Family Dwelling, Commercial, and Roll-off Box Service Components using the following methodology:

Step 1: Calculate the "Service Component Factor" or "SCF".

Calculate the twelve (12) month average Change in the CPI for the previous calendar year. The factor shall be rounded to the nearest hundredth (100th) percent.

Step 2: Calculate the adjusted Service Component, rounded to the nearest cent, for each Rate as follows:

$$\text{Adjusted Service Component} = \text{Then-current Service Component} * (1 + \text{SCF})$$

For example, assuming:

1. Then-current Service Component = \$14.75
2. SCF = 4.74%
3. Adjusted Service Component =  $\$14.75 * (1 + 0.0474) = \$15.45$

Step 3: Verify the Adjusted Service Component does not exceed the maximum percentage increase as follows:

$$\text{Service Component Factor} < 5.00\%$$

Step 4: Apply eligible carried over Adjusted Service Component from previous year when applicable.

**B. Disposal and/or Processing Component(s)**

Contractor shall calculate the adjustment to Single Family Dwelling Disposal and Processing Components using the following methodology:

Single Family Dwelling Disposal and Processing Component Calculation

Step 1: Calculate the adjusted Single Family Dwelling Disposal Component, rounded to the nearest cent, for each Rate to reflect any change in the Tipping Fee charge at the approved Disposal Site, and the calculated average Tons of Refuse Collected per household per year, based on the actual tonnage of Single-Family Dwelling Refuse Collected in the prior calendar year and the average number of Single Family Dwelling units served, rounded to the nearest ten thousandth (10,000th). The adjustment shall be calculated as follows:

Adjusted Disposal Component = Disposal Site Tipping Fee x Average Refuse Tons per Household Per Year / 12 months

For example, assuming:

1. Current Approved Disposal Site Tipping Fee = \$50.88 per Ton
2. Average Refuse Tons per Household Per Year = 1.3395 Tons
3. Adjusted Disposal Component=  $\$50.88 \times 1.3395 / 12 = \$5.68$

Step 2: Calculate the adjusted Single Family Dwelling Recyclable Materials Processing Component, rounded to the nearest cent, for each Rate to reflect any change in the Tipping Fee charge at the approved MRF and the calculated average Tons of Recyclable Materials Collected per household per year, based on the actual tonnage of Single-Family Dwelling Recyclable Materials Collected in the prior calendar year and the average number of Single Family Dwelling units served, rounded to the nearest ten thousandth (10,000th). The adjustment shall be calculated as follows:

Adjusted Recyclable Materials Processing Component = Approved MRF Tipping Fee x Average Recyclable Materials Tons per Household Per Year / 12 months

For example, assuming:

1. Current Approved MRF Tipping Fee= \$71.92 per Ton
2. Average Recyclable Materials Tons per Household Per Year= 0.3456 Tons
3. Adjusted Recyclable Materials Processing Component=  $(\$71.92) \times 0.3456 / 12 = \$2.07$

Step 3: Calculate the adjusted Single Family Dwelling Organic Waste Processing Component, rounded to the nearest cent, for each Rate to reflect any change in the Tipping Fee charge at the approved Organic Materials Processing Facility and the calculated average Tons of Organic Waste Collected per household per year, based on the actual tonnage of Single-Family Dwelling Organic Waste Collected in the prior calendar year and the average number of Single Family Dwelling units served, rounded to the nearest ten thousandth (10,000th). The adjustment shall be calculated as follows:

Adjusted Organic Waste Processing Component = Approved Organic Waste Processing Facility Tipping Fee x Average Organic Waste Tons per Household Per Year / 12 months

For example, assuming:

1. Current Approved Organic Waste Processing Facility Tipping Fee= \$80.00 per Ton
2. Average Organic Waste Tons per Household per Year= 0.7832 Tons
3. Adjusted Organic Waste Processing Component=  $\$80.00 \times 0.7832 / 12 = \$5.22$

#### Commercial and Multi-Family Dwelling Refuse and Recyclable Materials Disposal and Processing Component Calculation

Contractor shall calculate the adjustment to Commercial and Multi-Family Dwelling Refuse and Recyclable Materials Rate Disposal and Processing Components, using the following methodology:

Step 1: Calculate the adjusted Commercial and Multi-Family Dwelling Disposal Component, rounded to the nearest cent, for each Commercial and Multi-Family Dwelling Rate to reflect any change in the Tipping Fee charge at the approved Disposal Site, or a change in the estimated weight per cubic yard of Refuse Collected (which is initially established at one hundred five (105) pounds), and the appropriate weekly service level in cubic yards. The adjustment shall be calculated as follows:

Adjusted Disposal Component=  $105 \text{ lbs} * \text{Weekly Service Level in Cubic Yards} * 52 \text{ Weeks per Year} / 2,000 \text{ pounds per Ton} * \text{Approved Disposal Site Tipping Fee} / 12 \text{ months}$

For example, assuming:

1. Current Approved Disposal Site Tipping Fee= \$50.88 per Ton
2. Service Level (size of container \* frequency of service) = 3 cubic yards, 1 x per week
3. Adjusted Disposal Component=  $105 * 3 * 1 * 52 / 2,000 * \$50.88 / 12 = \$34.73$

Step 2: Calculate the adjusted Commercial and Multi-Family Dwelling Recyclable Materials Processing Component, rounded to the nearest cent, for each Commercial and Multi-Family Dwelling Rate to reflect any change in the Tipping Fee charge at the approved MRF, and the appropriate weekly service level in cubic yards. The adjustment shall be calculated as follows:

Adjusted Recyclable Materials Processing Component =  $\text{MRF processing costs} * \text{Weekly Service Level in Cubic Yards} * 4.33 \text{ Average Weeks per Month}$

For example, assuming:

1. Current MRF Processing Costs = \$3.55 per Cubic Yard
2. Service Level (size of container\* frequency of service) = 3 cubic yards, 1x per week
3. Adjusted Disposal Component=  $\$3.55 * 3 * 1 * 52 / 12 = \$46.15$

#### Commercial Green Waste and Food Waste Only Processing Component Calculation

Contractor shall calculate the adjustment to Commercial Green Waste and Food Waste Rates Disposal and Processing Components, using the following methodology:

Step 1: Calculate the adjusted Commercial and Multi-Family Dwelling Green Waste Processing and Food Waste Processing Component, rounded to the nearest cent, for each Commercial Green Waste and Food Waste Rate to reflect any change in the Tipping Fee charge at the Approved Organic Materials Processing Facility, the estimated weight per cubic yard of Organic Material Collected (which shall be one hundred sixty (160) pounds for Green Waste, and four hundred (400) pounds for Food



Waste), and the appropriate weekly service level in cubic yards. The adjustment shall be calculated as follows:

Adjusted Green Waste Processing Component= 160 lbs\* Weekly Service Level in Cubic Yards \* 52 Weeks per Year / 2,000 pounds per Ton\* Approved Green Waste Tipping Fee / 12 months

For example, assuming:

1. Current Approved Green Waste Tipping Fee= \$51.78 per Ton
2. Service Level (size of container\* frequency of service) = 3 cubic yards, 1x per week
3. Adjusted Green Waste Processing Component=  $160 * 3 * 1 * 52 / 2,000 * \$51.78 / 12 = \$53.85$

AND

Adjusted Food Waste Processing Component= 400 lbs\* Weekly Service Level in Cubic Yards \* 52 Weeks per Year / 2,000 pounds per Ton\* Approved Food Waste Tipping Fee / 12 months

For example, assuming:

1. Current Approved Food Waste Tipping Fee= \$92.82 per Ton
2. Service Level (size of container\* frequency of service) = 2 cubic yards, 1x per week
3. Adjusted Food Waste Processing Component=  $400 * 2 * 1 * 52 / 2,000 * \$92.82 / 12 = \$160.89$

Multi Family Refuse with Recycling and Residential Bins Only shall calculate the adjustment to Organics Processing Components, using the following methodology:

Adjusted Organic Waste Processing Component used in the Single Family Dwelling Disposal and Processing Calculations

#### Compactor Refuse and Recyclable Materials Disposal and Processing Component Calculation

Contractor shall calculate the adjustment to Compactor Refuse and Recyclable Materials Rate Disposal and Processing Components, using the following methodology:

Step 1: Calculate the adjusted Compactor Disposal Component, rounded to the nearest cent, for each Compactor Rate to reflect any change in the Tipping Fee charge at the approved Disposal Site, or a change in the estimated weight per cubic yard of Compacted Refuse Collected (which is initially established at three hundred fifteen (315) pounds), and the appropriate weekly service level in cubic yards. The adjustment shall be calculated as follows:

Adjusted Disposal Component= 315 lbs\* Weekly Service Level in Cubic Yards\* 52 Weeks per Year / 2,000 pounds per Ton\* Approved Disposal Site Tipping Fee / 12 months

For example, assuming:

1. Current Approved Disposal Site Tipping Fee= \$50.88 per Ton
2. Service Level (size of container\* frequency of service) = 3 cubic yards, 1x per week
3. Adjusted Disposal Component=  $315 * 3 * 1 * 52 / 2,000 * \$50.88 / 12 = \$104.18$

Step 2: Calculate the adjusted Recyclable Materials Processing Component, rounded to the nearest cent, for each Compactor Rate to reflect any change in the Tipping Fee charge at the approved MRF, and the appropriate weekly service level in cubic yards. The adjustment shall be calculated as follows:

Adjusted Recyclable Materials Processing Component= MRF Processing costs\* Weekly Service Level in Cubic Yards\* 4.33 Average Weeks per Month

For example, assuming:

1. Current MRF Processing Costs = \$3.55 per Cubic Yard
2. Service Level (size of container \* frequency of service) = 3 cubic yards, 1x per week
3. Adjusted Disposal Component=  $3 * 1 * 52 / 12 * \$3.55 = \$46.15$

### Roll-Off Box Disposal and Processing Component Calculation

Contractor shall calculate the adjustment to Roll-off Box Rates using the following methodology:

Step 1: Calculate the adjusted Roll-off Box Disposal Component, rounded to the nearest cent, for each Roll-off Box Rate to reflect any change in the Tipping Fee charge at the approved Disposal Site, and the estimated weight per pull (which shall be six (6) Tons for standard Roll-off Boxes, and ten (10) Tons for compactors and demolition boxes). The adjustment shall be calculated as follows:

Adjusted Disposal Component = Approved Disposal Site Tipping Fee \* 6 Tons

For example, assuming:

1. Current Approved Disposal Site Tipping Fee= \$50.88 per Ton
2. Adjusted Disposal Component =  $\$50.88 * 6 = \$305.28$

Step 2: Calculate the adjusted Roll-off Box Processing Component, rounded to the nearest cent, for each Roll-off Box Rate to reflect any change in the Tipping Fee charge at the Approved Processing Facility, and the estimated weight per pull (which shall be six (6) Tons for standard Roll-off Boxes, and ten (10) Tons for compactors). The adjustment shall be calculated as follows:

Adjusted Disposal Component= Approved Processing Facility Tipping Fee \* 6 Tons

For example, assuming:

1. Current Approved Processing Facility Tipping Fee= \$11.93 per Ton
2. Adjusted Processing Component =  $\$11.93 * 6 = \$71.58$

### **C. Compliance Components**

Contractor shall calculate the adjustment to Single Family Dwelling, Multi-Family Dwelling, Commercial, and Roll-off Box Compliance Components using the following methodology:

Step 1: Determine annual program costs by calculating the sum of estimated program variable costs for the upcoming year, including the previous year's actual surplus or shortfall.

For example, assuming:

1. Equipment Fee = \$232,660 (375 food waste pails purchased for resident giveaways. SB 1383 barrel, bin, and roll off decal requirements)
2. Education & Outreach Fee = \$164,447 (information packet sent to each resident and business, community meetings, videos, and presentations informing customers of their obligations under SB 1383)
3. Procurement Fee = \$0.00 (Compost procurement and delivery to achieve 30% of City requirement)
4. Compliance Monitoring Fee = \$283,810 (Cost to audit 3% of residential and 10% of Commercial customers)
5. Record Keeping Fee = \$87,210 (Cost to manage, create, and record data and reports)
6. Edible Food Program Fee = \$0.00 (Cost to manage 3<sup>rd</sup> party contractor)
7. Other Fees / Funding = \$0.00 (Miscellaneous Fees and/or Credits)
8. Previous Year Funding Surplus or Shortfall = \$0.00 (Enter excess costs or balance remaining of monies from previous year's estimate)

Total Compliance Component costs = \$232,660+\$164,447+\$0+\$283,810+\$87,210+\$0+\$0+\$0 = \$768,127

Step 2: Determine adjusted Compliance Component Rate Impact for the upcoming year using one of two methods; fixed rate or average rate.

Method 1 – Average Rate.

Divide total Compliance Component costs by total number of customers by twelve (12) months.

For Example, assuming: Average Rate = \$768,127 Compliance Component costs ÷ 42,331 total customers ÷ 12 months = \$1.51 per customer, per month

OR

Method 2 – Fixed Rate.

Set a fixed rate per month for Single Family Dwellings (SFD) and determine a per yard rate for commercial customers using the remaining balance of the Compliance Component costs.

For Example, assuming:

1. City determines monthly fixed rate for Single Family Dwellings. \$0.77
2. Calculate cost of Single Family Dwellings by multiplying fixed monthly SFD rate by number of SFDs

Single Family Dwelling fixed rate \$0.77 \* 37,734 Single Family Dwellings \* 12 Months = \$348,662 SFD Cost

Step 3: Subtract Single Family Dwelling cost from Compliance Component costs to determine commercial customer Compliance Component costs.

Compliance Component costs \$768,127 - \$348,662 SFD cost = \$419,465 commercial customer Compliance Component cost.

Step 4: Divide commercial customer Compliance Component costs by total refuse yards per month

Commercial customer Compliance Component cost \$419,465 ÷ 12 months ÷ 91,988 Trash Yards per month = \$0.38 Per Yard Per Month

Step 5: Determine commercial Compliance Component per service level per month

For example, Calculate for 3 cubic yards, 1x per week:

Compliance Fee \$0.38 \* 3 yards \* 1 one service \* 4.33 weeks per month = \$4.94 per month

#### **D. City Fee Components**

Contractor shall calculate the adjustment to Single Family Dwelling, Multi-Family Dwelling, Commercial, and Roll-off Box City Fee Components using the following methodology:

Step 1: Calculate the City Fee Components, rounded to the nearest cent, for each Rate. This Step requires first calculating the gross total Rate. The adjusted City Fees for each Rate shall be calculated as follows:

Step 1A. Gross Total Rate = (adjusted Service Component + adjusted Disposal Component + adjusted Processing Component + Compliance Component) / (1 - (Franchise Fee Percentage of Gross Receipts (15%) + HHW Fee Percentage of Gross Receipts (1.75%)))

For example, assuming:

1. Adjusted Service Component= \$15.45
2. Adjusted Disposal Component= \$5.68
3. Adjusted Recyclable Materials Processing Component= \$2.07
4. Adjusted Organic Waste Processing Component= \$5.22
5. Adjusted Compliance Component = \$0.77
6. Franchise Fee Percentage of Gross Receipts= 15%
7. HHW Fee Percentage of Gross Receipts= 1.75%
8. Gross Total Rate=  $(\$15.45 + \$5.68 + \$2.07 + \$5.22 + \$0.77) / (1 - (0.15 + 0.0175)) = \$35.06$

Step 1B: Franchise Fee Component= Gross Total Rate\* 15%

For example, assuming:

1. Franchise Fee Percentage of Gross Receipts= 15%
2. Gross Total Rate= \$35.06
3. Franchise Fee Component=  $0.15 * \$35.06 = \$5.26$

Step IC: HHW Fee Component= Gross Total Rate\* 1.75%

For example, assuming:

1. HHW Fee Percentage of Gross Receipts= 1.75%
2. Gross Total Rate= \$35.06
3. HHW Fee Component=  $0.0175 * \$35.06 = \$0.61$

**E. Total Adjusted Rates**

Contractor shall calculate the total adjusted Single Family Dwelling, Multi-Family Dwelling, Commercial, and Roll-off Box City Rates using the following methodology:

Step 1: Calculate the adjusted value for each Rate charged under this Agreement. Adjusted Rates shall be calculated as follows:

Adjusted Rate = Adjusted Service Component + Adjusted Disposal Component + Adjusted Processing Component + Adjusted Fee Components + Adjusted Compliance Component

For example, assuming:

1. Adjusted Service Component= \$15.45
2. Adjusted Disposal Component= \$5.68
3. Adjusted Recyclable Materials Processing Component= \$2.07
4. Adjusted Organic Waste Processing Component= \$5.22
5. Adjusted Compliance Component (Method 2) = \$0.77
6. Franchise Fee Component = \$5.26
7. HHW Fee Component= \$0.61
8. Adjusted Rate=  $\$15.45 + \$5.68 + \$2.07 + \$5.22 + \$0.77 + \$5.26 + \$0.61 = \$35.06$

**F. Even Year Rate Adjustment**

The maximum rates set forth in the Rate Resolution approved by City Council in 2022 shall also include an even year rate adjustment, adjusted by an amount equal to the twelve (12) month mean average change in the Consumer Price Index for the previous twelve (12) month period. The first such adjustment shall become effective July 1st, 2024 and shall apply ("CPI") to all rate components.

Step 1: Use the Rate Adjustment Methodology to calculate new rates for the upcoming rate period

For Example, assuming proposed rates for the Rate Period July 1, 2023 – Jun 30, 2025 are as follows:

1. Adjusted Service Component= \$16.22
2. Adjusted Disposal Component= \$6.01
3. Adjusted Recyclable Materials Processing Component= \$2.19
4. Adjusted Organic Waste Processing Component= \$5.52
5. Adjusted Compliance Component (Method 2) = \$0.77
6. Franchise Fee Component = \$5.53
7. HHW Fee Component= \$0.65

8. Adjusted Rate=  $\$16.22 + \$6.01 + \$2.19 + \$5.52 + \$0.77 + \$5.53 + \$0.65 = \$36.89$

Step 2: Calculate the twelve (12) month average Change in the CPI for the previous calendar year. The factor shall be rounded to the nearest hundredth (100th) percent.

For Example, assuming 2022 All items in Riverside-San Bernardino-Ontario, CA, all urban consumers, not seasonally adjusted annual average = 6.00%

Step 3: Increase each applicable Fee by the adjusted annual average CPI and use the Rate Adjustment Methodology to calculate new rates for the projected even year Rate.

For example

Single Family Dwelling Disposal and Processing Component Calculation

1. Current Approved Disposal Site Tipping Fee = \$53.84 per Ton
2. Average Refuse Tons per Household Per Year = 1.3395 Tons
3. Adjusted Disposal Component=  $\$53.84 \times 1.3395 / 12 = \$6.01$

Projected even year rate calculation

1. Current Approved Disposal Site Tipping Fee = \$53.84 per Ton
2. Average Refuse Tons per Household Per Year = 1.3395 Tons
3. Adjusted Disposal Component=  $(\$53.84 \times 1.06) \times 1.3395 / 12 = \$6.37$

Step 4: Calculate City Fee Components in accordance with the methods described in this exhibit

Step 5: Determine Total Adjusted Rate for the even year

1. Adjusted Service Component= \$17.03 (Apply or carry over (\$0.16) eligible amounts as applicable)
2. Adjusted Disposal Component= \$6.37
3. Adjusted Recyclable Materials Processing Component= \$2.32
4. Adjusted Organic Waste Processing Component= \$5.85
5. Adjusted Compliance Component (Method 2) = \$0.77
6. Franchise Fee Component = \$5.88
7. HHW Fee Component= \$0.68
8. Adjusted Rate=  $\$17.03 + \$6.37 + \$2.32 + \$5.85 + \$0.77 + \$5.83 + \$0.68 = \$38.85$

Step 6: Use approved City methods to propose revised solid waste rates

For example, rate application for rates effective July 1, 2023 – June 30, 2025

Service Type	Current Rate	Proposed Rate	Proposed Rate
		July 1, 2023	July 1, 2024
Residential Standard Service	\$35.06	\$36.89	\$38.85

Step 7: Rate reconciliation

No later than June 30 of each even year, Contractor shall submit to the City actual Adjusted Rates using the approved methodology set forth in this Exhibit. Submitted Adjusted Rates shall be reconciled against the approved even year rate. Variances shall be incorporated into the proposed rates for the following rate period.

For example,

Rate Reconciliation	Approved	Actual	Reconciliation
	July 1, 2024	July 1, 2024	July 1, 2024
Disposal Component	\$6.37	\$6.39	\$0.02
Recyclable Materials Processing Component	\$2.32	\$2.31	(\$0.01)
July 1, 2025 Rate Adjustment	Calculated	Reconciliation	Proposed
	July 1, 2025	July 1, 2024	July 1, 2025
Disposal Component	\$6.76	\$0.02	\$6.78
Recyclable Materials Processing Component	\$2.46	(\$0.01)	\$2.45