



NON-EXCLUSIVE
FRANCHISE AGREEMENT FOR
DISCARDED MATERIALS MANAGEMENT

BETWEEN THE

COUNTY OF SAN MATEO
AND
BFI WASTE SYSTEMS OF NORTH
AMERICA, LLC

**This Agreement authorizes this Hauler to perform
as one or more of the following Hauler Types:**

Single-Family Hauler

Multi-Family/Commercial Hauler

January 9, 2024

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Table of Contents

ARTICLE 1: DEFINITIONS.....	5
ARTICLE 2: REPRESENTATIONS AND WARRANTIES OF THE HAULER.....	17
2.1 Corporate Status	17
2.2 Corporate Authorization	17
ARTICLE 3: TERMS OF AGREEMENT	18
3.1 Grant and Acceptance of Agreement	18
3.2 Effective Date and Term of this Agreement	19
3.3 Termination.....	20
3.4 Extension Term.....	20
3.5 Conditions to Effectiveness of Agreement	20
3.6 No Guarantees of Material Volume or Composition or Customers	21
ARTICLE 4: AGREEMENT.....	22
4.1 Grant of Agreement	22
4.2 SB 1383 Administrative Fee	22
4.3 Submittal of Fee Payments and charge for late payments.....	22
4.4 County Designation of Facilities	23
4.5 Rate Regulation	23
ARTICLE 5: COLLECTION SERVICES	24
5.1 General	24
5.2 Scope of Collection Services.....	24
5.3 Collection Standards	25
5.4 Single-family collection standards	25
5.5 Multi-family and Commercial collection standards.....	30
5.6 Transfer, Processing, and Disposal Facility Standards	35
5.7 Equipment.....	36
5.8 Hauler Provided Containers	36
5.9 Hazardous waste	41
5.10 Contracts with Customers.....	41
ARTICLE 6: OTHER COLLECTION-RELATED SERVICES	43
6.1 Service Complaints	43
6.2 Non-Discrimination and other requirements	43
6.3 Contamination Monitoring	45
6.4 Report of Abandoned Materials	46
6.5 Commercial Generator Waiver Program Coordination	47
ARTICLE 7: RECORDS AND REPORTS	48
7.1 General.....	48
7.2 Records.....	48
7.2.1 General.....	48
7.2.2 Discarded Materials Records	49

7.2.3	Organic Materials, and Recyclable Materials Services Records	49
7.3	Reports	50
7.3.1	General.....	50
7.3.2	Reporting of Hauler.....	50
7.3.3	Annual Reports	51
7.4	Audit and Inspection by County	55
7.5	Discarded Materials Composition Studies	55
ARTICLE 8:	INDEMNITY AND INSURANCE	56
8.1	Indemnification of County	56
8.1.1	Indemnification Generally	56
8.1.2	Hazardous Materials Indemnification.....	56
8.1.3	Additional Information	57
8.2	Insurance Requirements	57
ARTICLE 9:	DEFAULT AND REMEDIES.....	60
9.1	Events of Default	60
9.2	Suspension or Revocation; Dispute Resolution	62
9.3	Right to Terminate Upon Default.....	62
9.4	County's Remedies Cumulative: Specific Performance	62
9.5	Excuse from Performance	63
9.6	Liquidated Damages.....	63
ARTICLE 10:	OTHER AGREEMENTS OF THE PARTIES.....	65
10.1	Relationship of Parties	65
10.2	Compliance with Law	65
10.3	Governing Law.....	65
10.4	Jurisdiction	66
10.5	Assignment.....	66
10.6	Binding on Successors	67
10.7	Parties in Interest	67
10.8	Waiver	67
10.9	Hauler's Investigation	67
10.10	Notices.....	67
10.11	Representative of the Parties	68
10.12	Declared State of Emergency.....	68
10.13	Notice	68
10.14	Subcontractors	69
ARTICLE 11:	MISCELLANEOUS AGREEMENTS	70
11.1	Privacy	70
11.2	Public Records Act.....	70
11.3	Entire Agreement.....	71
11.4	Section Headings.....	71
11.5	References to Laws	71
11.6	Interpretation.....	71
11.7	Amendment	71
11.8	Severability.....	71

EXHIBITS

EXHIBIT A – Service Summary by Hauler Type.....	74
EXHIBIT B – Subcontractors	75
EXHIBIT C – Hauler-Designated Facilities.....	76
EXHIBIT D – Processing, Transfer, and Disposal Facility Standards	77
EXHIBIT E – Liquidated Damages	83

**Non-Exclusive Franchise Agreement
for Discarded Materials Management
between the
County of San Mateo
and
BFI Waste Systems of North America, LLC**

This Non-Exclusive Franchise Agreement for Discarded Materials Management (Agreement) is entered into this 30 day of January, 2024, by and between the County of San Mateo, a political subdivision of the State of California (County), and BFI Waste Systems of North America, LLC (Hauler), for the Collection and subsequent transfer, transportation, Recycling, Processing, and/or Disposal of Discarded Materials and provision of other related services. Hauler shall be defined as the Hauler Type(s).

AGREEMENT

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:

ARTICLE 1: DEFINITIONS

For purposes of this Agreement, unless a different meaning is clearly required, the words and phrases in this Article shall have the following meanings respectively ascribed to them by this Article and shall be capitalized throughout this Agreement. Where a definition is derived from a State or federal law or regulation, the definition shall be interpreted in accordance with the definition in the State or federal law or regulation as it currently exists or may subsequently be amended, unless authority is provided to the County to develop and apply its own definition, in which case the definition that best promotes the purposes of this Agreement as determined by the Director shall apply.

AB 341

“AB341” means the Assembly Bill approved by the Governor of the State of California on October 5, 2011, which amended 14 PRC, Division 7 Section 18837.

AB 876

“AB 876” means the Assembly Bill approved by the Governor of the State of California on October 8, 2015, which added Section 41821 to the Public Resources Code, relating to Solid Waste.

AB 901

“AB 901” means the Assembly Bill approved by the Governor of the State of California on October 10, 2015, which amended Section 41821.5 and added Section 41821.6 of the Public Resources Code relating to Solid Waste.

AB 939

“AB 939” means the California Integrated Waste Management Act of 1989 (Public Resources Code Section 40000, et seq.).

AB 1594

“AB 1594” means the Assembly Bill approved by the Governor of the State of California on September 28, 2014, which amended Sections 40507 and 41781.3 of the Public Resources Code, relating to Solid Waste.

AB 1826

“AB 1826” means the Assembly Bill approved by the Governor of the State of California on September 28, 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to Solid Waste.

Affiliate

“Affiliate” means any Person: (i) in which Hauler has a direct or indirect Ownership interest, (ii) which has a direct or indirect Ownership interest in Hauler, and/or (iii) which is also Owned, controlled or managed by any Person which has a direct or indirect Ownership interest in Hauler. For the purposes of this definition, “Ownership” means ownership as defined in the constructive ownership provisions of Section 318(a) of the Internal Revenue Code of 1986, as in effect on the date hereof. For purposes of determining Ownership under this paragraph and constructive or indirect ownership under Section 318(a), Ownership interests of less than fifty percent (50%) shall be disregarded and percentage interests shall be determined on the basis of the percentage of voting interest or value which the Ownership interest represents.

Agreement

“Agreement” means this Non-Exclusive Franchise Agreement for Discarded Materials Management between the County and Hauler for the Collection, and subsequent transfer, transportation, Recycling, Processing, and/or Disposal (as appropriate for the material type pursuant to Exhibit D), of Commercial and/or Residential Discarded Materials, including all exhibits and attachments, and any amendments thereto.

Alternative Daily Cover (ADC)

“Alternative Daily Cover” or “ADC” has the same meaning as defined in 27 CCR Division 2 Section 20164 and conforms to requirements of 27 CCR Division 2 Section 20690.

Back-Haul

"Back-Haul" means generating and transporting organic materials to a destination owned and operated by the Generator using the Generator's own employees and equipment, or as otherwise defined in 14 CCR Division 7 Section 18982(a)(66)(A).

Bin

“Bin” means a metal or plastic Container with hinged lid(s) and, in some cases, with wheels serviced by a front-end loading Collection vehicle with a Container capacity of one (1) to eight (8) cubic yards, including Bins with compactors attached to increase the capacity of the Bin. Bins are also known as dumpsters. Bins above 8 cubic yards can be considered roll-off containers.

Board

“Board” means the Board of Supervisors of the County.

Bulky Items

“Bulky Items” means items whose large size precludes or complicates their handling by normal Collections, processing, or Disposal methods. Bulky Items includes, but is not limited to major appliances, carpets, mattresses, clothing, tires, and oversize Plant Materials such as tree trunks

and branches. Bulky Items does not include any motor vehicle or any subassembly, major component except tires, and does not include Hazardous Waste.

California Code of Regulations (CCR)

“California Code of Regulations” or “CCR” means the State of California Code of Regulations. References to “14 CCR” refer to Title 14 of the CCR; references to “27 CCR” refer to Title 27 of CCR, etc.

CalRecycle

“CalRecycle” means the State of California’s Department of Resources Recycling and Recovery, and, as this department was structured prior to January 1, 2010, the California Integrated Waste Management Board or CIWMB.

Cart

“Cart” means a plastic Container with a hinged lid and wheels serviced by an automated or semi-automated Collection vehicles and with a Container capacity of no less than twenty (20) gallons and no greater than ninety-six (96) gallons.

Collection

"Collection" means the act of collecting Solid Waste at the place of waste generation by an approved Solid waste Hauler (public or private) and is a form of removal.

Collection Route

“Collection Route” means the designated itinerary or sequence of stops for a Collection vehicle for a particular material and customer type.

Commercial

"Commercial" or “Commercial Business” means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a Multi-Family residential dwelling with five (5) or more units, or as otherwise defined in 14 CCR Section Division 7 18982(a)(6).

Compost

"Compost" has the same meaning as in 14 CCR Division 7 Section 17896.2(a)(4), which stated, as of the effective date of this Ordinance, that "Compost" means the product resulting from the controlled biological decomposition of organic Solid Wastes that are source separated from the municipal Solid Waste stream including vegetable and green materials, but not including hazardous waste, and which yields a safe and nuisance-free product.

Compostable

“Compostable” means an item or material defined in County Ordinance Code Section 4.107.020 that:

1. Meets standards for compostability from a certified/approved independent third-party approved by the County Manager or designee, in collaboration with local waste processors, haulers, and/or other entities, as needed; and/or

2. Is any variation of acceptable materials that will break down or otherwise become part of usable compost in a safe and timely manner as determined by the County Manager or designee, in collaboration with local waste processors, haulers, and/or other entities, as needed; and;

3. Is Natural Fiber-based. Compostable items may include those that are made entirely of Natural Fiber or Natural Fiber-based items that are coated or lined with biologically based polymer, such as, but not limited to corn or other plant sources (e.g., compostable plastics), if certified/approved by independent third parties approved by the County Manager or designee.

Compostable Plastics

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).

Construction and Demolition Debris

"Construction and Demolition Debris" means discarded materials generally considered to be not water soluble and non-hazardous in nature, including but not limited to steel, copper, aluminum, glass, brick, concrete, asphalt material, pipe, gypsum, wallboard, and lumber from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure and/or landscaping, including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing, landscaping and development operations for a construction project; (2) Remnants of new materials, including but not limited to: cardboard, paper, plastic, wood, and metal scraps from any construction and/or landscape project.

Containers

"Containers" means a receptacle for temporary storage of Discarded Materials. Containers include, but are not limited to, Bins, Carts and Debris Boxes/ Roll-Off Containers. For additional information refer to County Ordinance Code Section 4.04.120 and 4.04.140

County

"County" means the County of San Mateo, a political subdivision of the State of California, and all the unincorporated area within the boundaries of the County as presently existing, or as such unincorporated area may be modified during the Term of this Agreement.

County Code

"County Code" means the San Mateo County Code of Regulatory Ordinances as currently enacted or subsequently amended by the Board

(https://library.municode.com/ca/san_mateo_county/codes/code_of_ordinances).

Customer(s)

"Customer" means a Person who subscribes to the Hauler's Collection Services and provides payment for the Collection services provided to the Premises.

Densely-Populated Areas

"Densely-Populated Areas" mean geographic areas of the unincorporated County that are not covered by low population waiver(s) issued by the State pursuant to 14 CCR Section 18984.12 or as determined by the County Office of Sustainability Director or duly authorized representative.

Director

"Director" means the County Office of Sustainability Director or designee.

Discarded Materials

"Discarded Materials" means Solid Waste, Recyclable Materials, Salvageable Materials, Organic Materials, Bulky Items, Construction and Demolition Debris and other materials that have been discarded by Generator or Customer. For the purposes of this Agreement, Discarded Materials shall only include the Discarded Materials placed by Generator or Customer for the purpose of Collection by Hauler.

Disposal

"Disposal" or "Dispose" means the final disposition of any Solid Waste Collected by the Hauler at a permitted Landfill or other permitted Solid Waste facility.

Disposal Site(s)

"Disposal Site(s)" means any permitted Solid Waste handling facility or facilities where the final Disposal of Solid Waste Collected by Hauler occurs.

Facility(ies)

"Facility(ies)" means any plant or site used for the purposes of handling Discarded Materials including, but not limited to, Disposal Sites, Material Recovery Facilities (MRF's), and Transfer, Recycling, Composting, and Processing facilities.

Food Scraps

"Food Scraps" means all food typically found in a green container (or grey container if using a two-cart system) 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, and grease when such materials are Source Separated from other Food Scraps.

Food Waste

"Food Waste" means food scraps, and food-soiled paper products, and bio-plastics labeled "BPI Certified Compostable (where accepted by the hauler).

Generator

"Generator" means any Person whose act or process produces Solid Waste, Recyclable Materials, or Organic Materials, or whose act first causes Solid Waste to become subject to regulation.

Gross Receipts

"Gross Receipts" shall mean and include all monies, fees, charges, consideration, and revenue received by Hauler and any Affiliate of Hauler attributable to the Solid Waste Collection Services carried out by or on behalf of Hauler pursuant to this Agreement. Gross Receipts includes, without limitation, monthly or bi-monthly Customer charges that are received by Hauler for Collection of Solid Waste, without subtracting fees imposed and collected pursuant to this Agreement, and transportation charges. Gross Receipts does not include revenue from the sale of Recyclable Material, Organic Waste, Food Waste, and other material which is diverted from disposal.

Hauler

"Hauler" means a person who collects material from a Generator and delivers it to a reporting entity, end user, or a destination outside of the state. "Hauler" includes public contract franchised and non-franchised Haulers, private contract Haulers, Food Waste self-Haulers, and self-Haulers. A person who transports material from a reporting entity to another person is not a Hauler.

Hauler-Designated Facilities

"Hauler-Designated Facilities" means any Facilities selected and used by Hauler for purposes of performing under this Agreement, including, but not limited to, Disposal Sites, MRFs, and transfer, Recycling, composting, and Processing facilities. These Facilities shall be designated by Hauler in Exhibit C.

Hauler Type(s)

"Hauler Type(s)" means Single-Family Hauler, or Multi-Family/Commercial Hauler. The Hauler is approved for both Hauler Types.

Hazardous Waste

"Hazardous Waste" means all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State in Health and Safety Code §25110.02, §25115, and §25117 or in any future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to the Federal Resource Conservation and Recovery Act (42 USC §6901 et seq.), all future amendments thereto, and all rules and regulations promulgated there under.

Inert Solids

"Inert solids" includes asphalt, concrete, rock, stone, brick, sand, soil and fines, as defined in County Code 4.105.010

Landfill

"Landfill" means a "Solid Waste Landfill," as defined by Public Resources Code Section 40195.1.

Low-Populated Areas

"Low-Populated Areas" mean geographic areas of unincorporated County that are covered by low population waiver(s) approved by the State, pursuant to 14 CCR section 18984.12, as determined by the County Office of Sustainability Director or duly authorized representative.

Materials Recovery Facility (MRF)

"Materials Recovery Facility" means a permitted Solid Waste Facility where Discarded Materials are Processed for the purposes of Recycling or reuse.

Medical Waste

"Medical Waste" has the same meaning as the term "medical waste" as provided in California Health and Safety Code (H & S Code) Sections 117690, Medical waste does not include the waste listed in H & S Code Section 117700. Medical Waste also includes any waste that federal law or any other State law defines as medical waste. "Treated medical waste" means medical waste that has been treated pursuant to the California Medical Waste Management Act, H & S Code Sections 118215 et seq. Medical Waste that has not been treated pursuant to these requirements shall be referred to as untreated medical waste.

Multi-Family or Multi-Family Dwelling Unit

"Multi-Family Residential Dwelling" 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. Under the SB 1383 Regulations and County Ordinance Code, Multi-Family residential dwellings with five (5) or more units are included under the definition of a Commercial Business per 14 CCR Division 7 Section 18982(a)(6).

Multi-Family/Commercial Hauler

"Multi-Family/Commercial Hauler" means a Hauler that has been authorized to provide Collection services and other related services to Multi-Family and Commercial Premises in accordance with this Agreement.

Non-Compostable Paper

"Non-Compostable Paper" includes, but is not limited to, paper that is coated in a plastic material that will not break down in the composting process. Notwithstanding the foregoing, this term shall be defined as in 14 CCR Division 7 Section 18982.

Non-Exclusive Franchise Agreement (NEFA)

"Non-Exclusive Franchise Agreement" (NEFA) means a Non-Exclusive Franchise Agreement entered into between a Hauler and the County where the Hauler agrees to collect Solid Waste and or discarded materials and subsequently transports, transfers, processes, and/or disposes of

the discarded materials, as appropriate for the material type in the unincorporated, non-franchised County areas. NEFAs shall be required for all Solid Waste Haulers commencing on or after July 1, 2022.

Organic Materials

“Organic Materials” means Plant Materials and/or Food Waste, whether individually or in combination, set aside, handled, packaged, or offered for Collection in a manner different from Solid Waste for the purpose of Processing. Organic Materials are a subset of Organic Waste.

Organic Waste

“Organic Waste” means Solid Wastes containing material originated from living organisms and their metabolic waste products including, but not limited to food, Plant Materials, landscape and pruning waste, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Papers, manure, biosolids, digestate, and sludges. Notwithstanding the foregoing, this term shall be defined as in 14 CCR Division 7 Section 18982.

Paper Products

“Paper Products” include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, and hanging files, corrugated boxes, tissue, and toweling. Notwithstanding the foregoing, this term shall be defined as in 14 CCR Division 7 Section 18982.

Party or Parties

“Party” or “Parties” refers to the County and Hauler, individually or together.

Person

"Person" shall mean and include any County, City, municipal corporation, district, corporation, firm or individual, or their agents or employees.

Plant Materials

“Plant Materials” means a subset of Organic Materials consisting of grass cuttings, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees (not more than six (6) inches in diameter) and five (5) feet in length, and similar materials generated at Premises, separated and set out for Collection. Plant Materials does not include materials not normally produced from gardens or landscape areas, such as, brick, rock; gravel, large quantities of dirt, concrete, sod, non-organic wastes, oil, and painted or treated wood products. Diseased plants and trees may be excluded from Plant Materials upon mutual consent of Agency and Hauler.

Premises

“Premises” means a tract of land with or without habitable buildings or appurtenant structures.

Printing and Writing Papers

“Printing and Writing Papers” include, but are not limited to, copy, 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. Notwithstanding the foregoing, this term shall be defined as in 14 CCR Division 7 Section 18982.

Process, Processed, or Processing

“Process”, “Processed”, or “Processing” mean and refer to the controlled separation, recovery, volume reduction, conversion, or Recycling of Solid Waste and/or other Discarded Materials 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. Notwithstanding the foregoing, this term shall be defined as in 14 CCR Division 7 Section 18982.

Prohibited Container Contaminants

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

Public Resources Code (PRC)

“Public Resources Code” or “PRC” means the California Public Resources Code.

Putrescible Waste

"Putrescible Waste" includes waste that is capable of becoming putrid, spoils, or is decomposed by microorganisms with sufficient rapidity to cause a nuisance because of odors, gases, or other offensive conditions.

Radioactive Waste

“Radioactive Waste” is defined in accordance with California State Health and Safety Code Section 114710, to mean any radioactive material that is discarded as non-usable.

Recyclable

“Recyclable” means a material which can be Processed into a form suitable for reuse through re-Processing or re-manufacture consistent with the requirements of AB 939.

Recyclable Materials or Recyclables

"Recyclable Materials" means materials, by-products, or components of such materials set aside, handled, packaged, or offered for Collection in a manner different from Solid Waste for the purpose of Recycling.

Recycle, or Recycling

"Recycle" or "Recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become disposed, and returning 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. Recycling does not include transformation.

Refuse

"Refuse" means any mixture of Putrescible and non-putrescible solid and semi-solid wastes, including garbage, trash, Residential Solid Waste, Commercial Solid Waste, vegetable, or animal solid and semi-solid wastes, and other Solid Waste destined for Disposal sites.

Removal (or Remove)

"Removal" (or "Remove") means the act of taking Discarded Materials from the place of generation.

Residential

"Residential" means of, from, or pertaining to Single-Family and Multi-Family Premises used for human shelter, irrespective of whether such dwelling units are rental units or are owner-occupied, excluding hotels, motels, or other transient occupancy facilities.

Residue

"Residue" means those materials which, after Processing, are Disposed rather than Recycled, composted, Processed, or reused due to either the lack of markets for materials or the inability of the Hauler-Designated Facility to capture and recover the materials.

Salvageable Material (or Salvaged Material)

"Salvageable Material" (or "Salvaged Material") means an object or material that can be reused again, either for its original purpose or for a similar purpose, without significantly altering the physical form of the object or material.

SB 1383

"SB 1383" means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code.

Self-Haul

"Self-Haul" means the hauling performed by a Self-Hauler.

Self-Hauler

"Self-Hauler" means a Person who hauls Solid Waste, Recyclable Materials, Organic Waste, or recovered material he or she has generated to another Person. Self-Hauler also includes a person who Back-Hauls. Each Self-Hauler and Back-Hauler must haul such materials himself or herself, or by his or her employees, using his or her own vehicles and other equipment.

Service Level

"Service Level" refers to the total weekly cubic yards of service capacity calculated by multiplying the number and cubic-yard capacity of a Customer's Container(s) by the frequency of Collection service, and refers to ancillary services such as lock/unlock service, Container push/pull service, etc.

Single-Family or Single-Family Dwelling (SFD)

"Single-Family" means of, from, or pertaining to any Residential Premises with less than five (5) units.

Single-Family Hauler

"Single-family Hauler" means a Hauler that has been authorized to provide collection services and other related services to Single-Family premises in accordance with a Non-Exclusive Franchise Agreement, or a Franchise Agreement.

Solid Waste

"Solid Waste" means all putrescible and non-putrescible solid, semi-solid, and liquid wastes, including garbage, trash, refuse, organic materials, recyclables, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, 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 semi-solid wastes. Solid Waste does not include Excluded Waste:

1. Hazardous waste, as defined in Public Resource Code.
2. Radioactive waste, as regulated pursuant to the Radiation Control Law.
3. Medical waste, as regulated pursuant to the Medical Waste Management Act.

Source Separated

"Source Separated" means the Generator, property owner, property owner's employee, property operator, or property operator's employee has separated materials into different Containers or placed separately for the purpose of Collection such that Recyclable Materials, Organic Wastes, manure, and/or Salvageable Materials are separated from Solid Waste for the purposes of Collection, Recycling, salvage, reuse, and/or Processing.

Split Bin

"Split Bin" means a Bin that is split or divided into segregated sections, instead of an entire Bin, or as otherwise allowed pursuant to 14 CCR Division 7 Section 18982.

Split Cart

"Split Cart" means a Cart that is split or divided into segregated sections, instead of an entire Cart, or as otherwise allowed pursuant to 14 CCR Division 7 Section 18982.

State

"State" means the State of California.

Subcontractor

"Subcontractor" means any Person, firm, or entity hired by Hauler to carry out any of Hauler's Collection services under this Agreement. Notwithstanding any other provision in this Agreement, vendors providing services, materials and/or supplies to Hauler that are not directly related to Hauler's provision of services under this Agreement (such as office supplies, equipment parts and paving services at Hauler's facilities), professional service firms providing legal, accounting and/or other business services to Hauler, and subcontractors and Facilities that are not owned or operated by Hauler or its Affiliates, shall not be considered Subcontractors for any purpose under this Agreement. Exhibit B attached hereto contains a list of all Subcontractors as of the date of this Agreement.

Term

"Term" means the duration of this Agreement, including extension periods if granted, as provided for in Sections 3.2, 3.3. and 3.4.

Unincorporated Service Area

"Unincorporated Service Area" means an area which is located in Unincorporated San Mateo County that is not served by an exclusive solid waste franchise agreement.

White Goods

"White Goods" mean major kitchen appliances or other large appliances.

Wood Waste

"Wood Waste" means lumber and wood products but does not include "treated wood" or "treated wood waste" as defined in 22 CCR Section 67386.4.

ARTICLE 2: REPRESENTATIONS AND WARRANTIES OF THE HAULER

2.1 CORPORATE STATUS

Hauler is a corporation, duly organized, validly existing and in good standing under the laws of the State of California and is qualified to do business in the State of California and/or the Hauler is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Delaware and is qualified to do business in the State of California.

2.2 CORPORATE AUTHORIZATION

Hauler has the authority to enter and perform its obligations under this Agreement. The board of directors of Hauler (or the owner/shareholders if necessary) have taken all actions required by law, its articles of incorporation, and its bylaws or otherwise to authorize the execution of this Agreement. The Persons signing this Agreement on behalf of the Hauler have the authority to do so.

ARTICLE 3: TERMS OF AGREEMENT

3.1 GRANT AND ACCEPTANCE OF AGREEMENT

County hereby grants to Hauler the non-exclusive right and privilege to collect and subsequently, transfer, transport, reuse, salvage, Recycle, Process, and/or Dispose (as appropriate for the material type pursuant to Exhibit D) Discarded Materials accumulating in County that are offered for Collection to Hauler in accordance with this Agreement and the County Code, and subject to limitations specified in this Agreement, including the right and privilege to use County streets and rights-of-way to do so. In County's sole discretion, County may also grant to other persons the same rights and privileges that it grants Hauler under this Agreement.

The scope of this non-exclusive Agreement shall be limited only by current and future State and federal laws, regulations and court decisions with regard to handling of Discarded Materials, enactment of new laws or regulations or new court decisions which may limit the ability of County to lawfully regulate the scope of services as specifically set forth herein. Hauler agrees that the scope of the Agreement shall be limited to those services which may be lawfully provided.

- a) Self-Hauled Materials. A Generator may transfer or Dispose of Discarded Materials generated in or on the Generator's own Premises with the Generator's own employees and vehicles.
- b) Recyclable Materials. Recyclable Materials, Salvageable Materials and/or Organic Materials which are Source Separated at any Premises by the Generator may be (a) sold to another collector for a positive net consideration to the Generator, or (b) donated to youth, civic, or charitable organizations.
- c) Edible food. A Person, such as a Person from a food recovery organization or food recovery service, that removes edible food from a Generator and Transports edible food for the purpose of human consumption regardless of whether Generator donates, sells, or pays a fee to the food recovery organization or food recovery service for such service.
- d) Beverage containers. Containers delivered for Recycling under the California Beverage Container Recycling and Litter Reduction Act, Section 14500, et seq. California Public Resources Code.
- e) Materials Removed by Customer's Contractor as incidental part of services. Recyclable Materials, Organic Materials, Solid Waste, Construction and Demolition Materials (C&D), and Bulky Items removed from a premises by a contractor (e.g., gardener, landscaper, tree-trimming service, construction contractor, Residential clean-out service) as an

incidental part of the service being performed, rather than as a separately contracted or subcontracted hauling service.

- f) In-place Composting. Organic Materials Composted or otherwise legally managed at the site where it is generated (e.g., backyard composting, on-site anaerobic digestion).
- g) Animal, grease waste, and used cooking oil. Animal waste and remains from slaughterhouse or butcher shops, grease, or used cooking oil. These items will need to be recycled with a rendering company.
- h) Sewage treatment by-product. By-products of sewage treatment, including sludge, sludge ash, grit, and screenings.
- i) Excluded Waste. Excluded Waste regardless of its source.
- j) Materials Generated by State and County Facilities. Discarded Materials generated by State and County facilities located in the County, provided that the Generator has arranged services with other Persons or has arranged services with Hauler through a separate agreement.

Hauler hereby accepts such non-exclusive right to Collect Discarded Materials in the County on the terms and conditions set forth in this Agreement.

Although this Agreement prescribes minimum scope of franchise services, service specifications, and service standards, the County is not responsible for supervising or performing franchise services; and the Hauler and not the County is arranging for franchise services.

To the extent permitted by applicable law, County agrees to take such steps as may be reasonably necessary to protect Hauler's ownership of Discarded Materials placed at the curbside or designated Collection location for Collection by Hauler under the terms of this Agreement. County and Hauler shall also cooperate to protect Hauler's exclusive rights to collect Discarded Materials in accordance with the terms hereof, to the extent permitted by applicable law.

3.2 EFFECTIVE DATE AND TERM OF THIS AGREEMENT

The effective date of this Agreement shall be 30 days after this Agreement is approved by the Board, 03/27/2024 . The Term of this Agreement shall be five (5) years beginning with the effective date, unless terminated sooner in accordance with Section 9.3 below. Any separate agreements for service between the Hauler and its Customers shall automatically terminate upon the termination of this Agreement.

3.3 TERMINATION

County may terminate this Agreement for cause. In order to terminate for cause, County must first give Hauler notice of the alleged breach. Hauler shall have five business days after receipt of such notice to respond and a total of ten calendar days after receipt of such notice to cure the alleged breach. If Hauler fails to cure the breach within this period, County may immediately terminate this Agreement without further action. The option available in this paragraph is separate from the ability to terminate without cause with appropriate notice described above. In the event that County provides notice of an alleged breach pursuant to this section, County may, in extreme circumstances, immediately suspend performance of services under this Agreement pending the resolution of the process described in this paragraph. County has sole discretion to determine what constitutes an extreme circumstance for purposes of this paragraph, and County shall use reasonable judgment in making that determination.

3.4 EXTENSION TERM

THE TERM OF THIS AGREEMENT MAY BE EXTENDED, UPON MUTUAL CONSENT OF THE COUNTY AND THE HAULER, IN ONE OR MORE INCREMENTS OF UP TO THREE (3) YEARS. IF EITHER PARTY DESIRES TO EXTEND THE AGREEMENT, THE PARTY SHALL PROVIDE THE OTHER PARTY WITH WRITTEN NOTICE OF ITS DESIRE TO EXTEND THE AGREEMENT AT LEAST ONE (1) YEAR BEFORE THE EXPIRATION OF THE INITIAL TERM. SUCH NOTICE SHALL SPECIFY THE DURATION OF THE REQUESTED EXTENSION. THE COUNTY DOES NOT GUARANTEE ANY SUCH EXTENSION REQUEST WILL BE GRANTED.

3.5 CONDITIONS TO EFFECTIVENESS OF AGREEMENT

The obligation of County to permit this Agreement to become effective and to perform its undertakings provided for in this Agreement is subject to the satisfaction of each and all of the conditions set out in A through D below, each of which may only be waived in whole or in part upon the written approval of the Director.

- A. Accuracy of Representations.** The representations and warranties made by Hauler in Article 2 of this Agreement are true and correct on and as of the effective date of this Agreement.
- B. Absence of Litigation.** There is no litigation pending on the effective date of this Agreement in any court challenging the award or execution of this Agreement or seeking to restrain or enjoin its performance.
- C. Furnishing of Insurance.** Hauler has furnished evidence of the insurance required by Article 8 of this Agreement.
- D. Effectiveness of Board of Supervisor's Action.** The Board has authorized the Director, or another County officer, to execute this Agreement prior to the effective date of this Agreement.

3.6 NO GUARANTEES OF MATERIAL VOLUME OR COMPOSITION OR CUSTOMERS

The County does not guarantee the quantity or composition of Discarded Materials that may be available for Collection by Hauler for subsequent transfer, transport, reuse, salvage, Recycling, Processing, and/or Disposal by Hauler during the Term of the Agreement. Furthermore, County does not guarantee the number or type of Customers that the Hauler will have during the Term of the Agreement.

ARTICLE 4: AGREEMENT

4.1 GRANT OF AGREEMENT

County hereby grants to Hauler a non-exclusive right to engage in the business of Collecting, and subsequent transport, transfer, reuse, salvage, Recycling, Processing, and/or Disposing Discarded Materials (as appropriate for the material type pursuant to Exhibit D) accumulated or produced in the unincorporated County and to use the public streets and rights-of-way for such purpose subject to the limitations within this Agreement.

4.2 SB 1383 ADMINISTRATIVE FEE

Hauler agrees to pay a monthly SB 1383 administrative fee* (SB 1383 Fee) to the County on a calendar quarterly basis no later than thirty (30) days after the end of each calendar quarter. The amount of the SB 1383 administrative fee shall be two percent (2%) of the Hauler's monthly Gross Receipts for the Non-exclusive and Unincorporated Service Area which they are servicing. Hauler shall provide, concurrently with the payment of the fee, a statement showing the calculation of the monthly fee, including monthly Gross Receipts billed and collected from customers in Single-Family, and Multi-Family/ Commercial for that quarter. The statement shall contain the level of detail specified by the County.

County shall use the SB 1383 administrative fee to administer this agreement and other activities involved in compliance with SB 1383 for the Unincorporated Service Area. The County shall retain the sole right to set priorities for the use of its SB 1383 administrative fee.

County may from time to time adjust the amount of the SB 1383 administration fee and may establish other fees which shall be set forth as an amendment to this Agreement.

*(Chapter 13.1 Short-Lived Climate Pollutants [42652 - 42655] (*Chapter 13.1 added by Stats. 2016, Ch. 395, Sec. 6.*))

4.3 SUBMITTAL OF FEE PAYMENTS AND CHARGE FOR LATE PAYMENTS

Within the last day of the calendar quarter, during the Term of this Agreement, Hauler shall remit to County all fees as described in this article. Such SB 1383 fees shall be remitted to County and sent or delivered to the Director of Office of Sustainability, 455 County Center, 4th Floor, Redwood City, CA 94603. If a fee is not paid within thirty (30) days after the end of each quarter, Hauler shall pay a late payment charge to the County equal to two percent (2%) of the fees due for that quarter. In addition, Hauler shall pay interest at the rate of ten percent (10%) on any unpaid balance within sixty (60) days at the end of the fiscal year until paid in full. Pursuant to Section

9.1, failure to pay SB 1383 administration fee to the County may result in termination of Agreement.

4.4 COUNTY DESIGNATION OF FACILITIES

County has agreed to waive any right to direct Hauler to deliver any or all Discarded Materials Collected within the unincorporated County to a specific transfer facility, Materials Recovery Facility, composting facility, Processing facility, or Disposal Site and a mutually agreed Discarded Materials acceptance and capacity agreement is executed between Hauler and the designated Facility(ies).”.

4.5 RATE REGULATION

Pursuant to Public Resources Code Section 40059, the County may determine aspects of solid waste handling which are of local concern, including, but not limited to, frequency of collection, means of collection and transportation, level of services, charges and fees, and nature, location, and extent of providing solid waste handling services. The authority to provide solid waste handling services may be granted under terms and conditions prescribed by the County by resolution or ordinance. Notwithstanding the foregoing, the Board of Supervisors shall have the power to review and regulate Hauler’s fees, rates, and charges upon a finding that Hauler is charging unreasonable or excessive fees, rates, or charges, and the Board of Supervisors shall have the right to specify Customer rate structuring arrangements and/or relationships between various types of Customer rates. Before the County makes any determination that rates are unreasonable or excessive, the County agrees to meet and confer with Hauler to discuss the basis for the County’s determination. Notwithstanding the above, Hauler shall have the right to set the fees, rates and charges for its Customers.

ARTICLE 5: COLLECTION SERVICES

5.1 GENERAL

- A. Approved Hauler Type.** Hauler shall only be permitted to perform the services for the Hauler Type(s) for which Hauler has been approved by the County, which is both Single-Family Hauler and Multi-Family/Commercial Hauler.
- B. Extent of Hauler's Services.** Hauler's designated service areas in the County shall conform to the areas described on the Solid Waste Collection Areas Map approved by the Director, which may be amended from time to time.
- C. Overall Performance Obligations.** The work to be done by Hauler pursuant to this Agreement shall include the furnishing of all labor, supervision, equipment, materials, supplies, and all other items necessary to perform the services required. The work to be done by Hauler pursuant to this Agreement shall be accomplished in a manner so that the residents and businesses receiving services from Hauler are provided reliable, courteous, and high-quality Collection and/or Diversion services at all times. The enumeration of, and specification of requirements for, particular items of labor or equipment shall not relieve the Hauler of the duty to furnish all others, as may be required, whether enumerated or not.
- D. Right to Refuse Service.** Hauler may refuse service to any Customer for failure to pay their bill within forty-five (45) days of the invoice date or for any substantial refusal to comply with Collection requirements as set forth in the County ordinance Code after giving the Customer a reasonable opportunity to comply.

If Hauler exercises its right to refuse service for Customer failure to pay their bill within forty-five (45) days, Hauler shall remove any Container(s) provided by Hauler to such Customer that are located in the public right of way. Hauler could charge an additional fee to Customers for removal of Containers in these circumstances. County should be notified of customer service cancellation.

5.2 SCOPE OF COLLECTION SERVICES

- A. General Collection Requirements.** Hauler is authorized as Single-Family Hauler and Multi-Family/Commercial Hauler. Hauler shall perform Single-Family Collection services in accordance with the service requirements specified in Section 5.4. Hauler shall perform Multi-Family/Commercial Collection services in accordance with the service requirements specified in Section 5.5.
- B. Multi-Family/Commercial Generator Compliance** Hauler shall assist the County in determining Multi-Family/Commercial Generator compliance with material separation

and Recycling requirements in the County Code and State regulations, including, but not limited to AB 341, AB 1826, and SB 1383.

5.3 COLLECTION STANDARDS

- A. Minimization of Spills and Clean-up.** During Collection or transportation activities, Hauler shall clean up Discarded Materials spilled during Collection in the immediate vicinity of any Container.
- B. Covering of Loads.** Hauler shall cover all open Roll-Off Boxes and compactor openings during transport from one Collection site to another or to a Hauler-Designated Facility. All Discarded Materials transported to a Hauler-Designated Facility in vehicle hoppers shall be adequately covered.
- C. Record of Non-Collection.** When any Container of Discarded Materials is not Collected by Hauler because such material fails to meet the requirements of the County Code or this Agreement, Hauler shall leave a tag, which indicates the reason(s) for Hauler's refusal to Collect the Discarded Materials as well as the Hauler's address, website address (if any), local telephone number, and business hours. The County will allow three (3) non-Collection tags before sending the account to County Inspection and Enforcement for further action.
- D. Noise.** All Discarded Materials Collection operations shall be conducted as quietly as possible and shall conform to County Code Section 4.88- Noise Control.
- E. Provision of Service Upon Request.** Hauler shall provide service within its permit areas to any Customer who requests the Hauler's services and agrees to pay the Hauler's rates. Hauler may refuse service to any Customer where topography, geographical isolation, and/or inadequate access constitute an unreasonable hardship for Hauler.

5.4 SINGLE-FAMILY COLLECTION STANDARDS

The Single-Family Collection standards provided in this section shall apply to the Hauler if the Hauler is approved as a Single-Family Hauler.

- A. General Requirements for Densely-Populated Areas**
 - 1. Voluntary Subscription.** Hauler shall Collect Discarded Materials from Single-Family Customers that voluntarily subscribe to its Collection services.
 - 2. Three-Container System.** As further described in this section, Hauler shall provide its Customers with three (3) Containers for weekly Collection of Recyclable Materials, Organic Materials, and Solid Waste in the Densely-Populated Areas, unless its Customer

has secured a waiver for one or more types of Collection services in accordance with Section 4.04.145 of the County Code. At Hauler's option, Hauler may propose use of Split Carts or additional sorting of material beyond the material separation required herein by the three (3) Containers (e.g., separate Food Waste Collection using small containers), subject to Director's approval. Hauler shall provide Customers with rigid Containers for the purposes of Collection, with the exception that bags may be used as an alternative for Collection of excess Discarded Materials ("overages") on an infrequent basis.

3. **Alternatives to the Three-Container System.** Hauler may propose use of a modified Collection system that relies on two Containers or more than three (3) Containers and/or use of bags or Bins for some Discarded Materials; however, Hauler's proposed Collection method for Organic Waste must comply with County Code, SB 1383, and other federal, State, and local regulations and shall be subject to the Director's approval.
4. **Container Type Exceptions.** Hauler may provide homeowner associations or other unique properties with Containers other than Carts for Collection of Discarded Materials, subject to Director's approval and subject to compliance with Container labeling and color requirements in accordance with Section 5.8 of the Agreement.
5. **Food Waste Collection.** Hauler shall establish Food Waste Collection services that allow its Single-Family Customers in Densely-Populated Areas to place Food Waste in the Organic Materials Containers for Collection and subsequent transportation by Hauler to a Hauler-Designated Facility for Processing. Hauler may separately Collect Food Waste using additional Containers or Split Carts provided that: (i) the Collection method complies with County Code, federal, State, and local regulations, including 14 CCR Division 7, Chapter 12, Article 1 requirements, and, (ii) Hauler provides Containers that comply with the Container labeling and color requirements in Section 5.8 of the Agreement.

B. Recyclable Materials Collection in Densely-Populated Areas

1. **Recycling Container.** Hauler shall provide each Customer at a Single-Family Dwelling Unit with a minimum of one Cart designated for the Collection of Recyclable Materials (a "Recycling Cart"). At Hauler's option, Hauler may provide Single-Family Dwellings with multiple Carts or one or more Bins for Recyclable Materials Collection.

- C. Recyclable Materials.** At a minimum, Hauler shall Collect Recyclable Materials placed by Generator in the Hauler's Recycling Containers, and White Goods (which shall be Collected in accordance with Section E. Bulky Item Collection in Densely-Populated Areas).

1. Hauler may Collect other Recyclable Materials at its option, with the exception that the Recycling Container shall not be used to Collect non-Recyclable materials or Prohibited Container Contaminants.
2. **Transport and Processing.** Hauler shall transport and deliver Recyclable Materials Collected to Hauler-Designated Facility(ies) for Processing and such Processing shall comply with requirements prescribed in this section.
3. **Waivers for Customers.** If the County grants a waiver pursuant to Section 4.04.145 of the County Code, the requirements of this Section may be modified for certain Customers. Pursuant to Section 6.5, the County shall notify the Hauler within thirty (30) days of approval of a Customer waiver, including information on the Customer and any changes to Service Level or Collection service requirements.

D. Organic Materials Collection in Densely-Populated Areas

1. **Organic Materials Containers.** At a minimum, Hauler shall provide each Customer at a Single-Family Dwelling Unit with one Cart for Collection of Organic Materials (an "Organic Materials Container"). At Hauler's option, Hauler may provide Single-Family Dwellings with multiple Carts or one or more Bins for Organic Materials Collection.
2. **Organic Materials.** Hauler shall Collect Organic Materials placed by Generator in Hauler's Organic Materials Container. At a minimum, Hauler shall Collect Plant Materials, Wood Waste, and Food Waste in the Organic Materials Container. The Organic Materials Container shall not be used for the storage and Collection of non-Organic Materials; Prohibited Container Contaminants; carpets; textiles; Non-Compostable Paper; or any Organic Materials subject to quarantine or movement issued by a County agriculture commissioner.
3. **Food Waste.** Hauler may separately Collect Food Waste using additional Containers or Split Carts provided that: (i) the Collection method complies with County Code, federal, State, and local regulations including 14 CCR Division 7, Chapter 12, Article 3 requirements, and, (ii) Hauler provides Containers that comply with the Container labeling and color requirements in Section 5.8.
4. **Transport and Processing.** Hauler shall transport and deliver Collected Organic Materials to Hauler-Designated Facility(ies) for Processing and such Processing shall comply with requirements prescribed in Exhibit D.
5. **Waivers for Customers.** If the County grants a waiver pursuant to Section 4.04.145 of the County Code for Customers that actively practice on-Premises composting, the requirements of this section may be modified for certain Customers. Pursuant to Section 6.5, the County shall notify the Hauler within thirty (30) days of approval of a Customer waiver or self-certification, including information on the Customer and any

changes to Service Level or Collection service requirements. Hauler will be responsible for maintaining records of all Customers granted waivers pursuant to this Section.

E. Solid Waste Collection in Densely-Populated Areas

1. **Solid Waste Container.** At a minimum, Hauler shall provide each Customer at a Single-Family Dwelling Unit with one Cart for the Collection of Solid Waste (a "Solid Waste Cart"). At Hauler's option, Hauler may provide Single-Family Dwellings with multiple Carts or one or more Bins for Solid Waste Collection. Hauler may allow Generators to place organic and non-organic carpet and textiles and Non-Compostable Paper in the Solid Waste Container.
2. **Solid Waste Container Sizes.** At a minimum, Hauler shall offer Customers four Solid Waste Cart sizes: 20, 32, 64, and 96 gallons (or similar sizes approved by the Director), and shall allow the Customer to choose their Cart size. At Hauler's option, Hauler may provide Customers Bins for Solid Waste Collection.
3. **Transport and Disposal.** Hauler shall transport and deliver Collected Solid Waste to Hauler-Designated Facility(ies) for Disposal and such Disposal shall comply with requirements as prescribed in Exhibit C.

F. Bulky Item Collection in Densely-Populated Areas

Hauler shall offer Single-Family Customers in Densely-Populated Areas with two (2) Bulky Item pickups per year for a fee or included in the garbage rates. At Hauler's option, Hauler may offer additional pickups and bill Customers at a rate agreed upon between Hauler and Customer. For each Bulky Item Collection pick-up, Customers may place up to two (2) items out for Collection. Hauler shall instruct Customers in educational materials to contact Hauler with their request. Hauler may Collect Bulky Items on a day mutually agreed upon by it and Customer provided that such Collection occurs no later than fourteen (14) days from the day of Customer's request.

Hauler shall use reasonable efforts to Divert Bulky Items. Bulky Items Collected by Hauler shall not be Disposed until the following hierarchy has been followed by Hauler:

1. Disassembly by the Hauler or Affiliate for reuse or Recycling (e.g., mattresses, electronics, etc.);
2. Recycling; and Organic Waste Processing,
3. Landfilling.

Hauler shall separately Collect Plant Materials and transport such materials to the Hauler-Designated Organic Waste Processing Facility for Processing. Hauler shall Recycle all White Goods.

This hierarchy precludes the use of front- or rear-loading Collection vehicles for Bulky Items unless the compaction mechanism is not used to compact the Bulky Items, and unless they have been designated for Disposal.

G. General Requirements for Low-Populated Areas

1. **Voluntary Service and Subscription.** Hauler may offer Customers in the Low-Populated Areas Collection of Discarded Materials and shall Collect Discarded Materials from Single-Family Customers that voluntarily subscribe to its Collection services.
2. **Recyclable Collection Required.** If Hauler Collects Solid Waste from Customers in Low-Populated Areas, Hauler is required to offer its Solid Waste Customers Collection services for Recyclable Materials. Hauler may, at its option, provide Plant Materials, and White Goods Collection services.
3. **Collection Frequency.** If Collection of Solid Waste is provided to Customers, Hauler shall Collect such material at least weekly. If Collection of Organic Materials is provided to Customers, Hauler shall Collect such material at least weekly. Hauler shall provide Collection of Recyclable Materials as frequently as agreed upon by Customers, but not less than every other week.
4. **Transport, Processing, and Disposal.** Hauler shall transport and deliver Discarded Materials it Collects in the Low-Populated Areas to Hauler-Designated Facility(ies) for Processing or Disposal (as applicable for the material type) and such Processing or Disposal shall comply with requirements prescribed in Exhibit D.
5. **Rate Structure.** Subject to Section 4.5, Rate Regulation, Hauler may structure rates it charges Single-Family Customers in the Low-Populated Areas at its discretion.

H. Placement of Containers for Collection

As of the Effective Date of the Agreement, wherever feasible, Customers shall be directed by Hauler to place Containers for Collection either in the street against the curb or at the edge of pavement, in front of their Premises, or adjacent to their Premises in the alley or easement in the rear of their Premises. If a Customer and Hauler cannot agree upon a Collection location, or if County determines the selected location may cause safety or other concerns, Director may make the final determination of the Collection location.

I. Servicing Containers

As of the Effective Date of the Agreement, Hauler shall pick up and return each reusable Container, which is not intended for Disposal, to the location where the occupant properly placed the Container for Collection. Hauler shall place the Containers upright with any lids properly secured. Hauler, at the request of Customers, may provide special services including:

(i) unlocking and locking Containers; (ii) accessing Container enclosures with a key; or, (iii) pulling or pushing Containers to the Collection vehicle. Hauler may charge the Customer for special services at rates agreed upon between the Customer and Hauler.

J. Hours and Days of Collection

As of the Effective Date of the Agreement, Hauler shall provide **Single-Family** Collection service between the hours of 6:00 a.m. and 7:00 p.m., Monday through Friday. The hours, days, or both of Collection may be extended due to extraordinary circumstances or conditions with the prior verbal or written consent of the Director. Notwithstanding the foregoing, in the event required by unusual or emergency circumstances, or temporary changes needed to accommodate seasonal fluctuation in Collection needs, the Director may authorize a modification to the above time limitations.

5.5 MULTI-FAMILY AND COMMERCIAL COLLECTION STANDARDS

The Multi-Family and Commercial Collection standards provided in this section shall apply to the Hauler if the Hauler is approved as a Multi-Family/Commercial Hauler.

A. General Requirements for Densely-Populated Areas

1. **Voluntary Subscription.** Hauler shall Collect Discarded Materials from Multi-Family and Commercial Customers that subscribe to its Collection services.
2. **Three-Container System.** As further described in this section, Hauler shall provide a three (3) Container Collection system for at least once per week Collection of Recyclable Materials, Organic Materials, and Solid Waste to: (i) its Multi-Family and Commercial Customers in the Densely-Populated Areas, and (ii) its Multi-Family and Commercial Customers Premises in Low-Populated Areas that generate two (2) cubic yards or more of total Solid Waste, Recyclable Materials, and Organic Materials per week (or other threshold defined by the State), unless its Customer has secured a waiver for one or more types of Collection services in accordance with Section 4.04.145 of the County Code. At Hauler's option, Hauler may propose use of Split Carts, Split Bins, or additional sorting of material beyond the material separation required herein by the three (3) Containers (e.g., separate Food Waste Collection using small containers), subject to Director's approval. Hauler shall provide Customers with rigid Containers for the purposes of Collection, with the exception that bags may be used as an alternative for Collection of excess Discarded Materials ("overages") on an infrequent basis.
3. **Alternatives to the Three-Container System.** Hauler may propose use of a modified Collection system that relies on two Containers or more than three (3) Containers and/or use of bags for some Discarded Materials; however, Hauler's proposed

Collection method for Organic Waste must comply with County Code, SB 1383, and other federal, State, or local regulations, and shall be subject to the Director's approval.

4. **Food Waste Collection.** Hauler shall establish Food Waste Collection services for (i) all Multi-Family and Commercial Customers in the Densely-Populated Areas, and (ii) for Commercial Premises in Low-Populated Areas that generate four (4) cubic yards or more of total Solid Waste, Recyclable Materials, and Organic Materials per week. Hauler shall allow its Customers to place Food Waste in the Organic Materials Containers for Collection for subsequent transportation by Hauler to a Hauler-Designated Facility for Processing. Hauler may separately Collect Food Waste using additional Containers, Split Carts, or Split Bins provided that: (i) the Collection method complies with County Code, and federal, State, and local regulations including 14 CCR Division 7, Chapter 12, Article 1 requirements, and (ii) Hauler provides Containers that comply with the Container labeling and color requirements in Section 5.7 of the Agreement.
5. **Rates.** Subject to Section 4.5, Rate Regulation, Hauler shall charge the Customers for Discarded Materials Collection services, Bulky Item Collection service, and special services at rates agreed upon between the Customer and Hauler.

B. Recyclable Materials Collection in Densely-Populated Areas

At a minimum, Hauler shall Collect Recyclable Materials placed by Generator in Hauler-provided Recycling Containers from Multi-Family and Commercial Customers and may charge a rate agreed upon by Customer and Hauler. Hauler may Collect other Recyclable Materials at its option, with the exception that the Recycling Containers shall not be used to Collect non-Recyclable materials or Prohibited Container Contaminants. Hauler shall provide Recyclable Materials Collection service at least one (1) time per week, unless another frequency has been specified and permitted by the Director, County Code, or State regulations, including 14 CCR Division 7, Chapter 12, Article 3 requirements.

C. Organic Materials Collection in Densely-Populated Areas

Hauler shall Collect Organic Materials from Customers in Hauler-provided Organic Materials Containers not less than one (1) time per week from Multi-Family and Commercial Customers and may charge a rate agreed upon by Customer and Hauler.

The Organic Materials Container shall not be used for the storage and Collection of non-Organic Materials; Prohibited Container Contaminants; carpets; textiles; Non-Compostable Paper; Hazardous Waste, or any Organic Materials subject to quarantine or movement issued by a county agriculture commissioner. If 14 CCR Division 7, Chapter 12, Article 1 does not include a list of non-allowable items for Collection in Organic Containers, Director shall provide a list of non-allowable items. Pursuant to the definition of Organic Materials in Article 1, at Hauler's

option, Hauler may exclude Wood Waste and/or dry lumber from the Organic Materials Collection services if Hauler Collects such materials as Recyclable Materials.

If Hauler accepts or begins to accept Compostable Plastics from Generators in the Organic Materials Containers for Processing at the Hauler-Designated Organic Waste Processing Facility or allow Generators to place Organic Materials in plastic bags for Collection, at least four (4) months prior to the commencement of the Collection of Compostable Plastics in the Organic Materials Collection program or acceptance of Organic Materials in plastic bags, Hauler shall provide written notification to the County that the Facility can Process and recover these Compostable Plastics and/or that that the Facility can remove the plastic bags and that allowing use of bags does not inhibit the ability of Organic Materials Processing.

Annually, in accordance with Exhibit D, Hauler shall provide written notification to the County whether the Facility begins to have and will continue to have the capabilities to Process and recover the Compostable Plastics and/or remove plastic bags. If, at any time during the Term of the Agreement, the Hauler-Designated Organic Waste Processing Facility can no longer accept Compostable Plastics and/or recover plastic bags after having commenced to do so, Hauler shall notify the County within thirty (30) days of the Facility's inability to accept the Compostable Plastics or plastic bags. The notification shall include: a description of the reasons the Facility is no longer able to Process and recover the Compostable Plastics and/or remove the plastic bags; the period of time the Facility will not Process and recover these materials and/or remove the plastic bags; and, the Hauler's proposed plan to assist in education and outreach of Customers in the event these materials are no longer accepted for Collection.

D. Solid Waste Collection in Densely-Populated Areas

Hauler shall Collect Solid Waste placed by Generators in Hauler-provided Solid Waste Containers not less than one (1) time per week from Multi-Family and Commercial Customers and may charge a rate agreed upon by Customer and Hauler.

Hauler may allow all Generators to place carpet and textiles and Non-Compostable Paper in the Solid Waste Containers.

E. General Requirements for Low-Populated Areas

- 1. Multi-Family and Commercial Customers with Two (2) CY per Week of Discarded Materials or More.** Hauler shall provide its Multi-Family and Commercial Customers in Low-Populated Areas that generate two (2) cubic yards or more of total Solid Waste, Recyclable Materials, and Organic Materials per week (or other threshold defined by the State) with the same Collection services described for Multi-Family and Commercial Customers in this section, unless its Multi-Family or Commercial Customer has secured a waiver for one or more types of Collection services in accordance with Section 4.04.145 of the County Code. By January 1, 2023, Hauler shall establish Food Waste

Collection services pursuant to this section for its Commercial Customers, and, at Hauler's option, may provide its Multi-Family Customers in Low-Populated Areas with Food Waste Collection.

2. **Other Customers.** For Customers not covered by subsection A, the following requirements apply.
 - i. **Voluntary Service and Subscription.** Hauler may offer Customers in the Low-Populated Areas Collection of Discarded Materials and shall Collect Discarded Materials from Multi-Family and Commercial Customers that voluntarily subscribe to its Collection services.
 - ii. **Recyclable Materials Collection Required.** If Hauler Collects Solid Waste from Customers in Low-Populated Areas, Hauler is required to offer its Solid Waste Customers Collection services for Recyclable Materials, excluding White Goods. Hauler may, at its option, provide Plant Materials, White Goods, and/or Food Waste Collection services in accordance with this Agreement.
 - iii. **Collection Frequency.** If Collection of Solid Waste is provided to Customers, Hauler shall Collect such material at least weekly unless every other week Collection is permissible by State regulations and approved by the Director. If Collection of Organic Materials is provided to Customers, Hauler shall Collect such material at least weekly. When providing Collection of Recyclable Materials, Hauler shall provide Collection of Recyclable Materials as frequently as agreed upon by Customers, but not less than every other week.
 - iv. **Transport, Processing, and Disposal.** Hauler shall transport and deliver Discarded Materials it Collects in the Low-Populated Areas to Hauler-Designated Facility(ies) for Processing or Disposal (as applicable for the material type) and such Processing or Disposal shall comply with requirements as prescribed in Exhibit D.

F. Transport, Processing, and Disposal

As of the Effective Date of this Agreement, Hauler shall deliver Recyclable Materials and Organic Materials Collected from the Recycling Containers and Organic Materials Containers to Hauler-Designated Facility(ies) for Processing and such Processing shall comply with requirements prescribed in Exhibit D. Hauler shall deliver Solid Waste Collected from the Solid Waste Containers to Hauler-Designated Facility(ies) for Disposal and such Disposal shall comply with requirements prescribed in Exhibit D.

G. Container Types and Collection Frequency

As of the Effective Date of this Agreement, Hauler may offer Customers various size Carts, Bins, Roll-Off Boxes, and/or compactors for Collection of Discarded Materials. Hauler shall Collect each type of Discarded Materials at a frequency agreed upon by Hauler and Customer provided that the service is at least once per week, unless otherwise specified, and meets frequency requirements specified in this section, County Code, and federal, State, and local regulations including 14 CCR Division 7, Chapter 12, Article 1 requirements.

Upon Customer request and to accommodate periodic additional Collection service needs, Hauler may provide on-call Collection service at a greater frequency than the Customer's regularly scheduled service, and Hauler may charge Customer for the service at a rate agreed upon by Customer and Hauler.

Hauler may provide Customers with regularly scheduled (permanent) or temporary (on-call) Roll-Off Box Collection service, provided that Customer's Putrescible Waste is Collected a minimum of once per week by Hauler, by other Person holding a valid Non-Exclusive Franchise Agreement, or is Self-Hauled.

H. Placement of Containers for Collection

As of the Effective Date of this Agreement, wherever feasible, Customers shall be directed by Hauler to place Containers for Collection in a location that minimizes the impedance of traffic. If a Customer and Hauler cannot agree upon a Collection location, or if County determines the selected location may cause safety or other concerns, Director/OOS Waste staff may make the final determination of the Collection location.

I. Hours and Days of Collection

As of the Effective Date of this Agreement, Hauler shall provide Multi-Family and Commercial Customer Collection Service between the hours of 3:00 a.m. and 6:00 p.m., Monday through Friday and between the hours of 6:00 a.m. and 5:00 p.m., (Saturday and Sunday service, if available upon arrangement with customer). Commercial and mixed-use facilities that are located in commercial areas, and they operate 24 hours a day (i.e.: adjacent to SFO Airport) the hauler may provide services outside of the standard collection hours. The hours of Collection may be extended due to extraordinary circumstances or conditions with the prior verbal or written consent of the Director. Notwithstanding the foregoing, in the event required by unusual or emergency circumstances, or temporary changes needed to accommodate seasonal fluctuation in Collection needs, the Director may authorize a modification to the above time limitations.

J. Servicing Containers

As of the Effective Date of this Agreement, Hauler shall pick up and return each reusable Container, which is not intended for Disposal, to the location where the occupant properly placed the Container for Collection with the lid closed. Hauler, at the request of Customers, may provide special services including: (i) unlocking Containers; (ii) accessing Container enclosures with a key; or, (iii) pulling or pushing Containers to the Collection vehicle. Hauler may charge the Customer for special services at rates agreed upon between the Customer and Hauler.

K. Bulky Item Collection in Densely-Populated Areas

Hauler shall Collect Bulky Item from Multi-family and Commercial Customers in the Densely-Populated Areas upon Customer's request at a rate agreed upon between Hauler and Customer. Hauler shall instruct Customers in educational materials to contact Hauler with their request. Hauler may Collect Bulky Items on a day mutually agreed upon by Hauler and Customer provided that such Collection occurs no later than fourteen (14) days from the day of Customer's request.

Hauler shall use reasonable efforts to Divert Bulky Items. Bulky Item Collected by Hauler shall not be Disposed until the following hierarchy has been followed by Company:

1. Recycling; and, Organic Waste Processing
2. Landfilling.

Hauler shall separately Collect Plant Materials and transport such materials to the Hauler-Designated Organic Waste Processing Facility for Processing. Hauler shall Recycle all White Goods.

This hierarchy precludes the use of front- or rear-loading Collection vehicles for Bulky Items unless the compaction mechanism is not used to compact the Bulky Items, and unless they have been designated for Disposal.

5.6 TRANSFER, PROCESSING, AND DISPOSAL FACILITY STANDARDS

Hauler shall use the Hauler-Designated Facility(ies) specified in Exhibit C and shall comply with the Processing and Disposal standards defined in Exhibit D.

Hauler shall guarantee transfer, Processing, and/or Disposal capacity (as applicable for the material type) at the Hauler-Designated Facility(ies) to receive all Discarded Materials Collected by the Hauler throughout the Term of this Agreement. If the Hauler does not own or operate one or more of the Hauler-Designated Facilities, Hauler shall use commercially reasonable efforts

with the owner or operator of such Facility(ies) to secure sufficient capacity and to assure the owner's/operator's compliance with the Facility standards specified in 14 CCR, Division 7, Chapter 12, Article 2.

5.7 EQUIPMENT

A. General.

All vehicles used by the Hauler in providing Discarded Materials services shall be registered with the California Department of Motor Vehicles and shall meet or exceed all legal standards including, but not limited to, 14 CCR Section 17341 et seq.. Hauler agrees to maintain all of its Collection vehicles in compliance with the provisions of applicable law and regulations, including but not limited to the California Vehicle Code, State and County Ordinance Codes.

B. Cleaning and Maintenance:

1. **Storage.** Hauler shall arrange to store all vehicles and other equipment in location(s) in accordance with County's applicable zoning regulations, if stored within the County. Collection vehicles when not in use must be parked in an off-street location, except in an emergency situation.
2. **Covers.** Vehicles shall be equipped with a mechanical cover or tarp, that is adequate to cover and prevent Discarded Materials from blowing out of the vehicle and which complies with County Code Section 4.04.100.
3. **Operation.** Vehicles shall be operated in compliance with the California Vehicle Code, 14 CCR, Division 7, Chapter 3, Article 5 and all applicable safety and local ordinances. Hauler shall not load vehicles in excess of the manufacturer's recommendations or limitations imposed by State or local weight restrictions on vehicles.
4. **Vehicle Inspection.** All trucks used in the Collection and transportation of Discarded Materials may be inspected at such time and place as designated by the County. The County may schedule an annual inspection for randomly selected trucks operated by Hauler. The County may revoke the use of any truck that fails to meet the requirements of this Agreement, and such truck shall not be used for the Collection or transportation of Discarded Materials until its default has been corrected to the satisfaction of the County. Revocation of the right to use a particular truck shall not excuse Hauler from performing any of its obligations under this Agreement.

5.8 HAULER PROVIDED CONTAINERS

A. General.

Hauler-provided Containers used for storage of Discarded Materials shall be designed and constructed to be watertight and prevent the leakage of liquids.

B. Cleaning, Painting, Maintenance.

Hauler shall replace, clean, or repaint all Containers as needed so as to present a clean appearance. Hauler shall provide clean Containers free from graffiti and will remove abandoned Container when appropriate. Hauler shall do the same upon seventy-two (72) hours' notice by Director. When Hauler paints any of its Containers, it shall paint Containers with colors that conform to the colors specified in subsection C below, and such colors shall be approved by the County in accordance with subsection C below.

C. Requirements for Single-Family Residential Organic Waste Generators in Densely-populated areas. Pursuant to CCR Title 14, Division 7, Chapter 12, Single-Family Organic Waste Generators shall comply with the following requirements:

1. Single-family Organic Waste Generators in Densely-populated areas must subscribe to the County's authorized Solid Waste Haulers' Organic Waste collection services for Organic Waste generated as described in CCR Title 14, Division 7, Chapter 12, and below in this section.
2. A duly authorized representative of the County, at its discretion, shall visit all premises from time to time and to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials and determine whether the provisions of this chapter are complied with. Upon his/her notification by authorized representative, the Organic Waste Generator may be required to adjust their service level for their collection services.
3. Organic waste Generators may additionally manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste on site, and/or using a Community composting site pursuant to CCR Title 14: Natural Resources, Division 7, Chapter 12, Section 18984.9(c).
4. Shall participate in the County's Organic Waste Collection Service(s) by placing designated materials in designated containers as described below and shall not place Prohibited Container Contaminants in collection containers.
5. Option 1: A three- and three-plus-container collection service as described in either option 1(i) and 1 (ii) below:
 - i. Generator shall place Source Separated Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and remaining materials (excluding Excluded Waste) in the Gray/Black Container. Generators shall not place materials designated for the Gray/Black Container into the Green Container or Blue Container.

- ii. Generator shall place Source Separated Organic Waste, except Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Mixed Waste, including Food Waste, in the Gray/Black Container. Generator shall not place materials designated for the Green Containers or Blue Containers in the Gray/Black Containers.
- 6. Option 2: Two-container collection service (Green Container/Gray Container system or Blue Container/Gray Container system described in either option 2(i) or 2(ii) below:
 - i. Green Container/Gray Container: Generator shall place only Source Separated Organic Waste in a Green Container. Generator shall place all other materials (Mixed Waste) in a Gray/Black Container.
 - ii. Blue Container/Gray Container: Generator shall place only Source Separated Recyclable Materials in a Blue Container. Generator shall place all other materials (Mixed Waste) in a Gray/Black Container.
- 7. Option 3: Organic waste may be collected in bags and placed in the Green Container provided that the use of bags and the facilities that recover Source Separated Organic Waste for the County provide written notice to the County Office of Sustainability indicating that the Hauler and facility can process and remove bags when it recovers Source Separated Organic Waste.
- 8. Option 4: If an un-containerized yard waste collection service is provided intermittently or seasonally or provided year-round, Generators receiving that service must be provided an option to subscribe to collection of other Organic Waste in a manner that complies with Option 1 or 2 of this section.
- 9. Option 5: The County may, in its sole discretion, allow other source separation and collection arrangements (for example, the use of split carts), provided that such arrangements comply with CCR Title 14, Division 7, Chapter 12.
- D. Requirements for Commercial Business in Densely-populated areas.** Generators that are Commercial Businesses, including Multi-Family Residential Dwellings, shall, pursuant to CCR Title 14, Division 7, Chapter 12:
 - 1. Subscribe to and comply with the requirements of the Organic Waste collection service provided by the County area; or Self-Hauling Organic Waste in a manner that complies with the requirements of CCR Title 14, Division 7, Chapter 12.
 - 2. Separate recyclable materials from their Solid Waste stream and either Self-Haul, subscribe to a Hauler, or subscribe to a recycling service that includes Mixed Waste processing so that the separated material is diverted from disposal to recycling, or reuse activities.

3. A duly authorized representative of the County, at its discretion, shall visit all premises from time to time to evaluate the adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials and determine whether the provisions of this chapter are complied with. Upon notification by an authorized representative of the County, Commercial Businesses shall adjust their service level for their collection services.
4. Except Commercial Businesses that meet the Self-Hauler requirements as defined in section 4.04.027 of the County Ordinance Code, participate in the County's Organic Waste collection service(s) by placing designated materials in designated containers as described below:
 - i. Option 1: A three- and three-plus-container collection service as described in either option 1(1) or 1(2) below:
 1. Generator shall place Source Separated Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and remaining materials (excluding "Excluded Waste") in the Gray/Black Container. Generators shall not place materials designated for the Gray/Black Container into the Green Container or Blue Container.
 2. Generator shall place Source Separated Organic Waste, except Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Mixed Waste, including Food Waste, in the Gray/Black Container. Generator shall not place materials designated for the Green Containers or Blue Containers in the Gray/Black Containers.
 - ii. Option 2: Two-container collection service (Green Container/Gray Container system or Blue Container/Gray Container system described in either option 2(1) or 2(2) below:
 1. Green Container/Gray Container: Generator shall place only Source Separated Organic Waste in a Green Container. Generator shall place all other materials (Mixed Waste) in a Gray/Black Container.
 2. Blue Container/Gray Container: Generator shall place only Source Separated Recyclable Materials in a Blue Container. Generator shall place all other materials (Mixed Waste) in a Gray/Black Container.
 - iii. Option 3: Organic waste may be collected in bags and placed in the Green container provided that the use of bags and the facilities that recover Source Separated Organic Waste for the County provide written notice to the County

Office of Sustainability indicating that the Hauler and facility can process and remove bags when it recovers Source Separated Organic Waste.

- iv. Option 4: If an un-containerized green waste and yard waste collection service is provided intermittently or seasonally or provided year-round, Generators receiving that service must be provided an option to subscribe to collection of other Organic Waste in a manner that complies with Option 1 or 2 of this section.
- 5. Supply adequate number, size and location of collection containers with labels for employees, contractors, tenants, and customers, consistent with County's Blue Container, Green Container, and/or Gray/Black Container collection service. If Self-Hauling, Commercial Businesses shall act in accordance with CCR Title 14, Chapter 12, Article 7.
- 6. Provide containers for the collection of Organic Waste and recyclable materials in all indoor and outdoor areas where disposal containers are provided for customers. Such containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that container in all areas where disposal containers are provided for customers. Multi-Family Residential Dwellings are not required to comply with container placement or labeling requirement in this Section. Pursuant to CCR Title 14, Chapter 12, Section 18984.9(b), the containers provided by the business shall have either:
 - 7. A body or lid that conforms with the container colors provided through the Commercial Businesses' collection service. A Commercial Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.
 - 8. Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container, pursuant CCR Title 14, Chapter 12, Section 18984.8.
- 9. Nothing in this section prohibits a Generator from Self-Hauling, preventing or reducing waste generation, managing Organic Waste on site, or using a community composting site pursuant to CCR Title 14, Chapter 12, Section 18984.9(c).

5.9 PROHIBITED WASTE

Hauler's employees shall not knowingly place Hazardous Waste in the Collection vehicles, nor knowingly Dispose of Hazardous Waste at a transfer, Recycling, Processing, or composting Facility or Disposal Site.

If the Hauler determines that Discarded Materials placed in any Container for Collection or delivered to any Facility is or contains Hazardous Waste, Medical Waste, or other waste that may not legally be delivered to a Hauler-Designated Facility or Disposed of at the Disposal Site or presents a hazard to Hauler's employees, the Hauler shall have the right to refuse to accept such Discarded Materials. The Hauler must contact the Customer and request Customer to arrange proper Disposal. If Hazardous Waste or medical waste is found in a non-Residential Container or if otherwise required by applicable law or regulations with regard to any type of Container serviced by Hauler, the Hauler must notify the County Department of Environmental Health Services.

5.10 CONTRACTS WITH CUSTOMERS

A. General.

Hauler may enter into mutually agreed upon contracts with Residential or Commercial Customers. Residential Customers in low population areas are not required to enter into a contract with Hauler. Any contract between the Hauler and Customer for Collection services provided pursuant to this Agreement shall meet the requirements of this Section 5.10. If Hauler has a month-to-month agreement with a Customer for Collection service, Hauler shall allow the Customer to cancel service and shall not require Customer to provide more than thirty (30) days' prior written notice of cancellation.

1. **Contract Rates.** Hauler shall set rates, fees, and charges for its Customers. The County shall be provided a copy of the rates.
2. **Cancellation by Customer.** Contracts shall provide for cancellation by the Customer. Contracts shall not require more than 60 days' prior written notice for cancellation in any case where the cancellation occurs not less than six (6) months after the initial term of the contract. However, if the Customer is closing or relocating its business, Hauler shall allow cancellation of the contract prior to the initial six-month (6-month) period. Nothing herein shall prohibit the Customer from cancelling the contract as of the end of the initial contract period or the end of any renewal term of the contract, provided that the Customer gives Hauler at least sixty (60) days' prior (or fewer days if acceptable to Hauler) written notice of such cancellation.

B. Auto-Extension Provisions.

If the Hauler's contracts include an auto-extension provision, Hauler shall comply with this subsection (B).

1. Hauler shall provide the Customer with at least ninety (90) days' prior written notice that the contract term will automatically extend unless cancelled.
2. Hauler shall inform Customer of the cancellation process in writing.
3. Hauler shall not require the Customer to provide more than sixty (60) days' prior written notice of cancellation.
4. Hauler shall not require Customer to provide any additional notice in order to ensure that cancellation occurs.

C. Month-to-Month Arrangements.

If Hauler has a month-to-month agreement with a Customer for Collection service, Hauler shall allow the Customer to cancel service and shall not require Customer to provide more than thirty (30) days' prior written notice of cancellation.

D. Exclusions.

The Hauler does not need to comply with the requirements of this section for temporary Roll-Off Box Collection services that are not provided to the Customer on a regular basis but are provided for infrequent Collection services.

ARTICLE 6: OTHER COLLECTION-RELATED SERVICES

6.1 SERVICE COMPLAINTS

A. General.

The Hauler agrees to maintain a written log of all oral and written service complaints registered with the Hauler from Customers within the unincorporated County. Except as otherwise provided in Section 6.1.B, Hauler agrees to document and maintain for a period of at least twelve (12) months on a form or log all Complaints registered by Customers.

B. SB 1383 Related Complaints.

In the event that Hauler receives a complaint in which a Person reports an activity that may be in violation of SB 1383 regulatory requirements, Hauler shall submit complaint to the County via email at OOS_organicsrecycling@smcgov.org within seven (7) days of receipt of such complaint and shall provide a quarterly summary report of SB 1383-noncompliance complaints in accordance with Section 7.3.3. Hauler agrees to document and maintain records of alleged SB 1383 non-compliance for a period of at least five (5) years on a form or log that details all complaints registered by Persons or Customers to support the County's compliance with 14 CCR Section 18995.2(e).

6.2 NON-DISCRIMINATION AND OTHER REQUIREMENTS

A. General Non-discrimination.

No person shall be denied any services provided pursuant to this Agreement (except as limited by the scope of services) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.

B. Equal Employment Opportunity

Hauler shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Hauler's equal employment policies shall be made available to County upon request.

C. Section 504 of the Rehabilitation Act of 1973

Hauler shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with a disability shall, solely by reason of a

disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of any services this Agreement. This Section applies only to Haulers who are providing services to members of the public under this Agreement.

D. Compliance with County's Equal Benefits Ordinance

Hauler shall comply with all laws relating to the provision of benefits to its employees and their spouses or domestic partners, including, but not limited to, such laws prohibiting discrimination in the provision of such benefits on the basis that the spouse or domestic partner of the Hauler's employee is of the same or opposite sex as the employee.

E. Discrimination Against Individuals with Disabilities

The nondiscrimination requirements of 41 C.F.R. 60-741.5(a) are incorporated into this Agreement as if fully set forth here, and Hauler and any Subcontractor shall abide by the requirements of 41 C.F.R. 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

F. History of Discrimination

Hauler certifies that no finding of discrimination has been issued in the past 365 days against Hauler by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other investigative entity. If any finding(s) of discrimination have been issued against Hauler within the past 365 days by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or other investigative entity, Hauler shall provide County with a written explanation of the outcome(s) or remedy for the discrimination prior to execution of this Agreement. Failure to comply with this Section shall constitute a material breach of this Agreement and subjects the Agreement to immediate termination at the sole option of the County.

G. Reporting; Violation of Non-discrimination Provisions

Hauler shall report to the County Executive Officer the filing in any court or with any administrative agency of any complaint or allegation of discrimination on any of the bases prohibited by this Section of the Agreement or the Section titled "Compliance with Laws". Such duty shall include reporting of the filing of any and all charges with the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other entity charged with the investigation or adjudication of allegations covered by this subsection within 30 days of such filing, provided that within such 30 days such entity has not notified Hauler that such charges are dismissed or otherwise unfounded. Such notification shall include a general description of the circumstances involved and a general description of the kind of discrimination alleged (for example, gender-, sexual orientation-, religion-, or race-based discrimination).

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Hauler to penalties, to be determined by the County Executive Officer, including but not limited to the following:

1. termination of this Agreement;
2. disqualification of the Hauler from being considered for or being awarded a County contract for a period of up to 3 years;
3. liquidated damages of \$2,500 per violation; and/or
4. imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Executive Officer.

To effectuate the provisions of this Section, the County executive shall have the authority to offset all or any portion of the amount described in this Section against amounts due to Hauler under this Agreement or any other agreement between Hauler and County.

H. Compliance with Living Wage Ordinance

As required by Chapter 2.88 of the San Mateo County Ordinance Code, Hauler certifies all Hauler(s) and Subcontractor(s) obligated under this Agreement shall fully comply with the provisions of the County of San Mateo Living Wage Ordinance, including, but not limited to, paying all Covered Employees the current Living Wage and providing notice to all Covered Employees and Subcontractors as required under the County Ordinance

6.3 CONTAMINATION MONITORING

A. Collection Route Reviews

Commencing on or before execution of this Agreement, Single-Family Haulers and Multi-Family/Commercial Haulers shall randomly inspect at least three to five percent (3- 5%) of Containers for Prohibited Container Contaminants on each Collection Route in the Densely-Populated Areas such that a Collection Route review for Prohibited Container Contaminants is conducted in a manner that results in all Collection Routes (including Organic Materials, Recyclable Materials, and Solid Waste Collection Routes) being reviewed on an annual basis. County reserves the right to review and approve the Hauler's contamination monitoring approach.

Container inspections shall be performed by Hauler through visual inspection of the contents of the Containers. If Hauler wants to perform the Collection Route reviews using mechanical inspection methods such as the use of cameras, Hauler shall seek approval of its proposed methods from the Director.

B. Contamination Noticing

If the Hauler finds Prohibited Container Contaminants in any Containers (including Containers inspected through the Collection Route monitoring program and other Containers where Hauler's personnel observed Prohibited Container Contaminants), the Hauler shall leave contamination notices on the Customer's Container, gate, or door, and/or mail, email, or electronically message the notification informing the Customer of the requirements to properly separate materials and providing instructions on proper separation of materials. If Hauler intends to assess contamination fees, Hauler shall provide at least one contamination notice to each Customer that states that the Hauler may charge Customer a contamination fee if contamination is found on subsequent occasions. If Prohibited Container Contaminants are observed on a subsequent occasion within a twelve (12) month period after a notice was given, the Hauler may assess contamination fees. The format of the contamination notice must be approved by Director. If the Hauler observes visible contamination in a Recyclables Materials Container or Organic Materials Container, Hauler may Dispose of the Container's contents. For Customers issued a contamination notice, Hauler shall reinspect Containers for Prohibited Container Contaminants within sixty (60) days of issuance of the contamination notice.

C. Mailed or Electronic Notification to Multi-Family and Commercial Customers

If Hauler leaves physical contamination notices on three (3) occasions reporting identification of Prohibited Container Contaminants on a Multi-Family or Commercial Container, gate, or door (pursuant to Section 6.3), Hauler shall deliver written notification by mail or email to the Customer's billing contact person providing copies or other form of notification of the contamination notices issued and dates of issuance.

D. Notice of Contamination Report to County

Commencing after Hauler's first calendar quarter that Collection Route review for contamination took place, the Hauler shall provide the County a written report of Collection Route reviews conducted during each month of the quarter, if any. This report shall include: the number of Collection Route reviews conducted; the number of Containers monitored; and any Customers identified to have Prohibited Container Contaminants, including the Customer's service address, Customer's billing address, the date contamination was observed, a description of what action was taken, and photographic evidence of the violation (if any photographic evidence was documented by Hauler). The Hauler shall provide copies of the written reports to the County on annual basis.

6.4 REPORT OF ABANDONED MATERIALS

Hauler shall report to the County via the SeeClickFix App the locations where its Collection vehicle drivers or other personnel observe accumulations of abandoned materials (i.e., illegal dumping of materials). Such reporting shall occur within twenty-four (24) hours of observation and shall

identify the address of the abandoned materials, a general description of items abandoned, estimated quantity, and, if available, a photo of the materials. If the Hauler removes and Collects such materials, Hauler shall document and maintain a record of the Tons of material removed from each site and shall charge County for such removal at approved rates agreed upon between Hauler and County.

6.5 COMMERCIAL GENERATOR WAIVER PROGRAM COORDINATION

A. General

The County may grant waivers in cooperation with the Hauler as described in County Code 4.04.145. Waivers issued shall be subject to compliance with 14 CCR Section 18984.11 or other requirements specified by the Director.

B. Hauler Change in Customer Service Levels

If the County grants a waiver to one of the Hauler's Customers, the County shall notify the Hauler within thirty (30) days of the waiver approval with information on the Customer and any changes to Service Level or Collection service requirements. Hauler shall have thirty (30) days to modify the Customer's Service Level and billing statement or provide additional information, as needed.

ARTICLE 7: RECORDS AND REPORTS

7.1 GENERAL

Hauler and its Subcontractors shall maintain such accounting, statistical, and other records related to its performance under this Agreement as shall be necessary to develop the reports required by this Agreement or the County Code. Hauler agrees to conduct data collection, information and record keeping, and reporting activities needed to comply with applicable laws and regulations and to meet the reporting and Solid Waste and Recycling program management needs of the County with respect to the services provided by Hauler under this Agreement. At the written direction or approval of County, the records and reports to be maintained and provided by Hauler in accordance with this and other Articles of the Agreement may be adjusted in number, format, and frequency, if required to comply with State or federal regulatory or reporting requirements. Unless otherwise required in this Article, Hauler shall maintain all such data and records in an accessible location and condition for the Term of this Agreement plus five (5) years after its expiration or earlier termination.

7.2 RECORDS

7.2.1 General

Hauler shall maintain accurate records for its operation, including, but not limited to, Discarded Materials quantities Collected and quantities delivered or transferred to each Facility, listed separately by material type and Customer type (including Single-Family, Multi-Family, and Commercial). Records shall be maintained in such form by methods that facilitate the use of data for the production of reports as needed. Hauler will make these records available and provide to the County any record or documentation necessary for the County to fulfill obligations under applicable law and regulations including, but not limited to, AB 939, AB 341, AB 1826, AB 876, AB 901, SB 1383, and other current or future federal, State, or local regulations, as amended.

In order to confirm the accurate calculations and payment of fees owed to the County as described in Section 4.2, Hauler agrees that the record of any and all companies conducting operations addressed in the Agreement shall be provided or made available to the County and capable of verification by an independent auditor.

Hauler shall maintain accurate records of the quantities of Discarded Materials transported to the Hauler-Designated Facilities and will cooperate with the County in any audits or investigations of such quantities. These records shall be made available to the County on a regular basis to fulfill the County's obligatory documentation requirements under applicable law or regulations, including, but not limited to, AB 939, AB 341, AB 1826, AB 876, AB 901, SB 1383, and other current or future federal, State, or local regulations, as amended. Upon County request, in order to

respond to requests from federal or State regulatory bodies, Hauler shall provide records required to respond to such request within seven (7) business days.

7.2.2 Discarded Materials Records

Records shall be maintained by Hauler for County relating to:

- A.** Tonnages or cubic yards of Discarded Materials (by material type and Customer type) Disposed at any Disposal Site, Landfill, or transformation facility, and Tonnages of Discarded Materials Processed at a Materials Recovery Facility, composting Facility, other Processing Facility, or transfer Facility, all of which shall be based on actual certified scale weights for each load, if available, or other methodology approved by the County (including allocations with materials collected in other jurisdictions).
- B.** Processing, transfer, and Disposal of Solid Waste; and,
- C.** Other information needed to prepare and submit reports required by Section 7.3.

Hauler shall maintain records of Disposal and Processing of all Discarded Materials Collected in the unincorporated County for the period of this Agreement and all extensions to this Agreement or successor Agreements. In the event Hauler discontinues providing Discarded Materials services to County, Hauler shall provide all records of Disposal or Processing of all Discarded Materials Collected in unincorporated County within thirty (30) days of discontinuing service. Records shall be in chronological order and organized form, which is readily and easily interpreted.

7.2.3 Organic Materials, and Recyclable Materials Services Records

Records shall be maintained for County that relate to:

- A.** Records described in 7.2.2 above;
- B.** Organic Materials, and Recyclables Materials program Customer services, service addresses and participation rates;
- C.** Weight or cubic yards of Organic Materials, and Recyclable Materials by material type and Customer type; and,
- D.** Other information needed to prepare and submit reports required by Section 7.3.

7.3 REPORTS

7.3.1 General

Records shall be maintained in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. Reports are intended to compile recorded data into useful forms of information that can be used by County. County shall provide to Hauler the format for each report submittal not later than thirty (30) days prior to required implementation. If County fails to specify the format as required, Hauler shall use the report format specified for the prior reporting period.

All reports shall be adequate to meet County's current and future reporting requirements to CalRecycle or any other State or federal agency throughout the Term of this Agreement.

Annual reports ending December 31 of each year shall be submitted on or before March 31 of the next year.

If Director determines that some or all reports required by Sections 7.3.4, or 7.3.5 are needed on a more frequent basis to comply with County's record keeping obligations pursuant to 14 CCR Section 18995.2(d), Director may modify the reporting frequency with sixty (60) days' advance notice to Hauler.

All reports shall be submitted to the County of San Mateo, Office of Sustainability or as directed by the Director. Reports are preferred electronically via email but can also be submitted in person or mailed.

County will notify Hauler if reports are not received by March 31 and failure of Hauler to comply with the reporting requirements as set forth in this Section may result in an assessment of liquidated damages in accordance with the liquidated damages provision in Section 9.6 and Exhibit E. Hauler's repeated failure to submit reports, and/or failure to submit reports on time, may result in the termination of the Agreement in accordance with Article 9.

7.3.2 Reporting of Hauler

Hauler shall submit one set of comprehensive and consolidated reports documenting the activity of the Hauler in the manner, method, and frequencies outlined in this Section 7.3. If Hauler has one or more Affiliates that hold a valid NEFA, Hauler shall report information required by this Section 7.3 in the same format as its Affiliate(s). Hauler may submit consolidated reports for it and other Affiliates subject to written approval by the Director authorizing consolidated reports and approving the format of such reporting.

7.3.3 Annual Reports

A. General. To assist the County in meeting the requirements of AB 939, SB 1383, and other State regulations as they exist on the effective date of this Agreement and as they may be amended from time to time, and to assist the County in determining the amount of the fees due pursuant to Article 4, Hauler shall:

1. As reported on Hauler's AB 901 Report, Hauler must Report on an annual basis the total quantities in Tons or cubic yards of Discarded Materials Collected, transferred, Processed, and Disposed by the Hauler listing Tonnage separately by:
 - a. Material type, which shall include, at a minimum, separate reporting of Solid Waste, Recyclable Materials, mixed Organic Materials (Plant Materials and Food Waste), Bulky Items and Inerts;
 - b. Customer type (Single-Family, Multi-Family/ Commercial);
 - c. Month and year
2. Report Residue level (percentage) and Residue Tonnage for all Discarded Materials Processed listed separately by material type disposed.
3. Commencing after Hauler's first calendar quarter of Collection Route review for contamination and quarterly thereafter, provide the total number of Collection Route reviews conducted pursuant to Section 6.5 of this Agreement. For each route review, Hauler shall provide the route number, date of route review, total number of Customers on the route, number of Containers on the route, number of Containers inspected, calculated percentage of Containers inspected, and the number of contamination notices provided to Customers, and a list of Customers (including account name, service address, and billing address) that received contamination notices. Additionally, Hauler shall provide: the account name of each Customer inspected, description of the Collection Route review process, dates of inspections, Person(s) who conducted the inspections, results of the inspections and actions taken, and any supporting evidence such as pictures. Hauler shall provide copies of all contamination notices (organized by Collection Route and date) and any actions taken against Customers (e.g., non-Collection of contaminated Discarded Materials). Hauler shall provide documentation of the total number of Containers Disposed of due to observation of Prohibited Container Contaminants.

Additionally, Hauler shall provide a list of Customers that were assessed a contamination fee, reported separately by Single-Family, Multi-Family, and Commercial Customers, and such list shall include the Customer name or account name, Customer service address, Customer billing address, and reason for the assessment of the contamination fee.

4. Hauler shall provide reports documenting Discarded Materials exported out of State, as provided in 14 CCR Sections 18808.8 and 18815.1 through 18815.13.

- B. Copies of all education and outreach provided to Customers, including but not limited to: flyers, brochures newsletters, invoice messaging/billing inserts, and website and social media postings. Hauler shall include a record of the date and to whom the information was disseminated or direct contact made.
- C. Report documenting Hauler's compliance with the Container signage requirements of Section 5.8.
- D. If applicable pursuant to Exhibit D, written notification that the Hauler-Designated Organic Waste Processing Facility(ies) has and will continue to have the capabilities to Process and recover the Compostable Plastics included with the Organic Materials transported to the Hauler-Designated Organic Waste Processing Facility.
- E. If applicable pursuant to Exhibit D, written notification that the Hauler-Designated Organic Waste Processing Facility has and will continue to have the capabilities to Process and remove plastic bags when it recovers Organic Materials.

F. Non-Operational Facility

If the Hauler notified the County of an emergency condition at one of its Hauler-Designated Facilities pursuant to Exhibit D, Section D.1.E, Hauler shall report the number of days the Hauler-Designated Facility's emergency condition or closure was in effect, a description of the equipment failure or operational restriction, as well as the number of Tons that were Disposed as a result of said waiver.

G. Reporting of Multi-Family Data

In those cases where Multi-Family Discarded Materials are commingled with Discarded Materials from Single-Family or Commercial Premises, Hauler shall use its best efforts in estimating such Multi-Family Tonnages separately in a manner that is acceptable to the Director.

H. Contamination Monitoring Summary Report

Hauler shall report to County in writing, each year, Customer addresses identified to have Prohibited Container Contamination and include in the report the service and billing address(es) of the Customer and the date the contaminated Container was observed, if available, and actions taken by Hauler.

I. Multi-Family/Commercial Generator Compliance Report

For Densely-Populated Areas, Hauler shall report Multi-Family and Commercial Customer information documenting the method by which each of Hauler's Customers, which do not subscribe to Recycle Materials and/or Organic Materials Collection services from the Hauler, and/or do not comply with County and State requirements to separate Recyclable Materials

and Organic Materials and Recycle these materials. Customer information reported by Hauler shall identify each Customer's subscribed Service Level, as well as identify Multi-Family and Commercial Customers separately or in a manner that the County can sort or filter data separately for Multi-Family and Commercial Customers.

J. Director Needs

This information shall be given to the Director to: (i) comply with AB 939 AB 341, AB 1826, SB 1383, and other relevant legislation or regulations; (ii) comply with documentation submittal requirements of CalRecycle; and (iii) support County's program management needs.

K. AB 901 Reporting

At County's option, County may require that Hauler provide the County copies of Hauler's AB 901 reports on a regular basis (annually) or within fourteen (14) days of request. If Hauler uses a Subcontractor to perform some or all of the Facility-related services required by this Agreement, Hauler shall secure any County-requested AB 901 reports from its Subcontractor. If Hauler uses a Hauler-Designated Facility that is not owned or operated by Hauler or its Affiliates to perform some or all of the Facility-related services required by this Agreement, Hauler shall use commercially reasonable efforts to secure any County-requested AB 901 reports from the independent operator of such Facility.

L. Facility Capacity Planning Information

At County's option, County may require Hauler to provide County with reports of available Recyclable Materials Processing capacity and Organic Materials Processing capacity for any Hauler-Designated Facilities, where available capacity may include identification of monthly Tons of additional Recyclable Materials and Organic Materials such Hauler-Designated Facilities have the ability to receive within permitted limits. If Hauler uses a Subcontractor to perform some or all of the Facility-related services required by this Agreement, Hauler shall secure any County-requested facility capacity planning information from its Subcontractor(s). If Hauler uses a Hauler-Designated Facility that is not owned or operated by Hauler or its Affiliates to perform some or all of the Facility-related services required by this Agreement, Hauler shall use commercially reasonable efforts to secure any County-requested facility capacity planning information from the independent operator of such Facility. The annual facility capacity report shall comply with the following:

1. Include reports of existing capacity available for Recyclable Materials Processing for Paper Products and Printing and Writing Papers and Organic Materials Processing capacity for any Facility in the unincorporated area of the County that processes Paper Products, Printing and Writing Papers, and/or Organic Materials. Existing capacity may include identification of monthly Tons of additional Recyclable Materials and Organic Materials such Facility has the ability to receive within permitted limits.

2. Include description of potential new or expanded Processing capacity at those Facilities, operations, and activities for Processing of Paper Products, Printing and Writing Papers, and/or Organic Materials.
3. Be submitted using a form or format prescribed by the Director.

M. SB 1383 Noncompliance Complaints

For complaints received by Hauler in which the Person alleges that an entity is in violation of SB 1383 regulations, the Hauler shall submit the following information:

1. Total number of SB 1383-noncompliance complaints received in the quarter listed by month.
2. A summary of complaints received, including copies of documentation submitted to the County pursuant to Section 6.1, which shall at a minimum include the following information:
 - a. The complaint as received;
 - b. The name and contact information of the complainant, if the complaint is not submitted anonymously;
 - c. The identity of the alleged violator, if known;
 - d. A description of the alleged violation; including location(s) and all other relevant facts known to the complainant;
 - e. Any relevant photographic or documentary evidence submitted to support the allegations in the complaint; and,
 - f. The identity of any witnesses, if known.

N. Customer Subscription Data.

1. Detailed Customer Account Data. Hauler shall submit a detailed list of Single-Family, Multi-Family, and Commercial Customer information, including Collection Routes, Customer subscription level for each type for Solid Waste, Recyclable Materials, and Organic Materials; Solid Waste, Recyclable Materials, and Organic Materials Diversion Service Level Ratios for Multi-Family and Commercial Customers; and Customer's service and billing address reflecting Customer subscription levels. Customer information reported by Hauler shall identify Single-Family, Multi-Family, and Commercial Customers separately or in a manner that the County can sort or filter data separately for Single-Family, Multi-Family, and Commercial Customers.

7.4 AUDIT AND INSPECTION BY COUNTY

At a mutually agreed upon time during normal business hours, but within fifteen (15) working days of a written request, Hauler shall make available to the County or the County's designee for examination at reasonable locations within the County of San Mateo the Hauler's data and records with respect to the matters covered by this Agreement and the County Code. Hauler shall permit the County to audit, examine, and make excerpts or transcripts from such data and records, and make audits of all data relating to all matters covered by this Agreement and the County Code. Hauler shall maintain such data and records in an accessible location and condition for a period of not less than five (5) years following the County's termination of this Agreement unless the County agrees in writing to an earlier disposition.

7.5 DISCARDED MATERIALS COMPOSITION STUDIES

Hauler agrees to cooperate with the County on all future Discarded Materials composition studies, including, but not limited to, using commercially reasonable efforts to modify Collection Routes or Collection of individual accounts identified by the Director for purposes of obtaining desired material composition data. Hauler further agrees to deliver a reasonable number of targeted loads to a nearby location or location(s) specified by the Director as reasonably agreed by Hauler for purposes of conducting material composition analysis.

ARTICLE 8: INDEMNITY AND INSURANCE

8.1 INDEMNIFICATION OF COUNTY

8.1.1 General Hold Harmless

Except as to County, its officers, agents, employees and servants' negligent acts or omissions, Hauler shall indemnify and save harmless County and its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description resulting from Hauler's negligent acts or omissions in: i) performance of this Agreement, ii) the performance of any work or services required of Hauler under this Agreement, or iii) payments made pursuant to this Agreement brought for, or on account of, any of the following:

- (a) injuries to or death of any person, including Hauler or its employees/officers/agents;
- (b) damage to any property of any kind whatsoever and to whomsoever belonging;
- (c) any sanctions, penalties, or claims of damages resulting from Hauler's failure to comply, if applicable, with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended; or
- (d) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County and/or its officers, agents, employees, or servants. However, Hauler's duty to indemnify and save harmless under this Section shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Hauler to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

8.1.2 Hazardous Materials Indemnification

For Solid Waste and other Discarded Materials Collected by Hauler and transported to a Disposal Site or other Facility, Hauler shall indemnify, defend, with counsel approved (approval not to be unreasonably withheld, conditioned or delayed) by County, protect and hold harmless County, its Board, officers, employees, agents, volunteers, and any successors or assigns to County's interest from and against all claims, actual damages, punitive damages, injuries, costs, response, remediation and removal costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties, and expenses (including,

but not limited to, reasonable attorney's and expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity) of any kind whatsoever paid, incurred or suffered by, or asserted against, County or its Board, officers, employees, agents, volunteers, successors, or assigns arising from or attributable to any repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure, or other plan (regardless of whether undertaken due to governmental action) concerning any Hazardous Waste or Hazardous Wastes knowingly transported by Hauler to any Disposal Site or other Facility where Solid Waste or other Discarded Materials is or has been transported by Hauler or pursuant to this Agreement, which resulted in a release of any Hazardous Waste into the environment.

8.1.3 Additional Information

Without limiting the substance of this indemnification, the foregoing indemnity in Section 8.1.2 is intended to operate as an agreement pursuant to Section 107(e) of the Comprehensive Environmental Response, Compensation and Liability Act, "CERCLA," also known as "Superfund," 42 USC § 9607(e), and California Health and Safety Code § 25364, to defend, protect, hold harmless, and indemnify County from all forms of liability under CERCLA, other applicable statutes or common law for any and all matters addressed in this provision.

The requirements contained in Sections 8.1.1 to 8.1.3 shall survive the expiration or termination of this Agreement. The requirements of Sections 8.1.1 to 8.1.3 need not be separately insured or bonded by Hauler. County accepts the otherwise unsecured indemnification covenant of Hauler set forth in this Section.

Any other indemnification agreement covering the same subject matter of which the County is beneficiary shall be primary to the indemnification agreement of this Section.

8.2 INSURANCE REQUIREMENTS

A. General Requirements

Hauler shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this Section has been obtained and such insurance has been approved by County, and Hauler shall use diligence to obtain such insurance and to obtain such approval. Hauler shall furnish County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Hauler's coverage to include the contractual liability assumed by Hauler pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to County of any pending change in the limits of liability or of any cancellation or modification of the policy.

B. Self-Insurance.

Hauler may, with the prior written consent of County Risk Management, fulfill some or all of the insurance requirements contained in this Agreement under a plan of self-insurance. Hauler shall only be permitted to utilize such self-insurance if in the opinion of County Risk Management, Hauler's (i) net worth, and (ii) reserves for payment of claims of liability against Hauler, are sufficient to adequately compensate for the lack of other insurance coverage required by this Agreement. Hauler's utilization of self-insurance shall not in any way limit liabilities assumed by Hauler under the Agreement.

C. Workers' Compensation and Employer's Liability Insurance

Hauler shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Hauler certifies, as required by Section 1861 of the California Labor Code, that (a) it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) it will comply with such provisions before commencing the performance of work under this Agreement.

D. Liability Insurance

Hauler shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect Hauler and all of its employees/officers/agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Hauler's operations under this Agreement, whether such operations be by Hauler, any subcontractor, anyone directly or indirectly employed by either of them, or an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amounts specified below:

(a) Comprehensive General Liability... \$1,000,000

(b) Motor Vehicle Liability Insurance... \$1,000,000

(c) Professional Liability..... \$1,000,000

County and its officers, agents, employees, and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that (a) the insurance afforded thereby to County and its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy and (b) if the County or its officers, agents, employees, and servants have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, County, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work and payment pursuant to this Agreement.

ARTICLE 9: DEFAULT AND REMEDIES

9.1 EVENTS OF DEFAULT

Events of default under this Agreement include, but are not limited to, the following:

- A. Failure to Perform.** Hauler fails to perform in accordance with the County Code or any of its material obligations under this Agreement, as it may be amended from time to time. Refusal to provide service to a Customer, where it is impractical because of operational limitations related to topography, geographical isolation, and/or access, shall not constitute a breach of this Agreement, upon finding by the Director that serving such Customer would constitute an unreasonable hardship.
- B. Failure to Implement Collection Program.** Hauler fails to implement a Collection program that complies with the requirements of this Agreement.
- C. Failure to Provide Processing Capacity and/or Achieve Processing Standards.** Hauler fails to provide adequate Processing capacity and/or achieve Processing standards in accordance with Section 5.6 and Exhibit D of this Agreement.
- D. Failure to Comply with Other Requirements.** Hauler fails to comply with other requirements of the Agreement including public education, reporting, contamination monitoring, recordkeeping, or other obligations of this Agreement.
- E. Misrepresentation.** Any statement, representation, or disclosure knowingly made to County by Hauler in connection with or as an inducement to entering this Agreement or any future amendment to this Agreement, which proves to be false or misleading in any material respect as of the time the statement, representation, or disclosure is made, whether or not any such statement, representation, or disclosure appears as part of this Agreement.
- F. Seizure or Attachment.** There is a seizure or attachment of (other than a prejudgment attachment), or levy affecting possession on the operating equipment and facilities of such proportion as to substantially impair Hauler's ability to perform under this Agreement and which cannot be released, bonded, or otherwise lifted within seventy-two (72) hours, excluding weekends and holidays.
- G. Financial Insolvency.** Hauler files a voluntary petition for debt relief under any applicable bankruptcy, insolvency, debt relief, or other similar law or regulation now or hereafter in effect, or consents to the appointment of or taking of possession by a receiver, liquidator, assignee (other than as a part of a transfer of equipment no longer useful to Hauler or necessary for this Agreement), trustee (other than as security for an obligation under a deed of trust), custodian, sequester (or similar official) for any part of the Hauler's

operating assets or any substantial part of Hauler's creditors, or shall fail generally to pay Hauler's debts as they become due or shall take any action in furtherance of any of the foregoing.

- H. Court Decisions.** Any court having jurisdiction shall enter a decree or order appointing a receiver, liquidator, assignee, custodian, trustee, or sequestrator (or similar official) of the Hauler or for any part of the Hauler's operating equipment or assets, or order the winding up or liquidation of the affairs of Hauler.
- I. Fraud or Deceit.** If Hauler practices, or attempts to practice, any fraud or deceit upon County.
- J. Failure to Maintain Coverage.** If Hauler fails to provide or maintain in full force and effect the insurance coverage required by this Agreement.
- K. Failure to Start Operations.** Hauler shall have one hundred twenty (120) days from the effective date of this Agreement to be fully operational and offer to the public without limit or restriction service within all designated service areas.
- L. Violations of Applicable Law or Regulation.** If Hauler violates any applicable law in as described in Section 10.2 below or any permits, orders, or filings of any regulatory body having jurisdiction over Hauler which violation materially affects the Hauler's ability to perform under this Agreement, provided that Hauler may contest any such alleged violation by appropriate proceedings conducted in good faith, in which case no breach of the Agreement shall be deemed to have occurred during the pendency of the contestation or appeal, to the extent Hauler is able to adequately perform during that period.
- M. Acts or Omissions.** Any other act or omission by Hauler which materially violates the terms, conditions, or requirements of this Agreement, AB 939, AB 341, AB 1826, AB 876, AB 901, and SB 1383, as it may be amended from time to time, or any order, directive, rule, or regulation issued thereunder and which is not corrected or remediated within the time set in the written notice of the violation or, if Hauler cannot reasonably correct or remedy the breach within the time set forth in such notices, if Hauler should fail to commence to correct or remedy such violation within the time set forth in such notice and diligently effect such correction or remedy thereafter.
- N. Limitation on Subcontracting or Use of Independent Operator for Facility Services.** Hauler fails to materially comply with one or more of the requirements specified in this Agreement related to use of Subcontractors that provide Hauler-Designated Facility services.
- O. Failure to Pay Liquidated Damages or Excessive Liquidated Damages.** Hauler fails to pay liquidated damages assessed pursuant to Section 9.6; or, Hauler has a pattern of

persistent or repeated failure to meet performance standards as evidenced by assessment of liquidated damages in any twelve (12) month period in excess of fifty thousand dollars (\$50,000).

- P. Failure to Pay SB 1383 Administration Fees.** Hauler fails or refuses to pay SB 1383 administration fees due to County pursuant to Section 4.2 and Section 4.3.

9.2 SUSPENSION OR TERMINATION; DISPUTE RESOLUTION

The non-exclusive right to Collect Discarded Materials in the unincorporated County may be suspended or terminated by the Director in accordance with this Section 9.2 and Section 9.3 below when the Hauler materially commits an event of default as described in Section 9.1 above which is not cured within thirty (30) days after Hauler's receipt of County's notice of default. Written notice of suspension or termination of the Agreement shall be served personally or by registered or certified mail, postage paid, to the last recorded address of the place of business or residence of the Hauler.

Hauler may, within ten (10) working days after receiving the notice, request a meeting with the Director or his or her designee. Hauler may present evidence in writing and through testimony of its employees and others relevant to the violation of this Agreement. Following the meeting and County's further consideration, the Director or his/her designee shall make a final determination of the assessment of the violation and decision of the Director or his/her designee shall be final, subject to Hauler's right to seek judicial review under Section 10.4 below.

9.3 RIGHT TO TERMINATE UPON DEFAULT

Upon an event of default by Hauler and after expiration of the cure period and completion of the process described in Section 9.2, the County shall have the right to terminate this Agreement without need for any additional hearing, suit, or legal action.

9.4 COUNTY'S REMEDIES CUMULATIVE: SPECIFIC PERFORMANCE

The County's right to terminate the Agreement under Section 9.3 is not exclusive of other remedies, and the County's termination of the Agreement shall not constitute an election of remedies. Instead, they shall be in addition to any and all other legal and equitable rights and remedies which the County may have.

By virtue of the nature of this Agreement, the urgency of timely, continuous, and high quality service, the lead time required to effect alternative service, and the rights granted by County to the Hauler, the remedy of damages for a breach hereof by Hauler may be inadequate and County shall be entitled to injunctive relief.

9.5 EXCUSE FROM PERFORMANCE

The Parties shall be excused from performing their respective obligations hereunder in the event they are prevented from performing by reason of floods, earthquakes, other “acts of God,” war, civil insurrection, riots, act of any government (including judicial action), and other similar catastrophic events which are beyond the control of and not the fault of the Party claiming excuse from performance hereunder. Labor unrest, including but not limited to strike, work stoppage, or slow down, sick-out, picketing, or other concerted job action conducted by Hauler’s employees or directed by the Hauler is not an excuse from performance and Hauler shall be obligated to continue to provide service notwithstanding the occurrence of any or all of such events; provided, that in the case of labor unrest or job action directed by a third party (e.g., Customer) over whom Hauler has no control, the inability of Hauler to make Collections due to the unwillingness or failure of the third party to provide reasonable assurance of the safety of Hauler’s employees while making Collections or to make reasonable accommodations with respect to confrontation with picketers or the number of Persons necessary to make Collections shall, to that limited extent, excuse performance and provided further that the foregoing excuse shall be conditioned on Hauler’s cooperation in making Collections at different times and in different locations.

The Party claiming excuse from performance shall within two (2) working days after such Party has notice of such cause, give the other Party notice of the facts constituting such cause and asserting its claim under this Section. Notwithstanding, in the event of a catastrophic event, Hauler shall comply with County’s emergency preparedness plan.

In the event that either Party validly exercises its right under this Section, the Parties hereby waive any claim against each other for any damages sustained thereby.

Notwithstanding the foregoing, however, (1) the existence of an excuse from performance will not affect the County’s right under this Section; and, (2) if Hauler is excused from performing its obligations hereunder for any of the causes listed in this Section for a period of thirty (30) days or more, other than as the results of third party labor disputes where service cannot be provided at the point of Collection for reasons described earlier in this Section, the County shall nevertheless have the right, in its sole discretion, to terminate this Agreement by giving ten (10) working days’ notice, in which case the provisions of Section 9.2 will apply.

9.6 LIQUIDATED DAMAGES

- A. County incurred considerable time and expense procuring this Agreement in order to secure an improved level and quality of Recycling and compliance with applicable law and regulations including State Diversion requirements;
- B. Consistent and reliable services, including Collection of Putrescible Wastes that attract vermin and vectors are of the utmost importance to the public health, safety, and well-being of residents and businesses in the County; and,

- C. The liquidated damages specified in Exhibit E represent a reasonable estimate of the amount of damages, considering all of the circumstances existing on the effective date of this Agreement, including the relationship of the sums to the range of harm to County that reasonably could be expected and anticipation that proof of actual damages would be costly or inconvenient.
- D. 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 at the time that this Agreement was made.

Hauler
Initial Here *kd*

County
Initial Here _____

- E. **Assessment.** Prior to assessing liquidated damages, County shall give Hauler notice of its intention to do so. The notice will include a brief description of the incident(s)/non-performance. County may assess liquidated damages for each day or event or reporting period, as appropriate, that Hauler is determined to be non-compliant in accordance with this Agreement.
- F. **Timing of Payment.** Hauler shall pay any liquidated damages assessed by County within ten (10) working days after they are assessed, subject to subsection G. below. If they are not paid within the ten (10) working day period, County may exercise any other right or remedy available to County under this Agreement or at law or in equity, or any combination of these remedies.
- G. **Hauler Inquiry.** Hauler may, within ten (10) working days after receiving the notice, request a meeting with the Director or his or her designee. Hauler may present evidence in writing and through testimony of its employees and others relevant to the incident(s)/non-performance. Following the meeting and County's further consideration, the Director or his/her designee shall make a final determination of the assessment of liquidated damages and decision of the Director or his/her designee shall be final, subject to Hauler's right to seek judicial review under Section 10.4 below. Hauler shall pay liquidated damages within the time frame specified in the above subsection.

ARTICLE 10: OTHER AGREEMENTS OF THE PARTIES

10.1 RELATIONSHIP OF PARTIES

The Parties intend that Hauler shall perform the services required by this Agreement as an independent Hauler and not as an officer or employee of County nor as a partner of or joint venturer with County. No employee or agent of Hauler shall be or shall be deemed to be an employee or agent of the County. Except as expressly provided herein, Hauler shall have the exclusive control over the manner and means of conducting the Discarded Materials Collection services performed under this Agreement, and all Persons performing such services. Hauler shall be solely responsible for the acts and omissions of its officers, employees, Subcontractors, and independent operators performing Hauler-Designated Facility services on its behalf, and agents and the same shall not obtain any rights to retirement benefits, workers' compensation benefits, or any other benefits which accrue to County employees by virtue of employment with the County.

Hauler agrees that this Agreement is not made in the interest of, or on behalf of, any undisclosed Person, partnership, hauler, association, organization, or corporation. Hauler has not directly or indirectly colluded, conspired, connived, or agreed with any Person, partnership, other hauler, association, organization, or corporation to secure any advantage against the County.

10.2 COMPLIANCE WITH LAW

In providing the services required under this Agreement, Hauler shall at all times, at its sole cost, comply with all applicable laws of the United States, the State of California, County, and other State or government bodies which may have jurisdiction over any service provided in this Agreement and with all applicable regulations promulgated by any federal, State, regional, or local administration and regulatory agency, now in force and as they may be enacted, issued, or amended during the Term of this Agreement.

Hauler must possess a valid permit as required per County Code 4.04.020 approved by the County Health Officer in consultation with the County Environmental Health Services Division and be in good standing to operate in San Mateo County.

10.3 GOVERNING LAW

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

10.4 JURISDICTION

Any lawsuits between the Parties arising out of this Agreement shall be brought and concluded in the courts of the State of California, which shall have exclusive jurisdiction over such lawsuits. With respect to venue, the Parties agree for purposes of both State and federal court action that this Agreement is made in and will be performed in the County of San Mateo, State of California. Federal courts may have jurisdiction over certain lawsuits arising from this Agreement and these should be brought and concluded within the federal system.

10.5 ASSIGNMENT

Hauler acknowledges that this Agreement involves rendering a vital service to County's residents and businesses, and that County has granted Hauler the non-exclusive right to perform the services specified herein, subject to limitations of the Agreement, based on (1) Hauler's experience, skill, and reputation for concluding its Discarded Materials Collection and handling operations in a safe, effective, and responsible fashion, at all times in keeping with applicable waste management laws, regulations, and good Discarded Materials management practices, and (2) Hauler's financial resources to maintain the required equipment and to support its indemnity obligations to County under this Agreement. County has relied on each of these factors, among others, in choosing Hauler to perform the services to be rendered by Hauler under this Agreement.

Any right to Collect Discarded Materials in the unincorporated County granted pursuant to this Agreement is a privilege to be held in trust by the original Hauler (franchisee). This Non-Exclusive Franchise Agreement shall not be transferred, sold, leased, assigned, relinquished, or delegated to another Person, either in whole or in part, whether by forced sale, lease, assignment, relinquishment, delegation, merger, consolidation, bankruptcy laws, or otherwise, without the prior written approval of the Director with the exception that transfers of stock in Hauler by a stockholder to Hauler, to members of the stockholder's family or a trust for their benefit, or to another stockholder are specifically excluded from this Assignment provision and shall not be subject to County consideration and consent. This restriction includes the transfer of ownership of the Agreement, or a majority of the ownership or control of the Hauler, or the conveyance of a majority of the Hauler's stock to a new controlling interest. The Director shall not unreasonably withhold approval of assignment of the right to Collect Discarded Materials in the unincorporated County, provided that the assignee is qualified to perform its obligations as required by this Agreement and any implementing County ordinance. Whenever there is any change in ownership of Hauler that exceeds ten percent (10%) of the stockholder ownership or assets, or an increase or decrease of ten percent (10%) or more in any partner's interest in Hauler, Hauler shall report the change to the Director within ten (10) days of such changes. If Hauler is denied approval to assign this Agreement by the Director, Hauler shall have the right of appeal.

10.6 BINDING ON SUCCESSORS

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

10.7 PARTIES IN INTEREST

Nothing in this Agreement, whether expressed or implied, is intended to confer any rights on any Persons other than the Parties to it and their representatives, successors, and permitted assigns.

10.8 WAIVER

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

The subsequent acceptance by either Party of any monies which become due hereunder shall not be deemed to be a waiver of any preexisting or concurrent breach or violation by the other Party of any provision of this Agreement.

10.9 HAULER'S INVESTIGATION

Hauler has made an independent investigation (satisfactory to it) of the conditions and circumstances surrounding the Agreement and the work to be performed by it.

10.10 NOTICES

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

If to County:

County of San Mateo
Office of Sustainability
Attention: Lillian Clark/Anthony Guerra
455 County Center, 4th Floor
Redwood City, CA 94063

If to Hauler: Republic Services

Attention: Kathryn Tekulve/Monica Devincenzi

1680 Edgeworth Ave.

Daly City, CA 94015

The address to which communications may be delivered may be changed from time to time by a notice given in accordance with this Section.

10.11 REPRESENTATIVE OF THE PARTIES

All actions to be taken by County related to this Agreement, shall be taken by the Director except as otherwise provided in this Agreement or below. Director may delegate, in writing, authority to other Department officials and may permit such officials, in turn, to delegate in writing some or all of such authority to subordinate officers. Hauler may rely upon actions taken by such delegates, if they are within the scope of the authority properly delegated to them.

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

10.12 DECLARED STATE OF EMERGENCY

In the event that an authorized official declares a "State of Emergency" within any geographical area of the County, as authorized in Chapter 7, Division 1, Title 2 of the California Government Code (California Emergency Services Act), the Robert T. Stafford Disaster Relief and Emergency Act (42 UCS 5121 et seq.), or other applicable State or Federal law, County will have the right to exercise all privileges and perform all services required under this Agreement, but will not be required to make prior notification to Hauler.

10.13 NOTICE

This Agreement does not affect the rights or obligations of the Parties under Section 49520 of the Public Resources Code.

10.14 SUBCONTRACTORS

Hauler shall not contract more than fifty percent (50%) of its Collection services as measured by total Collected Tonnage per calendar quarter to another Person. All Persons providing Collection services must hold a valid, unrevoked, and unexpired County Non-Exclusive Franchise Agreement provided that the Person holds a Non-Exclusive Franchise Agreement that authorizes such Hauler to Collect Discarded Materials from the Customer types it services under this Agreement.

10.15 INDEPENDENT OPERATORS PERFORMING FACILITY SERVICES

If Hauler or one of its Affiliates does not own and/or operate one or more of the Hauler-Designated Facilities, Hauler shall use commercially reasonable efforts to enter into an agreement with the owner or operator of such Hauler-Designated Facility to document the facility services to be provided by the independent operator and the independent operator's obligations and requirements pertaining to this Agreement.

ARTICLE 11: MISCELLANEOUS AGREEMENTS

11.1 PRIVACY

Hauler shall strictly observe and protect its Customers' privacy and trade secrets, including their rights to privacy under law. In addition, Hauler shall not:

- A.** Reveal to anyone other than County any information identifying individual Customers or the composition or contents of a Customer's Discarded Materials without that Customer's permission, unless required by law; or,
- B.** Market or distribute mailing lists with Customers' names and service and billing addresses.

Hauler shall not assert that any privacy right accorded its Customers under law prohibit Hauler from participating in Discarded Materials characterization studies or material stream analyses, keeping records, making reports, or assisting County in meeting any requirements under law.

11.2 PUBLIC RECORDS ACT

The California Public Records Act ("CPRA") requires County to disclose "public records" in its actual or constructive possession unless a statutory exemption applies. This generally includes contracts and related documents. If County receives a CPRA request for records relating to this Agreement, County may, at its sole discretion, either determine its response to the request without notifying Hauler or notify Hauler of the request. If County determines its response to the request without notifying Hauler, Hauler shall hold County harmless for such determination. If County notifies Hauler of the request, Hauler may request that County withhold or redact records responsive to the request by submitting to County a written request within five (5) business days after receipt of the County's notice. Hauler's request must identify specific records to be withheld or redacted and applicable exemptions. Upon timely receipt of Hauler's request, County will review the request and at its sole discretion withhold and/or redact the records identified by Hauler. Hauler shall hold County harmless for County's decision whether to withhold and/or redact pursuant to Hauler's written request. Hauler further agrees that its defense and indemnification obligations set forth in Section 8.1 of this Agreement extend to any claim against the County and/or its Board, officers, employees, agents, assigns, volunteers, and any successors or assigns arising out of County's withholding and/or redacting of records pursuant to Hauler's request. Nothing in this Section shall preclude Hauler from taking legal action, including but not limited to, seeking a court order, to prevent disclosure of records. Nothing in this Section shall prevent the County or its agents or any other governmental entity from accessing any records for the purpose of audits or program reviews if that access is legally permissible under the applicable local, State, or federal laws or regulations. Similarly, County or its agent or designee may take possession of the record(s) where legally authorized to do so.

11.3 ENTIRE AGREEMENT

This Agreement, including the Exhibits, represents the full and entire agreement between the Parties with respect to the matters covered herein.

11.4 SECTION HEADINGS

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

11.5 REFERENCES TO LAWS

All references in this Agreement to laws shall be understood to include such laws as they may be subsequently amended or recodified, unless otherwise specifically provided.

11.6 INTERPRETATION

This Agreement shall be interpreted and construed reasonably and neither for nor against either Party, regardless of the degree to which either Party participated in its drafting. Unless the context requires a different reading, the term “including” when use in this Agreement shall be read as a term of inclusion rather than exclusion.

11.7 AMENDMENT

This Agreement may not be modified or amended in any respect except by written agreement duly approved and signed by the Parties.

11.8 SEVERABILITY

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

11.9 EXHIBITS

Each of the Exhibits identified is attached hereto and incorporated herein and made part hereof by this reference.

{Remainder of page intentionally blank}

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

Kevin DiVincenzo

Director Signature
County of San Mateo
Office of Sustainability

Hauler Signature

Director (Printed Name)

BFI Waste Systems of North America, LLC

Hauler (Printed Name)

Area President

Hauler (Printed Title of Signatory)

Date: _____

Date: 01/25/2024

EXHIBIT A – Service Summary by Hauler Type

Under the conditions of this Agreement, Hauler is approved by the County to provide services as one or more of the defined Hauler Types. The following table provides a summary of the services that each Hauler Type may provide and the types of materials that may be Collected by each Hauler Type.

	Single-Family Hauler	Multi-Family/Commercial Hauler
Service Type		
Single Family Residential	√	
Multi-Family Residential		√
Commercial		√
Allowable Material Types		
Solid Waste	√	√
Source Separated Recyclable Materials (1)	√	√
Recyclable Materials (2)	√	√
Organic Waste (3)	√	√
Food Waste	√	√
Plant Materials (4)	√	√
Source Separated Inerts (e.g., asphalt, concrete, rock, stone, brick, sand, soil and fines)	√	√

1. Source Separated Recyclable Materials refers to Recyclable Materials that are separated by the Generator and separately Collected for Recycling. Examples include cardboard, metal, Wood Waste, textiles, and electronics.

2. Recyclable Materials refers to a mix of Recyclable Materials (e.g., papers, glass, plastics, metal containers, etc.) Source Separated and placed by the Generator in one Container for Collection. These materials are also known as commingled Recyclables or single-stream Recyclable Materials.

3. Organic Waste refers to a mix of Food Waste and Plant Materials placed by the Generator in one Container for Collection.

EXHIBIT B – Subcontractors

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EXHIBIT C – Hauler-Designated Facilities

24 The Hauler designates the following Facilities for the receipt and handling of Discarded Materials it Collects in the Unincorporated
 25 County area. Hauler may amend this list of Hauler-Designated Facilities with Director's written approval in accordance with Section
 26 D.1.C of Exhibit D. Hauler shall ensure that Hauler-Designated Facilities that are owned or operated by Hauler or its Affiliates comply
 27 with Processing and Disposal standards in Exhibit D and shall enter into agreements with the owner and/or operator of such Facilities
 28 to ensure this compliance. Hauler shall use commercially reasonable efforts to ensure that Hauler-Designated Facilities that are not
 29 owned or operated by Hauler or its Affiliates comply with Processing and Disposal standards in Exhibit D and to enter into agreements
 30 with the owner and/or operator of such Facilities to ensure this compliance.

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Facility Type									Material Type(s) to be Delivered to the Facility							
Facility Name, Owner/Operator, Address, Recycling and Disposal Reporting System Number	Recyclables Processing	Composting	Mixed Organics Processing	Transfer Station	Chip and Grind	Farm/Agricultural facility	Landfill	Other (specify)	Recyclable Materials	Plant Materials	Food Waste	Organic Materials	Manure	Solid Waste	Other (specify)	
				X			X		X	X	X	X	X	X		
Ox Mountain Landfill																
Republic Services 12340 San Mateo Road Half Moon Bay, CA 94019 41-AA-0002																
Newby Island Resource	X	X					X		X	X	X	X	X			
Recovery Park 1601 Dixon Landing Road Milpitas, CA 95035 43-AN-0003																

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33 **EXHIBIT D – Processing, Transfer, and**
34 **Disposal Facility Standards**

35 Hauler-Designated Facilities for Recyclable Materials Processing, and Organic Materials
36 Processing, transfer, and Disposal that are owned or operated by Hauler or its Affiliates shall
37 comply with the standards specified in this Exhibit. If the Hauler or one of its Affiliates is not the
38 owner and/or operator of one or more of the Hauler-Designated Facilities, Hauler shall use
39 commercially reasonable efforts to ensure that Facility operators of such Hauler-Designated
40 Facilities comply with Facility standards in this Exhibit and to enter into agreements with the
41 owner and/or operator of such Facilities to ensure this compliance, if necessary. Hauler shall
42 provide County with copies of executed agreements with Facility operators upon request from
43 County.

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45 **D.1 General Requirements**

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47 **A. Overview**

48 Hauler agrees to transport and deliver Discarded Materials it Collects in Unincorporated County
49 areas to an appropriate Hauler-Designated Facility for Recycling, Processing, or Disposal as
50 applicable for each type of Discarded Material. At Hauler’s option, Hauler may rely on a transfer
51 station and, in such case, shall transport and deliver some or all Discarded Materials to a Hauler-
52 Designated Facility for pre-Processing (if applicable) and transfer. If Hauler delivers some or all
53 Discarded Materials to a transfer station, it shall receive assurances from Facility operator that
54 Facility operator will transport or arrange for transport of the Discarded Materials to appropriate
55 facility(ies) for Recycling, Processing, or Disposal, as applicable for each type of Discarded
56 Material. In such case, Hauler shall receive written documentation from the Facility operator(s)
57 of the Facilities used for Recycling, Processing, or Disposal of Discarded Materials; and, Hauler
58 shall list these facilities and the transfer station(s) as Hauler-Designated Facilities. Hauler shall
59 pay all costs associated with transferring, transporting, Recycling, Processing, composting,
60 marketing, and/or Disposal of all Discarded Materials it Collects.

61 **B. Facility Capacity Guarantee**

62 Hauler shall secure sufficient capacity over the Term of this Agreement to transfer (if applicable),
63 transport, Recycle, and Process all Recyclable Materials, and Organic Materials Collected under
64 this Agreement and to transfer (if applicable), transport, and Dispose all Solid Waste Collected
65 under this Agreement. It shall cause the Hauler-Designated Facility(ies) that are owned or
66 operated by Hauler or its Affiliates to Recycle, recover, Process, and/or compost the materials as
67 appropriate; market the Recyclable Materials, and Organic Materials recovered from such
68 operations; and Dispose of Residue, and shall use commercially reasonable efforts to cause the
69 Hauler-Designated Facility(ies) that are not owned or operated by Hauler or its Affiliates to do all
70 of the foregoing. Hauler shall use commercially reasonable efforts to cause Hauler-Designated
71 Facility(ies) for Disposal to Dispose of Solid Waste. Hauler shall provide the County, upon

request, with documentation demonstrating the availability of such transfer, Recycling, Processing, composting, and Disposal capacity.

C. Facility Permits and Approvals

Hauler or Facility operator shall keep all existing permits and approvals necessary for use of the Hauler-Designated Facility(ies), in full regulatory compliance through County Environmental Health Services. Hauler, or Facility operator, shall, upon request, provide copies of permits and approvals and/or notices of violation of permits to the County.

D. Hauler-Initiated Change in Facility

Hauler may change its selection of one or more of the Hauler-Designated Facility(ies) following Director's written approval, which approval will not be unreasonably delayed, conditioned or withheld. If Hauler would like to use a Facility(ies) that is not listed on the then-current list of Hauler-Designated Facility(ies) in Exhibit C, it shall submit a written request for approval to the County thirty (30) days prior to use of the Facility and shall obtain the Director's written approval prior to use of the Facility.

E. Notification of Emergency Conditions

1. Hauler shall notify the County of any unforeseen operational restrictions that have been imposed upon the Facility by a regulatory agency or any unforeseen equipment or operational failure that will temporarily prevent the Facility from Processing the Discarded Materials Collected under this Agreement. The Hauler shall notify the County as soon as possible and no later than twenty-four (24) hours from the time of the incident. The notification shall include the following: (i) name of Hauler-Designated Facility; (ii) the Recycling and Disposal Reporting System Number of the Facility; (iii) date the Facility became unable to Process materials; (iv) description of the operational restrictions that have been imposed upon the Facility by a regulatory agency or unforeseen equipment failure or operational restriction that occurred; (v) the period of time the Hauler anticipates the temporary inability of the Facility to Process materials; (vi) Hauler's proposed action plan to deliver materials to an alternative Facility for Processing pursuant to subsection F or Hauler's request for waiver to deliver Recyclable Materials or Organic Materials to an approved Disposal Site rather than Processing.

2. Hauler shall maintain a record of any Hauler-Designated Facility incidents and report this information to the County in accordance with Section 7.3.3.

F. Inability to Use Hauler-Designated Facility(ies).

1. If Hauler is unable to use a Hauler-Designated Facility due to the conditions in subsection E or a sudden unforeseen closure of the Facility, Hauler may use an alternative Facility provided that the Hauler provides verbal and written notice to the

Director and receives written approval from the Director at least twenty-four (24) hours prior to the use of an alternative Facility to the extent reasonably practical given the nature of the emergency or sudden closure.

2. The Hauler's written notice shall include the following: (i) name of Hauler-Designated Facility; (ii) the Recycling and Disposal Reporting System Number of the Facility; (iii) date the Facility became unable to transfer, Process, and/or Dispose of Discarded Materials Collected by Hauler; (iv) description of the operational restrictions that have been imposed upon the Facility by a regulatory agency or unforeseen equipment failure or operational restriction that occurred; (v) the period of time the Hauler anticipates the temporary inability of the Facility to perform as required by this Agreement including Exhibit D; (vi) Hauler's proposed action plan to deliver materials to an alternative Facility.
3. As appropriate for the type of Discarded Materials to be delivered to the alternative Facility, the alternative Facility shall meet the applicable Facility standards in this Agreement for the particular type of Discarded Materials. The alternative Facility shall comply with the requirements of this Exhibit D unless Director waives one or more requirements.
4. Hauler shall comply with reporting requirements of Section 7.3.3.A of this Agreement when a Hauler-Designated Facility is non-operational.

G. Records and Audits

Hauler shall maintain accurate records of the quantities of Discarded Materials transported to and accepted at the Hauler-Designated Facility(ies) and shall cooperate with County and any regulatory authority in any audits or investigations of such quantities.

H. Inspection and Investigations

Pursuant to County Code 4.04.170, an authorized County employee or agent shall be allowed to enter each Hauler-Designated Facility during normal working hours in order to observe activities and conduct inspections and investigations in order to examine Discarded Material recovery activities, Processing activities, contamination monitoring, material sampling and sorting activities, and records pertaining to the Hauler-Designated Facility in order to determine compliance with this Agreement and to understand protocols and results, and conduct investigations, if needed. Hauler shall permit County or its agent to review or copy, electronically or through mechanical methods (such as photocopying) of any paper, electronic, or other records required by County, such as invoices, memoranda, books, papers, or records.

I. Insurance, Indemnifications, and Performance Standards

If Hauler uses a Subcontractor or Hauler-Designated Facility that is owned or operated by Hauler or its Affiliates to provide transfer, transport, Recycling, Processing, composting, and/or Disposal

services, Hauler shall enter into an agreement with such Person and the agreement shall include, but not be limited to, provisions that require such Person to comply with the following terms and conditions of this Agreement: indemnification (Section 8.1); insurance requirements (Section 8.2); and Recycling, Processing, composting, transfer, marketing, and Disposal performance standards. Upon County request, Hauler shall provide documentation of its agreements with such Persons demonstrating compliance with this provision.

J. Compliance with Applicable Law

Hauler warrants throughout the Term that the Hauler-Designated Facilities are respectively authorized and permitted to accept Discarded Materials in accordance with applicable law and regulations and are in full compliance with applicable law and regulations and County permits.

D.2 Recyclable Materials, and Organic Materials Standards

A. Diversion Required

Hauler agrees to transport and deliver all Recyclable Materials and Organic Materials Collected under this Agreement to a Hauler-Designated Facility for Recycling, Processing, or composting as applicable for each material type. Recycling, Processing, and composting shall be performed in a manner that complies with applicable law and regulations.

B. Specific Recyclable Materials Standards

The Recyclable Materials Collected by Hauler shall be transported to a Hauler-Designated Facility that recovers the Recyclable Materials designated for Collection in the Recyclable Materials Container.

C. Specific Organic Materials Standards

1. Hauler shall arrange for Processing of all Organic Materials for Diversion and shall prohibit use of Organic Materials as Alternative Daily Cover (ADC). Organic Materials shall be Processed or used in a manner deemed not to constitute Landfill Disposal pursuant to 14 CCR Section 18983.1(a), which states that Landfill Disposal includes final deposition of Organic Waste at a Landfill or use of Organic Waste as ADC.
2. If Hauler accepts Compostable Plastics and/or plastic bags in its Organic Materials Collection program, the Hauler shall annually submit to County written notice from the Hauler-Designated Organic Waste Processing Facility confirming said Facility can Process and recover Compostable Plastics and can remove plastic bags when Processing the Organic Materials.

D. Marketing

Hauler, or Facility operator, shall be responsible for marketing Recyclable Materials and Organic Materials Collected under this Agreement and shall retain revenues resulting from the sale and marketing of materials. Hauler's Diversion and marketing methods for materials shall be performed in such a manner that materials shall be considered as Diversion in accordance with the State regulations established by AB 939, AB 341, AB 1594, and SB 1383.

Upon request, Hauler or Facility operator shall provide proof to the County that all Recyclable Materials, and Organic Materials (less Residue) Collected by Hauler are marketed for composting, Recycling, salvage, or reuse in such a manner that materials shall be considered as Diversion in accordance with the State regulations, including those established by AB 939, AB 341, AB 1594, and SB 1383.

If Hauler or Facility operator becomes aware that a broker or buyer has illegally handled, Disposed of, or used material generated in the unincorporated County that is not consistent with applicable law, Hauler shall immediately inform the County and terminate its contract or working relationship with such party. Hauler shall find an alternative market for the Recycle Materials, and/or Organic Materials that is compliant with applicable law.

E. Disposal of Recyclable Materials, and Organic Materials Prohibited

With the exception of Processing Residue that may be Disposed, Recyclable Materials and Organic Materials Collected under this Agreement may not be Disposed in lieu of Recycling, Processing, or composting the material, without the express written approval of the Director.

D.3 Solid Waste Disposal

A. Disposal of Solid Waste Collected.

Hauler shall transport all Solid Waste Collected under this Agreement to a Hauler-Designated Facility for Disposal.

B. Disposal at Approved Site.

Hauler or Facility operator shall not Dispose of such Solid Waste or Residue by depositing it on any public or private land, in any river, stream, or other waterway, or in any sanitary sewer or storm drainage system or in any other manner which violates Applicable Laws.

D.4 Discarded Materials Monitoring at Hauler-Designated Facilities

A. General

Hauler shall conduct the Discarded Materials "evaluations" at Hauler-Designated Facilities if required by applicable law or regulations, including, but not limited to evaluations referenced below.

- 227
- 228 1. Gray Container Waste Evaluations pursuant to 14 CCR Section 17409.5.7.
- 229 2. Organic Waste Recovery Efficiency Evaluations pursuant to 14 CCR Sections 17409.5.1
- 230 to 17409.5.5.
- 231 3. Evaluation of Organic Waste in Residuals pursuant to 14 CCR Sections 17409.5.3,
- 232 17409.5.5, 17867, and/or 17896.44.1.

233 **B. Reporting**

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235 For the evaluations described above, Hauler shall report this information to the County within

236 thirty (30) days of County's written request.

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238 **C. Observance of Study by County and/or CalRecycle**

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240 Hauler acknowledges that, upon request, a representative of the County, local enforcement

241 agency, and/or CalRecycle may oversee its next scheduled sampling and evaluation of any of the

242 evaluations described in Exhibit C conducted at the Hauler-Designated Facility(ies).

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EXHIBIT E – Liquidated Damages

266 County may assess liquidated damages if Hauler fails to fulfill its obligations with regards to the
 267 events listed in this Exhibit in accordance with the terms and conditions of the Agreement.

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	Event of Non-Performance	Basis for Offense
1	Leaks, Litter, or Spills. For each event of a leak, litter, or spill of Discarded Materials near or on public streets and failure to pick up or clean up such at the time of the leak, litter, or spill.	\$100 per event
2	Failure to Provide Two or Three-Container System. For each occurrence of failing to provide Customers with an appropriate container system required by Sections 5.4 and 5.5 and County Code 4.04.140 and 4.04.141, excluding Customers that refuse this system (documentation will be required for Customers who refuse services), excluding Customers granted waivers and excluding Customers that demonstrate compliance with Recycling and Organic Materials separation and Diversion through other means provided Collector has documentation of compliance method(s), each such non-excluded Customer being a "Covered Customer."	\$250 per Covered Customer that does not have two or three-Container service (60-day cure period until County can review again or reinspect)
3	Container Labeling and Colors. For each occurrence of Collector's failure to comply with Container labeling and color requirements pursuant to Section 5.7 of the Agreement after the end of the useful life of the containers, or January 1, 2036, whichever comes first.	\$50 per Customer with non-compliant Containers (60-day subsequent cure period until County can reinspect)
4	Failure to Submit Reports or Allow Access to Records. For each failure to submit a report, submit a complete report, or provide access to records in compliance with and in the timeframe specified in Sections 7.2 and 7.3 of this Agreement.	\$500 per report per occurrence plus \$100 per day until such report is submitted or access to records is granted (60-day cure period until County can review again or reinspect)
5	Failure to Report Hazardous Waste. For each failure to notify the appropriate authorities of reportable quantities of Hazardous Waste.	\$500 per event

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