

**ORIGINAL**

# **Disposal Services Contract**

**Executed between**

**City of Oakland**

**and**

**Waste Management of Alameda County, Inc.**

**July 1, 2015**



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1 **CITY OF OAKLAND**

2 This Disposal Services Contract ("Contract") is entered into February 20, 2015 (the "Effective  
3 Date") by and between the CITY OF OAKLAND, a California municipal corporation ("CITY") and  
4 WASTE MANAGEMENT OF ALAMEDA COUNTY, INC., a California corporation  
5 ("CONTRACTOR").

6 **RECITALS**

7 WHEREAS, CITY enters this Contract with CONTRACTOR, under which CONTRACTOR  
8 receives Garbage generated within the CITY and Residue from the Processing of Mixed  
9 Materials Collected by the Mixed Materials and Organics ("MM&O") Collection Contractor within  
10 the CITY of Oakland at the Disposal Facility;

11 WHEREAS, the City Council of the City of Oakland determines, pursuant to its police powers,  
12 that obtaining a long-term commitment for Disposal of Garbage generated in the CITY and  
13 Residue from the Processing of Mixed Materials Collected by the MM&O Collection Contractor  
14 within the CITY is in the best interests of the health, safety and well-being of the citizens of the  
15 CITY;

16 WHEREAS, the state of California, through enactment of the California Integrated Waste  
17 Management Act of 1989 (California Public Resources Code section 40000, et seq.), also  
18 recognizes the important health and safety consideration to long-term planning for local  
19 government's adequate Disposal needs. The California Integrated Waste Management Act of  
20 1989 declares that the responsibility for management of Solid Waste is a shared responsibility  
21 between the state and local governments. The state requires local governments to make  
22 adequate provision for at least fifteen (15) years of Garbage Disposal capacity to preserve the  
23 health, safety and well-being of the public. The California Integrated Waste Management Act of  
24 1989 and Oakland City Charter Article X and Oakland Municipal Code Chapter 8.28 also  
25 authorize local governments to enter into exclusive franchise contracts to provide Garbage  
26 handling services for the health, safety and well-being of its citizens (California Public  
27 Resources Code section 40059); and,

28 WHEREAS, this Contract also advances the objectives of the federal government to encourage  
29 environmentally sound Garbage management (Resource Conservation and Recovery Act of  
30 1976 (RCRA), 42, U.S.C. section 6941 et seq.);

31 WHEREAS, in 1990 the Alameda County Waste Reduction and Recycling Initiative Charter  
32 Amendment established a county-wide solid waste diversion goal of seventy five (75) percent by  
33 2010;

34 WHEREAS, in 2002 the City Council of the City of Oakland approved Resolution No. 77500  
35 C.M.S., adopting a goal of seventy-five (75) percent reduction of waste going to landfills by 2010  
36 in support of the Measure D goal, and the implementation date established by the Alameda  
37 County Source Reduction and Recycling Board;

38 WHEREAS, in 2006 the City Council of the City of Oakland approved Resolution No. 79774  
39 C.M.S. adopting a Zero Waste Goal by 2020;

40 WHEREAS, in 2006 the City Council of the City of Oakland approved Resolution No. 80286  
41 C.M.S., adopting a Zero Waste Strategic Plan;

42 WHEREAS, the Disposal Facility is intended to be the principal facility for the Disposal of Mixed  
43 Materials and Garbage generated in the CITY and Mixed Materials Residue from the  
44 Processing of Mixed Materials Collected by the MM&O Collection Contractor within the CITY, as  
45 well as Recyclable Materials Residue from the Processing of Recyclable Materials Collected by  
46 the Residential Recyclables Contractor;

47 WHEREAS, the CONTRACTOR guarantees permitted capacity at the Disposal Facility for up to  
48 thirty (30) years for Disposal of all Mixed Materials and Garbage generated in the CITY and  
49 Mixed Materials Residue from the Processing of Mixed Materials Collected by the MM&O  
50 Collection Contractor within the CITY;

51 WHEREAS, the City Council of the City of Oakland determines that in order to provide adequate  
52 Disposal capacity, it is in the best interests of the CITY to secure a commitment from  
53 CONTRACTOR for the right to a portion of the Disposal Facility's current Disposal capacity on  
54 the terms and subject to the conditions set out in this Contract. The intent of this provision is, in  
55 part, for the CITY to contribute to preventing the substantial environmental, aesthetic, health,  
56 and safety problems that may be created from increasing volumes of Garbage in this country;

57 WHEREAS, the CONTRACTOR has represented that it has the experience and ability to  
58 provide for Disposal of Mixed Materials, Garbage and Residue, at the Disposal Tipping Fees  
59 provided for herein;

60 WHEREAS, the CITY has entered into Collection Service Contracts to provide: (i) Mixed  
61 Material and Organics Collection Services and (ii) Residential Recycling Collection Services  
62 within the CITY;

63 WHEREAS, the CONTRACTOR receives Disposal Tipping Fees from the CITY'S MM&O  
64 Collection Contractor for the acceptance of Mixed Materials, Garbage and Residue at the  
65 Disposal Facility for final Disposal;

66 WHEREAS, the CITY determined that the CONTRACTOR has proposed to provide Disposal  
67 Services at the Disposal Facility in a manner and on terms which are in the best interest of the  
68 CITY and its residents and businesses, taking into account the qualifications and experience of  
69 the CONTRACTOR, and the Disposal Tipping Fees for providing such services;

70 WHEREAS, the CITY wishes to engage the CONTRACTOR to provide the services specified  
71 within this Contract, in accordance with the terms and conditions of this Contract; and

72 WHEREAS, the City Council of the City of Oakland declares its intention of maintaining  
73 reasonable Disposal Tipping Fees for the Disposal of Mixed Materials, Garbage and Residue.

74 NOW THEREFORE, in consideration of the mutual promises, covenants, and conditions  
75 contained in this Contract and for other good and valuable consideration, the CITY and  
76 CONTRACTOR agree as follows.

## ARTICLE 1. DEFINITIONS

77

78 For the purpose of this Disposal Services Contract ("Contract"), the definitions contained in this  
79 Article shall apply unless otherwise specifically stated. When not inconsistent with the context,  
80 words used in the present tense include the future, words in the plural include the singular and  
81 words in the singular include the plural. Use of the masculine gender shall include the feminine  
82 gender.

83 1.01 Bulky Goods. Materials such as, but not limited to, stoves, refrigerators, water  
84 heaters, washing machines, clothes dryers, small air conditioning units, other large and small  
85 household appliances, including appliances containing Freon, furniture, carpets, tires, wood,  
86 household items, tires with or without rims, mattresses, clothing, Large Plant Debris, and  
87 corrugated cardboard. Bulky Goods may also include E-Waste, U-Waste and materials  
88 generated from minor home repairs and other similar materials. Except for Bulky Goods  
89 Collected at CITY Facilities, Bulky Goods must be generated at the Service Address wherein  
90 the Bulky Goods are Collected. Bulky Goods do not include items herein defined as  
91 Unacceptable Waste or Construction and Demolition Debris, except as defined above.

92 1.02 Change in Law. The adoption, promulgation, or modification of any generally  
93 applicable and enforceable federal, state, local joint power authority (JPA), or foreign rule, law,  
94 regulation, ordinance, order, judgment, decree, permit or administrative agency guidelines  
95 (excluding orders, judgments, and decrees specific to a particular facility) (collectively, "Laws")  
96 duly adopted and promulgated officially in writing for uniform application occurring after  
97 January 9, 2013. Change in Law does not include changes initiated by CONTRACTOR.  
98 Change in Law shall not include (i) Laws enacted or adopted prior to January 9, 2013, or (ii)  
99 Laws particular to the solid waste and recycling hauling, processing and disposal industry that  
100 are enacted or finally adopted or approved prior to the Effective Date of this Contract but initially  
101 become effective after such date.

102 1.03 CITY. The CITY of Oakland, California, a municipal corporation.

103 1.04 CITY Administrator. The CITY official who is responsible for the day-today  
104 operations of CITY agencies and departments or his/her designee.

105 1.05 Collect/Collection. To pick up, transport, and remove Garbage, Mixed Materials,  
106 Organic Materials or Bulky Goods.

107 1.06 Collection Contractor(s). The Mixed Materials and Organic (MM&O) Collection  
108 Contractor and the Residential Recycling (RR) Collection Contractor during the term of this  
109 Contract.

110 1.07 Contract or Franchise Contract. The written document and all amendments  
111 thereto, between CITY and CONTRACTOR, governing the provision of Disposal Services as  
112 provided herein, including all exhibits hereto, as it may be amended from time to time.

113 1.08 Construction and Demolition Debris. Materials resulting from construction,  
114 remodeling, repair or demolition operations on any house, residential property, commercial  
115 building, pavement or other structure. Construction and Demolition Debris includes but is not  
116 limited to rocks, soils, tree remains and other Plant Debris that results from land clearing or land  
117 development operations in preparation for construction.

118 1.09 Contract Manager. The CITY employee(s) designated by the CITY Administrator  
119 to act as his/her designee regarding the day to day management of this Contract.

120 1.10 CONTRACTOR. WASTE MANAGEMENT OF ALAMEDA COUNTY, INC.

121           1.11 Covered Electronic Device or CED. Discarded electronic devices that the  
122 California Department of Toxic Substances Control (DTSC) has determined to be a covered  
123 electronic device (California Public Resources Code section 42463). CEDs include cathode ray  
124 tube (CRT) devices (including televisions and computer monitors); LCD desktop monitors;  
125 laptop computers with LCD displays; LCD televisions; plasma televisions; portable DVD players  
126 with LCD screens; and other electronic devices as may be added by the DTSC from time to  
127 time.

128           1.12 Disposal/Dispose. The final Processing and disposition of Mixed Materials,  
129 Garbage and Residue received from the Collection Contractor(s) and CITY by CONTRACTOR  
130 under the terms of this Contract onto land located at the Disposal Facility, including but not  
131 limited to placement as alternative daily cover, road construction, slope stabilization, or other  
132 beneficial uses. Disposal does not include transformation using incineration, pyrolysis,  
133 distillation, gasification, biological conversion or other similar methodologies unless authorized  
134 by CITY.

135           1.13 Disposal Facility or Landfill. The Altamont Landfill located at 10840 Altamont  
136 Pass Road, Livermore, California 94551 that is that is owned and operated by CONTRACTOR,  
137 as further described in Exhibit 6.

138           1.14 Disposal Services. The receipt, acceptance and Disposal of all Mixed Materials,  
139 Garbage and Residue delivered by the Collection Contractor(s) and CITY to the Disposal  
140 Facility.

141           1.15 Disposal Tipping Fee or Tipping Fee. The charges for acceptance of material  
142 delivered to the Disposal Facility as set forth in Exhibit 1, which is attached to and included in  
143 this Contract.

144           1.16 Divert/Diversion. To prevent Recyclable Materials, Organic Materials and other  
145 materials from Disposal at the Disposal Facility or transformation facilities (including facilities  
146 using incineration, pyrolysis, distillation, gasification or biological conversion methods) through  
147 source reduction, reuse, recycling and composting, as provided in section 41780 of the  
148 California Integrated Waste Management Act of 1989, as such California Integrated Waste  
149 Management Act may be hereafter amended or superseded.

150           1.17 E-Waste. Waste that is powered by batteries or electricity, such as computers,  
151 telephones, answering machines, radios, stereo equipment, tape players/recorders,  
152 phonographs, videocassette players/recorders, compact disc players/recorders, calculators and  
153 other items also defined as CEDs.

154           1.18 Food Scraps. Raw or cooked vegetable, fruit, grain, fish, and other items,  
155 including meat, bones, dairy products, cooking fats, oil or kitchen grease; paper, cardboard, and  
156 other compostable items that have been contaminated with food, cooking fats, oil or kitchen  
157 grease; compostable or paper or plastics associated with food preparation or consumption, such  
158 as paper towels, paper plates, paper cups, tissue, waxed paper and waxed cardboard; and  
159 other materials agreed upon by the MM&O Collection Contractor and CITY that are capable of  
160 being composted and that are set out separate from Mixed Materials for Collection as Organic  
161 Materials.

162           1.19 Force Majeure. Any acts of God, such as landslides, lightning, fires, storms,  
163 floods, pestilence, freezing, and earthquakes; explosions, sabotage, civil disturbances, acts of a  
164 public enemy, wars, terrorism, blockades, riots, or other industrial disturbances, eminent  
165 domain, condemnation or other taking, or other events of a similar nature, not caused or  
166 maintained by CITY or CONTRACTOR, which event is not reasonably within the control of the

167 party claiming the excuse from its obligations due to such event, to the extent such event has a  
168 significant and material adverse effect on the ability of a party to perform its obligations  
169 thereunder. Force Majeure shall not include power outages, fuel shortages, strikes, work  
170 stoppage or slowdown, sickout, lockout, picketing or other concerted job action conducted by or  
171 directed at CONTRACTOR or CONTRACTOR's employees or subcontractors. Force Majeure  
172 shall include a Change in Law if such Change in Law prohibits a party's performance hereunder.  
173 Notwithstanding the foregoing, (i) no event relating to a Disposal Facility, other than a Disposal  
174 Facility operated by CONTRACTOR or a related party of CONTRACTOR, or the delivery of  
175 Garbage, Mixed Materials and/or Residue to that facility shall constitute a Force Majeure under  
176 this contract unless (and then only to the extent) that such event prevents the delivery of or  
177 acceptance of Garbage, Mixed Materials and Residue to or by that facility; (ii) no failure of  
178 performance by any subcontractor of CONTRACTOR shall be a Force Majeure unless such  
179 failure was itself caused by a Force Majeure; (iii) except as provided herein, no event which  
180 merely increases CONTRACTOR'S cost of performance shall be a Force Majeure; and (iv) no  
181 event, the effects of which could have been prevented by reasonable precautions, including  
182 compliance with agreements and applicable laws, shall be a Force Majeure.

183 1.20 Garbage. All, putrescible and non-putrescible waste, non-recyclable packaging  
184 and rubbish attributed to normal activities of the service address wherein the Garbage is  
185 generated. Garbage does not include abandoned automobiles or those items defined herein as  
186 Unacceptable Waste.

187 1.21 Gas Control Credits. All greenhouse gas credits, carbon credits and other similar  
188 credits that can be received for the control of gases emitted by the Disposal Facility, such as  
189 emission cap and trade allowances issued under the Regional Greenhouse Gas Initiative or the  
190 rules of any of its member states, and any emission credit authorized by the Global Warming  
191 Solutions Act for the reduction of greenhouse gases.

192 1.22 Guarantor. USA Waste of California, Inc.

193 1.23 Guaranty. The document contained in Exhibit 3, which is attached to and  
194 included in this Contract that is executed by the Guarantor guaranteeing the timely and full  
195 performance of CONTRACTOR'S obligations.

196 1.24 Hazardous Waste. For purposes of this Contract, Hazardous Waste shall include  
197 those wastes defined as Hazardous Waste in Oakland Municipal Code Section 8.28.010 or as  
198 subsequently amended. Section 8.28.010 currently defines Hazardous Waste as any  
199 hazardous waste, material, substance or combination of materials which because of its quantity,  
200 concentration, or physical, chemical, or infectious characteristics may cause, or significantly  
201 contribute to an increase in mortality or an increase in serious irreversible, or incapacitating  
202 reversible illness; or may pose a substantial present or potential risk to human health or the  
203 environment when improperly treated, stored, transported, disposed or otherwise managed; and  
204 which requires special handling under any present or future federal, State or local law, excluding  
205 de minimis quantities of waste of a type and amount normally found in residential Garbage after  
206 implementation of programs for the safe Collection, recycling, treatment and Disposal of  
207 Household Hazardous Waste in compliance with Sections 41500 and 41802 of the California  
208 Public Resources Code. Hazardous Waste shall include, but not be limited to: (a) substances  
209 that are toxic, corrosive, inflammable or ignitable; (b) petroleum products, crude oil (or any  
210 fraction thereof) and their derivatives; (c) explosives, asbestos, radioactive materials, toxic  
211 substances or related hazardous materials; and (d) substances defined, regulated or listed  
212 (directly or by reference) by applicable local, State or federal law as "hazardous substances,"  
213 "hazardous materials," "hazardous wastes," "pollutant," "reproductive toxins," "toxic waste," or

214 "toxic substances," or similarly identified as hazardous to human health or the environment,  
215 including those so defined in or pursuant to any of the following statutes: (i) the Comprehensive  
216 Environmental Response, Compensation and Liability Act (CERCLA) of 1980, 42 USC section  
217 9601 et seq. (CERCLA); (ii) the Hazardous Materials Transportation Act, 49 USC section 1802,  
218 et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC section 6901 et seq.; (iv) the  
219 Clean Water Act, 33 USC section 1251 et seq.; (v) California Health and Safety Code section  
220 25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USC section 7901 et seq.;  
221 and (vii) California Water Code section 13050; all rules and regulations adopted and  
222 promulgated pursuant to such statutes, and future amendments to or recodifications of such  
223 statutes, and any regulations adopted pursuant to these statutes after the date of this Contract,  
224 as well as any subsequently enacted federal or California statute relating to the use, release or  
225 disposal of toxic or hazardous substances, or to the remediation of air, surface waters,  
226 groundwater, soil or other media contaminated with such substances; any other hazardous or  
227 toxic substance, material, chemical, waste or pollutant identified as hazardous or toxic or  
228 regulated under any other applicable federal, State or local environmental laws currently  
229 existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated  
230 biphenyl's ("PCBs"), petroleum, natural gas and synthetic fuel products, and by-products. The  
231 parties intend that this definition not be limited to any particular statutory or regulatory regime  
232 and that it be construed as broadly as possible.

233 1.25 Household Hazardous Waste ("HHW"). Any Hazardous Waste generated at a  
234 single family or multi-family service address within the CITY, including, but not limited to,  
235 cleaning products, automotive products, fuel, lubricants, E-Wastes, paints, painting supplies,  
236 fluorescent lamps, compact fluorescent lamps, varnishes, solvents, herbicides, pesticides,  
237 fertilizers, automobile batteries, household batteries, adhesives, and Universal Waste.

238 1.26 Labor Disruption. Labor Disruptions are defined as strikes, slowdowns, sickout,  
239 picketing, other concerted job actions, directed at CONTRACTOR, CONTRACTOR's employees  
240 or subcontractors, excluding lockouts or stoppages conducted or initiated by CONTRACTOR.

241 1.27 Landfill Gas-to-Energy Credits. All energy credits, fuel production credits and  
242 other similar credits that may be available for the creation of a fuel or the production of  
243 alternative energy.

244 1.28 Large Plant Debris. Oversized Plant Debris such as tree trunks, branches or  
245 untreated and unpainted wood with a diameter of more than six (6) inches and not more than  
246 two (2) feet, or a length of more than four (4) feet and no more than six (6) feet, or weighing not  
247 more than seventy-five (75) pounds.

248 1.29 Material Recovery Facility or MRF. Any facility, selected by the Collection  
249 Contractor(s) and approved by CITY, or specifically designated by CITY, designed, operated,  
250 and legally permitted for the purpose of receiving, sorting, Processing, storing, or preparing  
251 Recyclable Materials, Organic Materials or Mixed Materials.

252 1.30 Maximum Service Rates. Those maximum service rates approved by CITY and  
253 included in the then-current Mixed Materials and Organics Collection Services Contract with the  
254 CITY of Oakland.

255 1.31 Mixed Materials. All Garbage, Recyclable Materials, Organic Materials and Bulky  
256 Goods, excluding items that are source separated from Garbage. Mixed Materials do not  
257 include items defined herein as Unacceptable Waste.

258 1.32 Mixed Materials and Organics (MM&O) Collection Contractor. The company  
259 holding a current Mixed Materials and Organics Collection Services Contract with the CITY of  
260 Oakland.

261 1.33 Mixed Materials Residue. Materials remaining after the Processing of Mixed  
262 Materials that cannot reasonably be Diverted from the Landfill.

263 1.34 Organic Materials ("Organics"). Plant Debris, Food Scraps, compostable food  
264 ware, compostable food containers, compostable paper, horse stable matter, etc. Organic  
265 Materials do not include items herein defined as Unacceptable Waste.

266 1.35 Organic Materials Residue. Materials remaining after the Processing of Organic  
267 Materials that cannot reasonably be Diverted from the Landfill.

268 1.36 Person. An individual, association, partnership, corporation, joint venture, the  
269 United States, the State of California, any municipality or other political subdivision thereof, or  
270 any other entity whatsoever.

271 1.37 Plant Debris. Any vegetative matter resulting from normal yard and landscaping  
272 maintenance or unpainted and untreated wood that is not more than four (4) feet in its longest  
273 dimension or more than six (6) inches in diameter or weighs less than seventy-five (75) pounds  
274 per individual piece and can be handled by two (2) persons. Plant Debris includes palm, yucca,  
275 cactus, grass clippings, leaves, pruning, weeds, branches, brush, holiday trees and other forms  
276 of horticultural waste. Plant Debris does not include items defined herein as Unacceptable  
277 Waste.

278 1.38 Post-Closure. All activities and related costs during the period subsequent to the  
279 closure of the Disposal Facility or portions of the Disposal Facility in accordance with applicable  
280 laws and permits.

281 1.39 Processing or Process. An operation or series of operations, whether involving  
282 equipment, manual labor, or mechanical or biological processes that sorts, enhances, upgrades,  
283 concentrates, decontaminates, packages or otherwise prepares Recyclable Materials, Organic  
284 Materials, Mixed Materials or Bulky Goods and returns marketable elements thereof to the  
285 economic mainstream in the form of raw material for new, reused or reconstituted products.  
286 Processing begins at the time Mixed Materials, Recyclable Materials, Bulky Goods or Organic  
287 Materials are delivered to the Processing Facility and ends when the Processed materials are  
288 sold or reused, and the Residue is properly Disposed.

289 1.40 Recovered Materials. Recyclable Materials or Organic Materials removed at the  
290 Disposal Facility from Garbage, Mixed Materials or Residue and directed to recycling, reuse or  
291 compost processing.

292 1.41 Recyclable Materials. Those materials designated in this Contract or by CITY for  
293 Collection and Processing under the MM&O or RR Collection Service Contracts which are  
294 segregated from Mixed Materials by the CITY or service recipient at the source of generation.  
295 Recyclable Materials include newspaper, mixed paper (including white and colored paper,  
296 magazines, telephone books, chipboard, junk mail, and high grade paper) glass containers,  
297 metal containers (ferrous, non-ferrous, and bi-metal Containers including empty aerosol  
298 containers), aluminum foil and trays, milk and juice cartons, soup and juice boxes, all narrow  
299 neck rigid plastic containers, non-bottle rigid plastics, and corrugated cardboard. CITY and  
300 CONTRACTOR may mutually agree to include additional materials or remove materials from  
301 this list of Recyclable Materials.

302 1.42 Recyclable Materials Residue. Materials remaining after the Processing of  
303 Recyclable Materials that cannot reasonably be Diverted from the Landfill.

304 1.43 Residential Recycling (RR) Contractor. The company holding a current  
305 Residential Recyclable Materials Collection Services Contract with the CITY of Oakland.

306 1.44 Residue. Mixed Materials Residue, Organic Materials Residue and Recyclable  
307 Materials Residue.

308 1.45 Ton/Tonnage. A unit of measure for weight equivalent to two thousand (2,000)  
309 standard pounds where each pound contains sixteen (16) ounces.

310 1.46 Universal Waste ("U-Waste"). Materials that the California Department of Toxic  
311 Substances Control considers Universal Waste, (California Code of Regulations Title 22, Div  
312 4.5, Ch 23) including materials such as batteries, thermostats, lamps, cathode ray tubes,  
313 computers, telephones, answering machines, radios, stereo equipment, tape players/recorders,  
314 phonographs, video cassette players/recorders, compact disc players/recorders, calculators,  
315 some appliances, aerosol cans, fluorescent lamps, certain mercury-containing devices and such  
316 other items as may be added from time to time.

317 1.47 Unacceptable Waste. Any and all waste, including but not limited to, Hazardous  
318 Waste, the acceptance or handling of which would cause a violation of any permit condition or  
319 legal or regulatory requirement, damage or threatened damage to CONTRACTOR'S equipment  
320 or facilities, or present a substantial endangerment to the health or safety of the public or  
321 CONTRACTOR'S employees; provided, that de minimis quantities or waste of a type and  
322 amount normally found in Garbage, Mixed Materials, or Residue after implementation of  
323 programs for the safe Processing, treatment, and Disposal of Household Hazardous Waste  
324 shall not constitute Unacceptable Waste.

325 1.48 Work Day. Any day, Monday through Saturday that is not a holiday as set forth  
326 in Section 5.06 of this Contract.

327 **ARTICLE 2. REPRESENTATIONS AND WARRANTIES OF**  
328 **CONTRACTOR**

329 CONTRACTOR hereby makes the following representations and warranties for the benefit of  
330 CITY as of the date of this Contract.

331 2.01 Corporate Status. CONTRACTOR is a corporation duly organized, validly  
332 existing and in good standing under the laws of the state of California. It is qualified to transact  
333 business in the State of California and has the corporate power to own its properties and to  
334 carry on its business as now owned and operated and as required by this Contract.

335 2.02 Corporate Authorization. CONTRACTOR has full legal right, power and authority  
336 to execute, deliver and perform its obligations under this Contract. The Board of Directors of  
337 CONTRACTOR (or the shareholders if necessary) has taken all actions required by law, its  
338 articles of incorporation, its bylaws or otherwise to authorize the execution and delivery of this  
339 Contract. The Persons signing this Contract on behalf of CONTRACTOR have authority to do  
340 so.

341 2.03 Contract Duly Executed. The Persons signing this Contract on behalf of  
342 CONTRACTOR have been authorized by CONTRACTOR to do so, and this Contract has been  
343 duly executed and delivered by CONTRACTOR in accordance with the authorization of its

344 Board of Directors or shareholders, if necessary, and constitutes a legal, valid, and binding  
345 obligation of CONTRACTOR enforceable against CONTRACTOR in accordance with its terms.

346       2.04 No Conflict With Applicable Law or Other Documents. To the best of  
347 CONTRACTOR's knowledge, neither the execution and delivery by CONTRACTOR of this  
348 Contract nor the performance by CONTRACTOR of its obligations hereunder:

349               2.04.1 Conflicts with, violates or will result in a violation of any existing applicable  
350 law; or

351               2.04.2 Conflicts with, violates or will result in a breach or default under any term  
352 or condition of any existing judgment, order or decree of any court, administrative agency or  
353 other governmental authority, or of any existing contract or instrument to which CONTRACTOR  
354 is a party, or by which CONTRACTOR or any of CONTRACTOR'S properties or assets is  
355 bound; or

356               2.04.3 Will result in the creation or imposition of any lien, charge, or  
357 encumbrance of any nature whatsoever upon any of the properties or assets of CONTRACTOR  
358 which will interfere materially with CONTRACTOR'S performance hereunder.

359       2.05 No Litigation. There is no action, suit, proceeding or action at law or equity, or to  
360 the best of CONTRACTOR'S knowledge, any investigation before or by any court or  
361 governmental entity, pending or threatened against CONTRACTOR or otherwise affecting  
362 CONTRACTOR, wherein an unfavorable decision, ruling or finding, in any single case or in the  
363 aggregate, would materially adversely affect CONTRACTOR'S performance hereunder, or  
364 which in any way would adversely affect the validity or enforceability of this Contract, or which  
365 would have a material adverse effect on the financial condition of CONTRACTOR or its parent  
366 company.

367       2.06 Financial Ability, Disclosures, No Material Change. CONTRACTOR has  
368 sufficient financial resources to perform all aspects of its obligations hereunder.  
369 CONTRACTOR has provided CITY with audited financial statements that present fairly, in  
370 accordance with generally accepted accounting principles, the financial resources of  
371 CONTRACTOR. There has been no material adverse change in CONTRACTOR'S or  
372 CONTRACTOR'S parent company's financial circumstances since the date of the most recent  
373 financial statements.

374       2.07 Expertise. CONTRACTOR has the expert, professional, and technical capability  
375 to perform all of its obligations under this Contract.

376       2.08 CONTRACTOR'S Statements. CONTRACTOR'S proposal and any other  
377 supplementary information submitted to CITY that CITY has relied on in negotiations and  
378 entering into this Contract, do not: (i) contain any untrue statement of a material fact, or (ii) omit  
379 to state a material fact that is necessary in order to make the statements made, in light of the  
380 circumstances in which they were made, not misleading.

381       2.09 CONTRACTOR'S Investigation. CONTRACTOR has made an independent  
382 investigation (satisfactory to it) of the conditions and circumstances surrounding this Contract  
383 and the work to be performed by CONTRACTOR under the Contract, and enters into this  
384 Contract on the basis of that independent investigation.

385

### ARTICLE 3. TERM OF CONTRACT

386           3.01 Initial Term. The term of this Contract shall be for a twenty (20) year term  
387 beginning on July 1, 2015, and terminating on June 30, 2035. CITY, in its sole discretion, shall  
388 have an option to extend the Contract for up to two (2) additional five (5) year periods.

389           3.01.1 First Extension. On or about April 1, 2033, CITY, at its sole discretion  
390 may extend this Contract by five (5) years by notifying CONTRACTOR of its intension to do so  
391 in writing.

392           3.01.2 Second Extension. On or about April 1, 2038, CITY, at its sole discretion  
393 may extend this Contract by five (5) years by notifying CONTRACTOR of its intension to do so  
394 in writing.

395           3.01.3 No Right to Extension. Nothing in the foregoing paragraphs or otherwise  
396 set forth in this Contract is intended to create a right in favor of CONTRACTOR to obtain either  
397 the first or second extension.

398

### ARTICLE 4. OBLIGATIONS OF CITY

399           4.01 General. CITY and CONTRACTOR acknowledge that CITY will not be  
400 responsible for the payment of Disposal Tipping Fees for Mixed Materials, Garbage or Residue  
401 that the Collection Contractor(s) deliver to the Disposal Facility. CITY contractually controls the  
402 delivery of Mixed Materials and Garbage Collected in CITY and Residue from Mixed Materials  
403 Processing activities by the MM&O Collection Contractor and shall direct the MM&O Collection  
404 Contractor to deliver such Mixed Material, Garbage or Mixed Material Residue to the Disposal  
405 Facility. CONTRACTOR acknowledges that CITY has no ability to direct individuals who self-  
406 haul to use the Disposal Facility. CITY may utilize CITY staff and vehicles to haul Mixed  
407 Materials, Garbage, Bulky Goods or other materials generated by or at any building, structure,  
408 yard, park, or any other facility owned, leased, or operated by CITY to the Disposal Facility.  
409 CONTRACTOR shall bill CITY for CITY-hauled loads at no more than the then current Disposal  
410 Tipping Fee, as calculated under this Contract, for the type of material being hauled.

411           4.02 Hazardous Waste Programs. CITY shall contractually require its Collection  
412 Contractor(s) to develop and implement a load inspection program to detect and discover  
413 Hazardous Waste and Household Hazardous Waste and shall prohibit Collection Contractor(s)  
414 from knowingly delivering such material to the Disposal Facility. CITY shall encourage its  
415 residents to participate in the Alameda County Household Hazardous Waste Program that  
416 provides residents with a place for safe recycling, treatment, and/or disposition of Household  
417 Hazardous Waste. The parties recognize, however, that CITY cannot assure CONTRACTOR  
418 that such programs will prevent any amount of Hazardous Waste or Household Hazardous  
419 Waste from being delivered to the Disposal Facility.

420           4.03 No Limit on Waste Prevention. CITY, Collection Contractor(s) or other CITY  
421 agents will continue to develop and participate in waste prevention activities including, source  
422 reduction and Diversion activities, which may reduce the amount of material delivered to the  
423 Disposal Facility. Nothing in this Contract shall restrict CITY, Collection Contractor(s) or other  
424 CITY agents from any such activities.

425 **ARTICLE 5. OBLIGATIONS OF CONTRACTOR**

426 5.01 General. During the term of this Contract, and consistent with Section 5.12  
427 herein, CONTRACTOR shall provide Disposal Services under the terms and conditions of this  
428 Disposal Services Contract. CONTRACTOR shall perform its obligations with respect to  
429 Disposal Services hereunder in accordance with sound management and operations practice,  
430 regulatory and permit requirements, applicable law, the provisions hereof, and covenants,  
431 conditions, and restrictions pertaining to the Disposal of Mixed Materials, Garbage and Residue.

432 5.02 Facility Permits.

433 5.02.1 Existing Permits. CONTRACTOR shall obtain, at its own expense, all  
434 permits and licenses required by law or ordinance and maintain same in full force and effect  
435 throughout the term of this Contract. CONTRACTOR shall provide proof of such permits,  
436 licenses or approvals and shall demonstrate compliance with the terms and conditions of such  
437 permits, licenses and approvals upon the request of the Contract Manager.

438 5.02.1.1 CONTRACTOR shall keep CITY fully informed, in a timely  
439 manner, of its progress in securing permits, or renewals of permits that occur during the term of  
440 this Contract as they pertain to the Disposal operations at the Disposal Facility in accordance  
441 with this Contract and the costs related thereto.

442 5.02.1.2 CONTRACTOR shall provide CITY, upon CITY'S request,  
443 with copies of any applications that CONTRACTOR submits to any regulatory body in  
444 connection with the issuance of new permits, or the extension, revision or modification of  
445 existing permits with respect to the Disposal Facility.

446 5.02.2 CONTRACTOR Compliance with Permits. CONTRACTOR shall comply  
447 with all permits, terms, and conditions of such permits as they may be amended or superseded  
448 related to the operation and maintenance of the Disposal Facility. Over the term of this  
449 Contract, CONTRACTOR shall be solely responsible for assuring that the facility is operated in  
450 compliance with all requirements of the California Environmental Quality Act (CEQA).  
451 CONTRACTOR shall be solely responsible for paying any fines or penalties imposed by  
452 governmental agencies for CONTRACTOR'S noncompliance with permit terms or  
453 CONTRACTOR'S failure to obtain or maintain compliance with the requirements of the permits  
454 necessary to operate the Disposal Facility.

455 5.03 Operations. CONTRACTOR, at its cost and expense, shall operate the Disposal  
456 Facility in the manner required by applicable law and permits. CONTRACTOR'S responsibilities  
457 for the Disposal Facility shall include, but are not limited to, the following:

458 5.03.1 Operation, management, and maintenance of the Disposal Facility will  
459 comply with sound management and operations practice, regulatory and permit requirements,  
460 applicable law, standard industry practices, and covenants, conditions and restrictions  
461 pertaining to the site;

462 5.03.2 Provision, operation, and maintenance of all equipment, rolling stock, and  
463 supplies necessary for operations, and environmental monitoring; and

464 5.03.3 Operation, maintenance and management of leachate and Disposal  
465 Facility gas management systems, groundwater monitoring and management systems, storm  
466 water drainage and control systems, treatment facilities, buildings, on-site roadways, utilities,  
467 and any other required facility elements.

468           5.04 Days and Hours of Operation. CONTRACTOR shall operate the Disposal  
469 Facility for the receipt of Mixed Materials, Garbage and Residue in accordance with the days  
470 and hours of operation as set forth in all permits. At a minimum, CONTRACTOR shall accept  
471 Mixed Materials, Garbage and Residue delivered by the Collection Contractor(s) Monday  
472 through Friday from 6:00 a.m. to 5:00 p.m. and Saturday from 6:00 a.m. to 4:30 p.m.  
473 CONTRACTOR may not reduce the hours or total number of hours for acceptance of Mixed  
474 Materials, Garbage and Residue delivered by the Collection Contractor(s) required by the  
475 Contract without the concurrence of CITY and Collection Contractor(s) except where such  
476 changes are required by a change in the Disposal Facility permits.

477           5.05 Emergency Services. In the event of a tornado, major storm, earthquake, fire,  
478 natural disaster or other such event, the Contract Manager may require CONTRACTOR to  
479 extend the hours of operation in order to accept materials from CITY'S Collection Contractor(s).  
480 However, CONTRACTOR shall not be required to extend the hours of operation to the extent  
481 that such extension would cause CONTRACTOR to violate its permit(s).

482           5.06 Holidays. CONTRACTOR shall not be required to accept Mixed Materials,  
483 Garbage or Residue from the Collection Contractor(s) at the Disposal Facility on January 1,  
484 Thanksgiving Day and December 25.

485           5.07 Average Turnaround Time.

486           5.07.1 In the event CONTRACTOR is not the MM&O Collection Contractor as  
487 defined under this Contract, CONTRACTOR shall operate the Disposal Facility so that all  
488 MM&O Collection Contractors' vehicles are processed, unloaded, and exited from the facility no  
489 more than twenty (20) minutes, on average, after arriving at the scale house and mounting the  
490 scale to weigh-in. For purposes of this 5.07.1, "on average" shall be calculated on a monthly  
491 basis.

492           5.07.2 In the event CONTRACTOR is the MM&O Collection Contractor, but  
493 CITY has exercised its authority to have other personnel Collect and deliver Mixed Materials,  
494 Garbage or Residue to the Disposal Facility as a result of a strike or other labor unrest,  
495 CONTRACTOR shall operate the Disposal Facility so that all Collection vehicles delivering  
496 Mixed Materials, Garbage and Residue from CITY are processed, unloaded, and exited from  
497 the facility no more than twenty (20) minutes, on average after arriving at the scale house and  
498 mounting the scale to weigh-in, unless CITY has approved a labor peace plan specifying a  
499 longer time period.

500           5.08 Scale Operation.

501           5.08.1 Weighing Standards and Procedures. The scale house(s) at the Disposal  
502 Facility entrance shall serve as the location for weighing vehicles and charging Tipping Fees as  
503 provided herein. All weighing shall be conducted by CONTRACTOR or its agents by a licensed  
504 weigh master. CONTRACTOR scale house personnel shall be responsible for inspecting the  
505 Mixed Materials, Garbage and Residue delivered to the Disposal Facility. The Collection  
506 Contractor(s)' vehicles shall be charged Tipping Fees based on the Tonnage of Mixed  
507 Materials, Garbage and Residue accepted by the Disposal Facility and the applicable Disposal  
508 Tipping Fees as set forth in Exhibit 1 which is attached to and included in this Contract.  
509 CONTRACTOR shall weigh and record inbound weights of all Collection Contractor(s) vehicles  
510 when the vehicles arrive at the Disposal Facility. In addition, CONTRACTOR shall weigh and  
511 record outbound weights of such vehicles for which CONTRACTOR does not maintain tare  
512 weight information. CONTRACTOR shall provide each driver with a receipt showing the date,  
513 time, and quantity and type of Mixed Materials, Garbage or Residue delivered to the Disposal

514 Facility and the Tipping Fee charged for such material. The scale house computer system shall  
515 compile information into various reports, which typically include for each transaction, date of  
516 receipt, inbound and (as applicable) outbound times, documentation of the Tipping Fee  
517 charged, inbound and outbound weights of vehicle, vehicle identification number, hauler  
518 identification and/or classification, customer account, material type, vehicle type, weight of load,  
519 and invoice number.

520           5.08.2 Maintenance and Operation. CONTRACTOR shall maintain, in  
521 accordance with applicable law, at least two (2) State-certified motor vehicle scales at the  
522 Disposal Facility. All scales shall be linked to a centralized computer recording and billing  
523 system which shall be compatible with CONTRACTOR'S systems and account for tracking all  
524 incoming and outgoing materials. CONTRACTOR shall operate such scales during facility  
525 receiving hours, established in Section 5.04, provided that CONTRACTOR shall provide CITY  
526 with access to weighing information at all times and copies thereof within three Work Days of  
527 request from CITY.

528           5.08.3 Vehicle Tare Weights. Between the time this Contract is executed and  
529 June 1, 2015, CONTRACTOR shall weigh and determine the unloaded ("tare") weight of each  
530 MM&O Collection Contractor's vehicles to be used to deliver Mixed Materials, Garbage or Mixed  
531 Materials Residue to the Disposal Facility beginning July 1, 2015. Before July 1, 2015,  
532 CONTRACTOR shall provide CITY and MM&O Collection Contractor with a report listing vehicle  
533 tare weight information, which shall include, at a minimum, hauler name, tare weight, vehicle  
534 identification number, and date tare weight was determined. CONTRACTOR shall, at least  
535 every six (6) months, reweigh and revise tare weights for all MM&O Collection Contractors'  
536 vehicles used to deliver Mixed Materials, Garbage or Mixed Materials Residue to the Disposal  
537 Facility.

538           5.08.3.1       When CONTRACTOR is notified in writing by the MM&O  
539 Contractor that new vehicles have been placed into service or significant repairs have been  
540 made to vehicles, CONTRACTOR shall promptly weigh such vehicles and determine the tare  
541 weight of each vehicle. Within ten (10) Work Days of weighing, CONTRACTOR shall provide  
542 CITY and MM&O Collection Contractor with a report listing vehicle tare weight information.  
543 CONTRACTOR, CITY, and MM&O Collection Contractor shall have the right to request re-  
544 weighing of vehicles up to two (2) times per year, unless there is reasonable suspicion or  
545 evidence that tare weights are not accurate, in which case the scales shall be recalibrated in  
546 accordance with the provision so of Section 5.08.6 and tare weights shall be updated. (Note:  
547 Sections 5.08.3 and 5.08.3.1 may be deleted or modified based on the final Disposal Services  
548 Contract award.)

549           5.08.4 Substitute Scales. To the extent practicable, if a scale is inoperable,  
550 being tested or otherwise unavailable, all vehicles shall be weighed on the remaining operating  
551 scale(s). To the extent that all Disposal Facility scales are inoperable, being tested, or  
552 otherwise unavailable, CONTRACTOR shall substitute portable scales until the permanent  
553 scales are replaced or repaired. CONTRACTOR shall arrange for any inoperable scale to be  
554 repaired as soon as possible and, in any event, within three (3) Work Days of the failure of the  
555 permanent scale. CONTRACTOR shall arrange to immediately obtain a temporary substitute  
556 scale(s) should the repair of the permanent scale require more than twelve (12) hours.

557           5.08.5 Estimates. Pending substitution of portable scales or during power  
558 outages, CONTRACTOR shall estimate the Tonnage of Mixed Materials, Garbage and Residue  
559 delivered to the Disposal Facility by utilizing the arithmetic average of that vehicle's recorded  
560 Tons of Mixed Materials, Garbage or Residue delivered on its preceding three (3) deliveries, on

561 the same day of the week, to the Disposal Facility, with the exception that the estimate of  
562 Tonnage in roll-off boxes shall be made by multiplying the estimated number of cubic yards of  
563 Mixed Materials, or Garbage delivered per non-compacted roll-off box by 0.25 Tons per cubic  
564 yard or compacted roll-off box by 0.50 Tons per cubic yard or such other amounts as may be  
565 agreed to in writing between CONTRACTOR and CITY.

566 5.08.5.1 All information required by this Article shall continue to be  
567 recorded for each delivery of Mixed Material, Garbage or Residue to the Disposal Facility during  
568 any period the scales are out of service.

569 5.08.6 Testing. CONTRACTOR shall test and calibrate all scales in accordance  
570 with applicable law, but at least every twelve (12) months. Upon CITY request, CONTRACTOR  
571 shall provide CITY with copies of test results. CONTRACTOR shall further test and calibrate  
572 any or all scales upon written request therefore by CITY, within three (3) Work Days of such  
573 request. If such test results indicate that the scale or scales complied with applicable law, CITY  
574 shall reimburse CONTRACTOR the direct costs of such tests. If such test results indicate that  
575 the scale or scales did not comply with applicable law, CONTRACTOR shall bear the costs  
576 thereof and CONTRACTOR shall at its own cost adjust and correct, consistent with the results  
577 of such test, all weight measurements recorded and Tipping Fees calculated, charged and paid,  
578 as the case may be, from the date of such request.

579 5.08.7 Records. CONTRACTOR shall maintain scale records that provide  
580 information such as, but not limited to, date of receipt, inbound and, (as applicable) outbound  
581 time, inbound and outbound weights of vehicles, Tipping Fee charged, vehicle identification  
582 number, vehicle type, type of material, hauler identification and/or classification, type, and  
583 weight. CONTRACTOR shall also maintain records of all outbound materials that provide  
584 information such as, but not limited to material type, weight, destination and revenue from sale  
585 of materials. CONTRACTOR'S records shall, to the extent practical, include the above  
586 information for all Oakland material delivered by self-haulers.

587 5.09 Personnel. CONTRACTOR shall engage and train qualified and competent  
588 employees, including managerial, supervisory, clerical, maintenance, and operating personnel,  
589 in numbers necessary and sufficient for operation of the Disposal Facility and to perform  
590 CONTRACTOR'S obligations hereunder.

591 5.10 Ownership of Materials. Once Mixed Materials, Garbage or Residue are  
592 delivered to the Disposal Facility by Collection Contractor(s), ownership and possession of such  
593 material shall transfer directly from the Collection Contractor(s) to CONTRACTOR.  
594 CONTRACTOR is hereby granted the right to retain, recycle, Process, Dispose, subject to the  
595 limitations set forth in Section 1.12 on allowable Disposal methodologies, and otherwise use  
596 such materials, or any part thereof, in any lawful fashion or for any lawful purpose desired by  
597 CONTRACTOR. Such right shall include CONTRACTOR'S right to retain any benefit resulting  
598 from its right to retain, recycle, Process, Dispose, or reuse the Mixed Materials, Garbage or  
599 Residue.

600 5.11 Rejection of Unacceptable Waste.

601 5.11.1 Inspection. CONTRACTOR shall use standard industry practices to  
602 endeavor to detect and discover Unacceptable Waste and shall not knowingly accept  
603 Unacceptable Waste at the Disposal Facility. CONTRACTOR shall comply with the inspection  
604 procedures contained in its permit requirements. CONTRACTOR shall promptly modify such  
605 procedure to reflect any changes in permits or applicable law.

606                   5.11.2 Unacceptable Waste Handling and Costs. CONTRACTOR shall arrange  
607 for or provide transportation and delivery to an appropriately permitted facility of all  
608 Unacceptable Waste, which has been accepted by CONTRACTOR, that are encountered and  
609 which cannot be accepted at the Disposal Facility. CONTRACTOR is solely responsible for  
610 handling and arranging transport and disposition of any Unacceptable Waste that is contained in  
611 or with Mixed Materials, Garbage or Residue accepted by CONTRACTOR, and for all related  
612 costs.

613                   5.11.3 Remedies for Rejected Materials. If CONTRACTOR rejects material  
614 delivered to the Disposal Facility by Collection Contractor(s), because it contains Unacceptable  
615 Waste including Hazardous Wastes, CONTRACTOR shall direct Collection Contractor(s) to  
616 remove and dispose of it in a safe and lawful manner, at the sole expense of the Collection  
617 Contractor(s). In the event that Unacceptable Waste is delivered to the Disposal Facility,  
618 CONTRACTOR shall be entitled to pursue whatever remedies, if any, it may have against  
619 Collection Contractor(s) bringing such Unacceptable Waste to the Disposal Facility, provided  
620 that in no case shall CITY be considered to have brought such Unacceptable Waste to the  
621 Disposal Facility. In the event the Collection Contractor(s) delivers Unacceptable Waste on a  
622 frequent or continuous basis and the Collection Contractor(s) refuses to provide for the proper  
623 handling and disposition of such Unacceptable Waste, CONTRACTOR shall provide written  
624 notice to CITY of such refusal by Collection Contractor(s). Nothing herein shall excuse  
625 CONTRACTOR from the responsibility of handling such Unacceptable Waste in a lawful manner  
626 and to arrange for the proper disposition of such materials. In the event the CITY delivers  
627 Unacceptable Waste to the Disposal Facility, CITY shall have the same responsibility as the  
628 Collection Contractor(s).

629                   5.11.4 Notification. In the event CONTRACTOR is not the Collection  
630 Contractor(s) and CONTRACTOR rejects delivered materials, CONTRACTOR shall  
631 immediately notify the Collection Contractor(s) verbally and then follow such verbal notification  
632 with written notice. The written notice will identify: the date and time of occurrence; material  
633 type; material weight or volume; characterization of material; and CONTRACTOR'S reason for  
634 rejection of the delivered material.

635                   5.12 Reservation of Disposal Capacity. CONTRACTOR guarantees its ability to  
636 accept and Dispose all Mixed Materials, Garbage and Mixed Material Residue delivered to the  
637 Disposal Facility by, or on behalf of, CITY, and CITY'S MM&O Collection Contractor, or  
638 successor for thirty (30) years from July 1, 2015. CONTRACTOR shall be responsible for  
639 reasonably estimating the quantity of capacity that it shall be required to provide to accept and  
640 Dispose of all Mixed Materials, Garbage and Mixed Materials Residue generated in CITY over  
641 the term of the Contract. CITY makes no representations, and is under no obligation, regarding  
642 the quantity or composition of the Mixed Material, Garbage and Mixed Material Residue to be  
643 delivered to the Disposal Facility by, or on behalf of, CITY and CITY'S MM&O Collection  
644 Contractor or successor.

645                   5.13 Alternate Disposal Facility.

646                   5.13.1 If CONTRACTOR becomes unable to accept Mixed Material, Garbage  
647 and Mixed Materials Residue generated in CITY at the Disposal Facility because it did not use  
648 reasonable business efforts in resisting changes, alterations and amendments to permits, or  
649 due to reasons within its control and which could have been avoided by the exercise of due  
650 care, or as the result of any labor unrest, including but not limited to, strike, slowdown, sick-out,  
651 picketing, or other concerted job action conducted by CONTRACTOR, CONTRACTOR'S  
652 employees or subcontractors, then and only if, and to the extent, CONTRACTOR is actually

653 prevented from accepting, Processing and/or transferring Mixed Materials, Garbage and Mixed  
654 Materials Residue at the Disposal Facility because of a concerted labor action, CONTRACTOR  
655 shall (i) accept, and Dispose of such Mixed Materials, Garbage and Mixed Materials Residue at  
656 another Disposal Facility owned by it (or by another company which is owned and controlled,  
657 directly or indirectly, by CONTRACTOR), at the then-current Disposal Tipping Fees in effect  
658 under this Contract, and shall pay any additional transportation costs incurred by the MM&O  
659 Collection Contractor in delivering the Mixed Materials, Garbage and Mixed Materials Residue  
660 to the other Disposal Facility, or (ii) shall arrange for all Mixed Materials, Garbage and Mixed  
661 Materials Residue to be accepted, and Disposed at a disposal facility not owned by it or an  
662 affiliated company, in which case CONTRACTOR shall pay any difference in the fees charged  
663 at such disposal facility plus any additional transportation costs incurred in delivering Mixed  
664 Materials, Garbage and Mixed Materials Residue to the disposal facility, and the then-current  
665 Disposal Tipping Fees in effect under this Contract. If as a result of a labor action directed at  
666 CONTRACTOR, CONTRACTOR makes arrangements that allow for continued operation of the  
667 Disposal Facility during the labor action, then it shall not be obligated to provide an alternative  
668 Disposal Facility and CITY shall be required to direct all Mixed Materials, Garbage and Mixed  
669 Materials Residue to the Disposal Facility, providing operations at the Disposal Facility are  
670 consistent with the requirements under this Contract.

671 5.13.2 If CONTRACTOR, despite using reasonable business efforts to resist  
672 changes, alterations and amendments to permits under Section 5.02, becomes unable to accept  
673 and Dispose of Mixed Materials, Garbage and Mixed Materials Residue generated in CITY at  
674 the Disposal Facility, or if CONTRACTOR becomes unable to accept and Dispose of Mixed  
675 Materials, Garbage and Mixed Materials Residue at the Disposal Facility as the result of an  
676 event of Force Majeure as defined herein then CONTRACTOR shall, to the extent it is legally  
677 able to do so, offer to accept and Dispose of Mixed Materials, Garbage and Mixed Materials  
678 Residue at another disposal facility owned by it (or by another company which is owned and  
679 controlled, directly or indirectly, by CONTRACTOR), at the then-current Disposal Tipping Fees  
680 in effect under this Contract. CONTRACTOR has no obligation, however, to pay for additional  
681 transportation costs incurred by the MM&O Collection Contractor. CITY has no obligation to  
682 accept such offer and, if CITY rejects such an offer, CITY may terminate this Contract by giving  
683 written notice in the manner as set forth in Article 21 of this Contract. Such termination shall be  
684 effective thirty (30) calendar days after CITY has given notice.

685 5.14 Monthly Report. Beginning on July 1, 2015, and monthly during the term of this  
686 Contract, CONTRACTOR shall provide a complete and accurate monthly report no later than  
687 twenty (20) calendar days after the end of the reporting month. Therefore, the first report will be  
688 due no later than August 20, 2015 for the reporting month of July 2015. The report shall be  
689 prepared in an electronic format in a form approved by the Contract Manager and shall, if  
690 requested by CITY, include data that can be uploaded by CITY. The report shall include the  
691 total Tonnage of Mixed Materials, Garbage and Residue generated in the CITY that was  
692 accepted and Disposed at the Disposal Facility and shall also list other applicable information,  
693 including date of receipt, inbound and outbound time, inbound and outbound weights of  
694 vehicles, Disposal Tipping Fee charged, vehicle identification number, vehicle type, type of  
695 material, hauler identification type, and weight, separately for each of the following categories  
696 for material Collected by the Collection Contractor(s) within CITY: residential Garbage, Mixed  
697 Materials, Mixed Materials Residue, residential Organic Materials Residue, or residential  
698 Recyclable Materials Residue, commercial Garbage, Mixed Materials, or Residue, and CITY  
699 Garbage, Mixed Materials, or Residue. In addition, the report shall include Tonnage information  
700 for materials generated in the CITY delivered by other companies, small vehicles, CITY hauled

701 materials, and other self-haulers, Recovered Materials and destination of outbound materials.  
702 The monthly report shall also include the following using an allocation methodology, where  
703 appropriate, that is acceptable to CITY:

704                   5.14.1 Tonnage information by material type for material accepted at the  
705 Disposal Facility;

706                   5.14.2 Number and nature of rejected loads during the month;

707                   5.14.3 In addition CONTRACTOR shall maintain and make the following  
708 information available to CITY upon request:

709                   5.14.3.1       Number and nature of occurrences in which  
710 CONTRACTOR identified Hazardous Waste inadvertently accepted; and

711                   5.14.3.2       Number and nature of any notices of violation.

712                   5.15 Annual Report of Disposal Facility Activity. Beginning February 15, 2016, and  
713 annually thereafter during the term of this Contract, CONTRACTOR shall submit a complete  
714 and accurate annual report of Disposal Facility activity to CITY. Annual reports shall be  
715 submitted no later than forty-five (45) calendar days after the end of each full or partial calendar  
716 year. Therefore, the first report will be due no later than February 15, 2016, for the partial  
717 calendar year of July 2015 through December 2015. The report shall be prepared in an  
718 electronic format in a form approved by the Contract Manager and shall, if requested by CITY,  
719 include data that can be uploaded by CITY. This report shall contain all items required by  
720 Section 5.14 in addition to the following: a list of parties that CONTRACTOR has guaranteed  
721 capacity to through written agreements, the annual estimated Tonnage to be delivered by each  
722 party, and the term of CONTRACTOR'S capacity commitment. In the event CONTRACTOR  
723 has agreements with private companies, the name of the party may be withheld from the list;  
724 however, the annual Tonnage estimate and term of the commitment must be provided.

725                   5.15.1 The annual report shall include information on amounts of Mixed  
726 Materials, Garbage and/or Residue delivered to the Disposal Facility and Disposed, Recycled or  
727 Diverted and other information that CITY may request in order to meet its related federal, State  
728 and local solid waste obligations.

729                   5.16 Correction of Reports. In the event CONTRACTOR is notified in writing by CITY  
730 of the need to resubmit a corrected monthly or annual report, as set forth in Section 5.14 or 5.15  
731 above, CONTRACTOR shall submit the corrected report within three (3) Work Days of the  
732 written notification.

733                   5.17 Closure and Post-Closure of Landfill. CONTRACTOR shall safely manage the  
734 Disposal Facility in full regulatory compliance not only during normal Disposal Facility operating  
735 period but also during the Disposal Facility closure and Post-Closure periods. CONTRACTOR  
736 acknowledges that it is solely responsible for: (i) the appropriate closure and Post-Closure  
737 activities of the Disposal Facility; and, (ii) the establishment and funding of any reserve funds  
738 required by applicable law for the purposes of providing funds for the payment of costs of  
739 closure of the Disposal Facility (or any Landfill cell within the Disposal Facility) or Post-Closure  
740 activities relating to the Disposal Facility. Without limitation, in no event shall CITY or Collection  
741 Contractor(s) be responsible for paying any deficiencies in such required reserves. In addition,  
742 CITY or Collection Contractors(s) shall have no responsibility to make any payments in the  
743 event that actual closure and Post-Closure costs relating to the Disposal Facility exceed the  
744 amounts upon which CONTRACTOR'S Disposal Tipping Fee was based on and the amount  
745 reserved by CONTRACTOR for such purposes.

746           5.18 Right to Enter Disposal Facility and Observe Operations. Upon reasonable  
747 written notice of not less than twenty-four (24) hours, CITY and its designated representative(s)  
748 shall have the right to enter, observe and inspect the Disposal Facility at any time during  
749 operations; conduct studies or surveys of the Disposal Facility; meet with the Disposal Facility  
750 manager(s) or their representatives at any time; and meet with other employees upon request,  
751 which request shall not be unreasonably denied by CONTRACTOR, provided that CITY and its  
752 representatives comply with CONTRACTOR'S reasonable safety and security rules and shall  
753 not interfere with the work of CONTRACTOR or its subcontractors. Upon CITY request,  
754 CONTRACTOR shall make personnel available to accompany CITY employees on inspections.  
755 CONTRACTOR shall ensure that its employees cooperate with CITY and respond to CITY'S  
756 reasonable inquiries.

757           5.19 Provision of Emergency Services. CONTRACTOR shall provide emergency  
758 services, at CITY'S request, in the event of major accidents, disruptions or natural calamities.  
759 CONTRACTOR shall be capable of providing emergency services within twenty-four (24) hours  
760 of notification by CITY, or as soon thereafter as is reasonably practical, in light of the  
761 circumstances. Emergency services that exceed CONTRACTOR'S obligations under this  
762 Contract including, but not limited to, obligations related to facility receiving hours, the types and  
763 quantities of permitted materials accepted at the Disposal Facility, and the nature of resource  
764 recovery activities, shall be compensated through a modification to the scope of services using  
765 procedures set forth on Section 5.20.

766           5.20 Maximum Service Rates.

767           5.20.1 Consistent with the limitations provided by Public Resources Code  
768 section 40059.2 and the obligations of CONTRACTOR set forth above, the following provisions  
769 are intended to address issues of defense and acceptance of the tender of defense and  
770 indemnity by CITY in the event that CITY and/or CONTRACTOR are named in any lawsuit (a)  
771 challenging CITY's setting of Maximum Service Rates for Collection Services under the MM&O  
772 Contract, provided that CONTRACTOR is also the MM&O Collection Contractor, or of the  
773 Disposal Tipping Fees under this Contract, (b) impacting the ability of CONTRACTOR to collect  
774 or retain Disposal Tipping Fees, and/or (c) in connection with the application of the California  
775 Constitution to the imposition, payment, or collection of Disposal Tipping Fees for services  
776 provided by CONTRACTOR under this Contract ("Maximum Service Rates Lawsuit").

777           5.20.2 In the event of a Maximum Service Rates Lawsuit, CITY shall actively  
778 defend such lawsuit, and CONTRACTOR agrees to cooperate with CITY to the extent practical  
779 and/or necessary. CONTRACTOR and CITY further agree to toll, during the pendency of any  
780 Maximum Service Rates Lawsuit, all cross claims against each other which are inconsistent with  
781 the Contract, including, but not limited to the tolling of any claim filed under the California  
782 Government Code. CONTRACTOR shall have no obligation to defend any lawsuit based on  
783 Maximum Service Rates, Disposal Tipping Fees, or that otherwise addresses any portion of the  
784 rates proposed by CONTRACTOR or the award of the Contract by CITY. In the event said  
785 lawsuit results in the reduction or elimination of any portion of the proposed rates by  
786 CONTRACTOR, the remedies set forth in the provisions below shall apply.

787           5.20.3 Nothing in this Section is intended to imply that any action of CITY or  
788 CONTRACTOR with regard to adoption, imposition or collection of Disposal Tipping Fees is  
789 violative of any laws, regulations or Constitutional provisions. These provisions are merely  
790 intended as a statement of an agreed upon process for defense and allocation of risks between  
791 CITY and CONTRACTOR in the event of a Maximum Service Rates Lawsuit, regardless of the  
792 merit or lack of merit of any of the claims set forth therein.

793                   5.20.4 CITY and CONTRACTOR agree, as more fully set forth in the Recitals to  
794 this Contract, that proper Disposal of Garbage and Residue is fundamental to the protection of  
795 the public health, safety and the well-being of the residents of CITY. CITY'S responsibility for  
796 ensuring the adequacy of these sanitation services in part provides the justification for the  
797 granting of an exclusive franchise to CONTRACTOR. This exclusive grant creates an  
798 obligation, subject to the terms and conditions of the Contract, that Disposal Services are  
799 continued to be provided even under difficult or adverse circumstances, such as but not limited  
800 to, natural disaster, labor unrest, and any period where legal actions impact the effectiveness of  
801 portions of this Contract.

802                   5.20.4.1 Specifically, with reference to any Maximum Service Rates  
803 Lawsuit, such legal actions shall not be considered a Change in Law or Force Majeure event  
804 excusing CONTRACTOR'S performance, except as otherwise excused as set forth below.

805                   5.20.4.2 During the pendency of any such litigation, and in the event a  
806 court of competent jurisdiction or other regulatory agency sets aside, invalidates or stays all or a  
807 portion of the Disposal Tipping Fees, then CITY and CONTRACTOR agree to undertake the  
808 following:

809                   5.20.4.2.1. CITY and CONTRACTOR agree to immediately  
810 meet and confer to negotiate in good faith any modifications to CONTRACTOR's obligations  
811 under this Contract to ensure provision of basic Disposal Services and enable CONTRACTOR  
812 to continue to bill and collect for the ongoing cost of services, including its return on capital and  
813 costs of operations. Nothing in this Contract, including those provisions relating to CITY's  
814 regulation of Disposal Tipping Fees, shall be read to limit CONTRACTOR's right to bill and  
815 collect for the cost of continuing provision of Disposal Service.

816                   5.20.4.2.2. CONTRACTOR shall provide basic Disposal  
817 Services. For the purposes of this Section 5.20, basic Disposal Services are those minimum  
818 services necessary to protect human health and the environment within the CITY as agreed to  
819 by and between CITY and CONTRACTOR. In the event CITY and CONTRACTOR are unable  
820 to agree on basic Disposal Services within a period not to exceed two weeks from that date on  
821 which a court of competent jurisdiction or other regulatory agency with authority reduces  
822 Disposal Tipping Fees, CONTRACTOR shall have the authority to make adjustments in  
823 services to mitigate against any revenue impacts resulting from a Maximum Service Rates  
824 Lawsuit. CONTRACTOR shall also have the right to implement all lawful "self-help" actions in  
825 order to receive payment for providing basic Disposal Services. CITY shall continue to provide  
826 nuisance abatement and may also take other urgency actions as necessary to facilitate  
827 CONTRACTOR'S continuation of basic Disposal Services and ability to obtain compensation  
828 therefor. The intent of this provision is to ensure that CONTRACTOR continues to receive  
829 compensation, including its rate of return, consistent with that specified in the Contract for the  
830 level of services provided. If certain services are reduced and/or eliminated as a result of a  
831 Maximum Service Rates Lawsuit, CITY agrees that during the term of the elimination of said  
832 services it shall not contract with any other company or party to provide these services and will  
833 contract only with CONTRACTOR to restore said services either during or after the conclusion  
834 of the Maximum Service Rates Lawsuit. If CITY finds it necessary to procure eliminated  
835 services, it shall do so from CONTRACTOR at commercially reasonable rates.

836                   5.20.4.2.3. In connection with providing basic Disposal  
837 Services, CONTRACTOR shall continue to charge for the cost of providing such services.  
838 CONTRACTOR shall, in coordination with CITY, reduce its charges in an amount corresponding  
839 to any CITY fee or charge set aside, invalidated, or stayed by such court, regulatory agency, or

840 otherwise agreed to. CONTRACTOR's reduced charges, to the extent they correspond to the  
841 Disposal Tipping Fees allowed under this Contract minus any such fee or charge set aside, are  
842 intended to generate revenue to CONTRACTOR not less than CONTRACTOR'S anticipated  
843 return on investment for the applicable calendar year. CONTRACTOR shall thereafter not be  
844 required to remit the amount of any disallowed fee or charge, provided it is not collected.

845 5.20.4.2.4. CONTRACTOR shall not be obligated to refund for  
846 any amount of previously collected fees or charges later set aside or invalidated by a court.  
847 CONTRACTOR and CITY deem the Disposal Tipping Fees to fix the actual reasonable cost of  
848 service as these rates and the escalation methodology set forth in this Contract are the result of  
849 a multi-year open competition for CITY's franchise Disposal Services. Any CITY fees or  
850 charges set aside by any court or CITY during the pendency of any Maximum Service Rates  
851 Lawsuit shall, to the extent they are collected, be paid into an escrow account established by  
852 CITY, which shall be made available for use pursuant to order of the court, or in the absence of  
853 such order to address CONTRACTOR's losses, if any, consistent with CITY's obligations set  
854 forth below.

855 5.20.4.2.5. If by virtue of an order by a court of competent  
856 jurisdiction, an order issued by a regulatory agency with authority, or pursuant to or an  
857 agreement between petitioner/plaintiff and CITY that affects all or a portion of the Disposal  
858 Tipping Fees, and this results in a loss to CONTRACTOR not otherwise recovered through a  
859 temporary reduction in services, CITY shall implement, with CONTRACTOR's consent, methods  
860 to recapture any losses that CONTRACTOR sustained under this Section 5.20. Such methods  
861 may include an adjustment in future Disposal Tipping Fees, a reduction in, or adjustment to,  
862 services and/or other obligations under the Contract, or such other lawful methods which may  
863 be agreed to by CITY and CONTRACTOR. Any method selected shall be designed to produce  
864 revenues that ensure CONTRACTOR fully recoups any and all demonstrated losses within no  
865 more than two years from that date on which Disposal Tipping Fees were reduced (or within two  
866 years following the trial court's determination in the event of a Maximum Service Rates Lawsuit),  
867 or, by the termination date of said Contract if less than two (2) years remain on the Term.  
868 CONTRACTOR shall have the right to terminate the Contract upon twelve (12) months written  
869 notice after the two (2) year period for recoupment of CONTRACTOR losses has expired, in the  
870 event CONTRACTOR has not been made whole for the demonstrated losses and no  
871 satisfactory agreement to address this shortfall has been reached between CONTRACTOR and  
872 CITY.

873 5.20.4.2.6. Nothing herein is intended to imply that California  
874 Constitution Articles XIII(C) or (D) apply to the Disposal Tipping Fees provided for under this  
875 Contract. The foregoing paragraphs are merely intended as a contractual allocation of risks in  
876 the event of an unanticipated event affecting the ability to impose or collect Disposal Tipping  
877 Fees.

878 5.21 Modifications to Scope of Service.

879 5.21.1 General. CITY may direct CONTRACTOR to perform additional services  
880 (including, but not limited to, performance of resource recovery activities) or modify the manner  
881 in which CONTRACTOR performs existing services (including, but not limited to, the  
882 modifications to or elimination of services). CONTRACTOR'S Disposal Tipping Fee shall be  
883 increased or decreased, as appropriate, to give effect to costs and losses (including but not  
884 limited to the recovery by CONTRACTOR of all costs and revenue losses associated with  
885 stranded assets and/or unrecovered capital) of these adjustments.

886                   5.21.2 Implementing Changes in Service. CONTRACTOR shall submit a  
887 proposal to perform such additional services pursuant to Section 5.20.3 below. CITY shall  
888 consider CONTRACTOR's proposal and upon CITY approval or determination, CITY will issue a  
889 notice approving the modification to the scope of service and determine the amount by which  
890 the Disposal Tipping Fee should be adjusted. CONTRACTOR shall implement the changes in  
891 accordance with the schedule directed by CITY, regardless of whether the parties agree on the  
892 Disposal Tipping Fee adjustment amount. If the parties do not agree on the adjustment amount,  
893 CONTRACTOR may challenge its adequacy pursuant to Article 28.

894                   5.21.3 Service Proposal. Within sixty (60) calendar days of CITY request for a  
895 proposal to modify services, CONTRACTOR shall present its proposal to modify existing  
896 services. At a minimum, the proposal shall contain a complete description of the following:

897                   5.21.3.1       Program objectives and goals to be used in measuring the  
898 success of the program as discussed in Section 5.20.5 below;

899                   5.21.3.2       Methodology to be employed (changes to equipment,  
900 staffing, etc.);

901                   5.21.3.3       Equipment to be utilized (equipment number, types,  
902 capacity, age, etc.);

903                   5.21.3.4       Labor requirements (changes in number of employees by  
904 classification);

905                   5.21.3.5       Provision for program publicity, education, and marketing  
906 (if appropriate);

907                   5.21.3.6       Estimate of the impact of the service modification  
908 (increased Diversion Tonnage, reduced costs, increased public service, etc.); and

909                   5.21.3.7       Five (5) year projection of the financial results of the  
910 program's operations in an operating statement format including documentation of the key  
911 assumptions underlying the projections and the support for those assumptions, giving full effect  
912 to the savings or costs to existing services.

913                   5.21.3.8       CITY may request the assistance of an independent third  
914 party to review the proposal. The reasonable costs of such review shall be paid by  
915 CONTRACTOR if the modification to the scope of services is initiated by CONTRACTOR or, by  
916 CITY if the modification to the scope of services is initiated by CITY. CONTRACTOR'S refusal  
917 to pay the reasonable cost of review of a CONTRACTOR-initiated proposal shall be grounds for  
918 CITY rejection of such proposal.

919                   5.21.3.9       CITY may request copies of, or access to,  
920 CONTRACTOR'S operating and business records reasonably required to verify the  
921 reasonableness and accuracy of the impacts associated with a modification to the scope of  
922 services. CONTRACTOR shall fully cooperate with CITY'S request and provide CITY and its  
923 agent(s) copies of or access to CONTRACTOR'S records.

924                   5.21.4 Termination for Cause. CITY shall have the right to terminate a program  
925 for cause, at no cost to CITY or CITY'S ratepayers if CONTRACTOR is not achieving the  
926 program's agreed to and defined goals and objectives as approved by CITY in accordance with  
927 Section 5.20.3. Prior to such termination CITY shall meet and confer with CONTRACTOR for a  
928 period of up to ninety (90) calendar days to resolve CITY'S concerns. Thereafter, CITY may  
929 terminate the program if CITY reasonably believes CONTRACTOR cannot meet or is not

930 meeting the agreed to and defined project goals and objectives. Notwithstanding these  
931 changes, CONTRACTOR shall continue the program during the ninety (90) day period unless  
932 instructed in writing by CITY to discontinue the program.

933           5.21.5 Termination without Cause. CITY shall also have the right to terminate a  
934 program without cause. Prior to such termination, and as a condition of the termination, CITY  
935 shall reimburse CONTRACTOR for all costs incurred for implementation and performance of the  
936 program that were identified in the program proposal prepared and submitted by  
937 CONTRACTOR and agreed to by CITY which will have not been funded or otherwise recovered  
938 through program compensation at the time the program is terminated. If any program is  
939 terminated or discontinued, CONTRACTOR will retain the exclusive right to provide services  
940 and handle materials within the scope of this Contract.

941           5.22 Recovered Materials. CONTRACTOR shall use reasonable efforts to operate  
942 the Disposal Facility so as to segregate Recoverable Materials. CONTRACTOR shall document  
943 the quantity of Recovered Materials removed from the Garbage, Mixed Materials or Residue  
944 delivered by the MM&O Collection Contractor and the quantity of such material Diverted from  
945 Disposal. CONTRACTOR shall calculate the quantity of Recovered Materials Diverted from  
946 Disposal on a monthly basis using a methodology acceptable to CITY and shall report thereon  
947 in accordance with reporting requirements set forth herein. CONTRACTOR shall provide  
948 resource recovery programs as may be agreed between CITY and CONTRACTOR to Divert  
949 Recoverable Materials from Disposal.

950           5.23 Other Services. CONTRACTOR shall provide additional services not otherwise  
951 contemplated under this Contract at a price to be mutually agreed upon between CITY and  
952 CONTRACTOR. In the event CONTRACTOR and CITY cannot agree on terms, conditions and  
953 price of such service or program CITY shall have the right to procure the service of other  
954 vendors or contractors to provide the requested service or program at a location other than  
955 CONTRACTOR'S Disposal Facility.

956           5.24 CITY Delivered Materials. CONTRACTOR shall dispose of dirt and debris, Bulky  
957 Goods, and tires with or without rims if offered for Disposal as Mixed Materials or Garbage  
958 which are collected by CITY crews and delivered by CITY vehicles to the Disposal Facility.

959           5.25 Non-Permitted Companies. CONTRACTOR recognizes that collection of  
960 Construction and Demolition Debris in CITY is regulated by CITY, and in most cases may only  
961 be performed by companies that have obtained permits from CITY for Construction and  
962 Demolition Debris collection. For those commercial loads containing materials that are  
963 identified by the individual delivering the materials as being generated in CITY, CONTRACTOR  
964 shall provide a monthly statement as part of the monthly report, listing the date and weight of  
965 each load, and the name of the company delivering each load. CONTRACTOR shall also post,  
966 on a sign in clear view of all customers, CITY'S requirement that a permit is required for  
967 companies delivering Construction and Demolition Debris generated in the CITY in Roll-Off  
968 Boxes to the Disposal Facility.

969           5.26 Notification of Non-Payment. CONTRACTOR shall notify the Contract Manager  
970 in writing or by email in the event the MM&O Contractor fails to pay invoices submitted by  
971 CONTRACTOR for the provision of Disposal Services within thirty (30) days of the due date.

972           5.27 Cessation of Disposal Services to MM&O Contractor. CONTRACTOR may  
973 cease to provide Disposal Services to CITY'S MM&O Contractor, only after giving CITY thirty  
974 (30) calendar days advance written notice, to be served as provided in Article 21, upon the  
975 happening of the following event

976 5.27.1 CONTRACTOR has provided written notice to CITY and CITY'S MM&O  
977 Contractor that CITY'S MM&O Contractor has failed to pay CONTRACTOR for Disposal  
978 Services for a period of two (2) months and said non-payment has not been cured within thirty  
979 (30) calendar days of receipt of written notice by CITY.

980 5.28 Service Resumption Protocol (Labor Disruptions). In the event of a Labor  
981 Disruption whereby employees of CONTRACTOR do not perform work for CONTRACTOR at  
982 normally anticipated levels or efficiency which affects the ability of the CONTRACTOR to  
983 provide Disposal Services in accordance with this Contract, CONTRACTOR shall comply with  
984 the following provisions, and only for the periods set forth below:

985 5.28.1 Within two (2) hours of notification to CONTRACTOR by labor that a  
986 Labor Disruption has been authorized, CONTRACTOR shall notify the Public Works Director  
987 and Contract Manager by telephone and or electronic communication and follow up with  
988 confirmation to the CITY Administrator within twelve (12) hours of such notice.

989 5.28.2 CONTRACTOR will bring in alternate work forces within three (3) Work  
990 Days of the commencement of a Labor Disruption for the purpose of providing Disposal  
991 Services in accordance with this Contract.

992 5.28.3 If necessary, CONTRACTOR shall provide disposal at an alternate  
993 Disposal Facility pursuant to Section 5.13.

994 5.28.4 If after thirty (30) days from the commencement of a Labor Disruption  
995 there is a continuing CONTRACTOR failure to materially perform the Disposal Services, such  
996 failure to perform shall be considered a default under Article 11 and CITY may cancel this  
997 Contract. In such an event, CITY shall not waive its right to seek damages from  
998 CONTRACTOR for any increase in cost as a result of the breach of this Contract by  
999 CONTRACTOR and the consequential election by CITY to cancel the Contract and move  
1000 forward with alternate collection alternatives.

1001 5.28.5 If CONTRACTOR fails to provide Disposal Services pursuant to Sections  
1002 5.27.2 and/or 5.27.3 within three (3) Work Days of a Labor Disruption, then CITY may begin to  
1003 impose liquidated damages under Section 24.01.1 for such failure no earlier than five (5) Work  
1004 Days after CONTRACTOR provides notice of the Labor Disruption to CITY. However, a claim  
1005 for liquidated damages may not be sought unless the Labor Disruption is caused by a dispute  
1006 between CONTRACTOR and the employees employed at facilities covered by this Contract.

1007 **ARTICLE 6. DISPOSAL TIPPING FEE**

1008 6.01 Disposal Tipping Fee. Except as provided in Section 6.04 with respect to a  
1009 Change in Law, the Disposal Tipping Fee established under this Section 6.01 includes all costs  
1010 associated with complying with all federal and State statutes, and CITY and County ordinances  
1011 concerning public health, safety and environmental issues and all laws, regulations, rules,  
1012 orders, judgments, degrees, permits, approvals, or other requirement of any governmental  
1013 agency having jurisdiction over the disposition of Mixed Materials, Garbage or Residue that are  
1014 in force on the Effective Date of this Contract, including any current provisions that become  
1015 effective on or which require compliance by a date after the Effective Date of this Contract. The  
1016 Disposal Tipping Fee comprises two (2) elements: 1) a Disposal Fee Element, and 2) a  
1017 Government Fee Element.

1018 6.01.1 Annual Adjustments to the Disposal Fee Element. Except as provided in  
1019 this Article 6, the Disposal Fee Element shall not be adjusted over the term of this Contract.

1020                   6.01.1.1     Annual Adjustment to Disposal Fee Element Prior to Start  
1021 of Disposal Services The Disposal Fee Element of the Disposal Tipping Fee as set forth in  
1022 Exhibit 1 to this Contract shall be adjusted on July 1, 2015, by the annual change in the  
1023 Consumer Price Index - All Urban Consumers, Series ID cuura422sa0, Not Seasonally  
1024 adjusted, San Francisco - Oakland-San Jose, California for the prior calendar year, January 1,  
1025 2014, through December 31, 2014.

1026                   6.01.1.2     Annual Disposal Fee Element Adjustment. Beginning on  
1027 July 1, 2016, and annually thereafter, the Disposal Fee Element of the Disposal Tipping Fee  
1028 shall be adjusted by the RRI adjustment as set forth in Exhibit 2. From and after the date that  
1029 Waste Management of Alameda County, Inc. or any affiliate thereof ceases to be the MM&O  
1030 Collection Contractor, except for those adjustments to the Disposal Fee Element with respect to  
1031 Changes in Law as specifically set forth in Section 6.04 of this Contract, the Disposal Fee  
1032 Element adjustment shall never increase or decrease by more than six (6) percent in any year  
1033 regardless of the calculated adjustment. If the six (6) percent limit is applied to adjustments in  
1034 the Disposal Fee Element of the Disposal Tipping Fee in any year, the difference between six  
1035 (6) percent and the percentage by which the Disposal Fee Element of the Disposal Tipping Fee  
1036 would have been increased or decreased in the absence of the six (6) percent limit will not be  
1037 considered in any future year.

1038                   6.01.1.3     Disposal Tip Fee Element Adjustment for July 1, 2025;  
1039 July 1, 2035; and July 1, 2040. In the event of a Change in Law and other legal restraints that  
1040 would allow the Disposal Facility to receive municipal solid waste from origins outside Alameda  
1041 County, the City and County of San Francisco and the City of San Ramon (collectively, the  
1042 "Existing Jurisdictions") in substantial quantities and CONTRACTOR ceases to be MM&O  
1043 Collection Contractor, then CITY may review the July 1, 2025 Disposal Fee Element to  
1044 determine whether an adjustment, either positive or negative, is warranted. The review shall be  
1045 based upon franchised municipal solid waste disposal agreements entered into by  
1046 CONTRACTOR after the date of this Contract for disposal periods of at least five (5) years, and  
1047 which involve annual volumes of municipal solid waste greater than forty-five thousand (45,000)  
1048 tons, and/or annual volumes of municipal solid waste greater than forty-five thousand (45,000)  
1049 tons arriving from transfer stations outside of the Existing Jurisdictions. The purpose of such  
1050 review is to consider whether the CITY's Disposal Tipping Fee is in line with the disposal tipping  
1051 fees charged by CONTRACTOR for municipal solid waste disposal that meets the comparison  
1052 criteria herein. Should CITY determine an adjustment may be warranted, the parties agree to  
1053 meet and confer in good faith to negotiate an appropriate adjustment, if any. However, any  
1054 such adjustment to the Disposal Fee Element shall be limited to no more than twelve (12)  
1055 percent of CONTRACTOR's Disposal Fee Element in the immediately prior year. A review  
1056 based on the same criteria would be conducted for the July 1, 2035 and July 1, 2040 Disposal  
1057 Fee Elements, should this Contract be extended. For purposes of price comparisons  
1058 hereunder, only those disposal agreements, or disposal components of franchise agreements  
1059 meeting the comparison criteria herein shall be considered.

1060                   6.02   Government Fees. The Disposal Tipping Fee includes the Government Fee  
1061 Elements set forth in Exhibit 1.

1062                   6.02.1 Changes in Government Fee Elements. Government Fee Elements shall  
1063 be adjusted each July 1 as needed, so that they equal the then current government fees  
1064 required to be paid by CONTRACTOR. In the event of a new government fee, or a change in  
1065 an existing government fee, which becomes effective at some time other than July 1 of any  
1066 year, CONTRACTOR shall be compensated for such change through the inclusion of a  
1067 "Retroactive Element" in the next rate adjustment. CITY and CONTRACTOR agree that the

1068 "Retroactive Element" shall be an amount needed to compensate CONTRACTOR for increases  
1069 in fees paid during the period from the inception of the fee increase through the subsequent  
1070 June 30 and shall not include interest, overhead or any other costs of any type. The  
1071 "Retroactive Element" shall only be included in the rate structure for twelve (12) months or that  
1072 period necessary to allow CONTRACTOR to recover all retroactive amounts, if less than twelve  
1073 (12) months, and shall be removed prior to calculating the rates to be set as of the subsequent  
1074 July 1. However, no governmental fees or charges to which CONTRACTOR agrees  
1075 contractually or negotiates shall be passed through to customers unless agreed to in writing by  
1076 CITY.

1077           6.02.2 Payment of Governmental Fees. CONTRACTOR shall pay, when and as  
1078 due, any and all governmental fees to the appropriate federal, State, regional, or local  
1079 governmental entities that levied the fees, and shall provide CITY with proof of such payments  
1080 promptly upon request.

1081           6.03 Annual Adjustment. The annual Disposal Tipping Fee adjustment shall comprise  
1082 the changes in the Disposal Fee Element, subject to the limitations set forth above, and the  
1083 changes in the Governmental Fee Elements.

1084           6.04 Changes in Disposal Fee Element Due to Changes in Law.

1085           6.04.1 The Disposal Fee Element in Exhibit 1 includes all costs associated with  
1086 complying with all existing laws, governmental regulations and permits applicable to the  
1087 Disposal Facility as of the date of this Contract and including requirements that may be imposed  
1088 on permits for which CONTRACTOR has applied for including amendments to permits, as of the  
1089 Effective Date of this Contract. The purposes of this Section 6.04 are (a) to specify the costs of  
1090 compliance with laws and governmental regulations that are included in the Disposal Fee  
1091 Element, as well as other similar costs, whose increase may not result in an increase in the  
1092 Disposal Fee Element, (b) to identify those laws and governmental regulations that may be  
1093 enacted in the future, a proportionate share of the cost of which may be the basis for an  
1094 increase in the Disposal Fee Element, and (c) to specify the method by which CITY'S  
1095 proportionate share of such costs will be determined.

1096           6.04.2 The Disposal Fee Element will not be increased as a result of any of the  
1097 following:

1098           6.04.2.1 Costs to comply with all laws and governmental regulations  
1099 existing as of the Effective Date, if any, which become effective, or which require compliance by  
1100 a date, after the Effective Date of this Contract, including but not limited to, all closure and Post-  
1101 Closure cost regulations.

1102           6.04.2.2 Costs due to CONTRACTOR'S negligence, active or  
1103 passive, or intentional misconduct, or fines or penalties for violations of law.

1104           6.04.2.3 Costs for which CONTRACTOR is already responsible  
1105 under other provisions of this Contract.

1106           6.04.2.4 Costs attributable to the classification of the Disposal  
1107 Facility that are only necessary in order to allow CONTRACTOR to accept material other than  
1108 Garbage or Residue at the Disposal Facility.

1109           6.04.2.5 Costs attributable to permits and amendments to permits,  
1110 (i) which have been issued to CONTRACTOR, or (ii) for which CONTRACTOR has applied for  
1111 by the Effective Date of this Contract (attached as Exhibit 4).

1112           6.04.3 The Disposal Fee Element may be increased to reflect CITY'S  
1113 proportionate share, determined as provided in Section 6.04.4, of the net increase in the  
1114 Disposal Fee Element attributable to the following, to the extent mandated by Changes in Laws:  
1115 (1) costs of making improvements or modifications at the Disposal Facility, (2) costs of  
1116 performing closure/Post-Closure monitoring at the Disposal Facility, and/or (3) costs caused  
1117 directly by, or directly necessary for operations at the Disposal Facility, including costs of site-  
1118 specific record keeping and reporting, if such costs (in items (1), (2), and/or (3)) are necessary  
1119 to comply with changes to the existing laws and governmental regulations enacted or  
1120 promulgated after the Effective Date of this Contract, and not otherwise excluded by virtue of  
1121 Section 6.04.2.1, with new laws and governmental regulations enacted or promulgated after the  
1122 Effective Date of this Contract and not otherwise excluded by virtue of Section 6.04.2, with new  
1123 permits and changes to the terms and conditions contained in existing permits (except as  
1124 provided in Section 6.04.2) applicable to the Disposal Facility.

1125           6.04.3.1 This Article is not intended to allow the Disposal Fee  
1126 Element to be increased to cover increased overhead and general or administrative expenses  
1127 unless they can be specifically identified and related to disposal of Mixed Materials, Garbage or  
1128 Residue Collected in CITY, e.g., a laboratory technician added at the regional level, and which  
1129 are attributable to Changes in Law.

1130           6.04.4 Proportionate Share of Disposal Facility Costs. To the extent that the net  
1131 increase in costs of complying with Changes in Law are attributable to material already in place  
1132 at the Disposal Facility at the time such Change in Law occurs, then CITY'S proportionate share  
1133 of the present value of such increases in costs shall be determined by multiplying such increase  
1134 in costs by a fraction, the numerator of which is the amount of material as of the time of increase  
1135 is computed that is deposited at the Disposal Facility which was delivered under this Contract  
1136 and the denominator of which is the total amount of material then deposited at the Disposal  
1137 Facility from all sources. The costs of compliance with Changes in Law described in this Section  
1138 shall be calculated on a "per Ton" basis, amortized over the useful life of the facilities  
1139 constructed, and the annual amortization incorporated in the Disposal Tipping Fee over the  
1140 remaining term of this Contract. The annual increase in the Disposal Fee Element attributable  
1141 to the amortization of such costs shall be determined by dividing CITY'S aggregate  
1142 proportionate share of such costs by (i) the remaining term of this Contract and (ii) the average  
1143 number of Tons of Mixed Materials and Garbage collected from within CITY'S boundaries  
1144 during the preceding year. The annual amortization described in the prior sentence shall be  
1145 added to the Disposal Fee Element after said Disposal Fee Element is otherwise adjusted for  
1146 said year as set forth in Section 6.01.1, adjustments to reflect changes in the Governmental  
1147 Fees Element as described below, and adjustments to the Disposal Fee Element described in  
1148 the following Section.

1149           6.04.4.1 To the extent that the costs of complying with Changes in  
1150 Law are attributable to material not yet in place at the Disposal Facility at the time such Change  
1151 in Law occurs, then CITY'S proportionate share of such costs shall be determined by multiplying  
1152 the present value of such costs by a fraction, the numerator of which is the average number of  
1153 Tons of material from CITY Disposed of at the Disposal Facility during the preceding three (3)  
1154 years multiplied by the number of years remaining in the term of this Contract and the  
1155 denominator of which is the total remaining permitted air space available for Disposal at the  
1156 Disposal Facility as of the date of the change. The costs of compliance with Changes in Law  
1157 shall be calculated on a "per Ton" basis and amortized over the remaining life of the Disposal  
1158 Facility and the annual amortization incorporated in the Disposal Fee Element over the  
1159 remaining term of this Contract by adding CITY'S proportionate share of such increases to the

1160 Disposal Fee Element. The annual amortization described in the prior sentence shall be added  
1161 to the Disposal Fee Element after said Disposal Fee Element is otherwise adjusted for said year  
1162 as set forth in Section 6.01.1, and to reflect changes in the Governmental Fees Element as  
1163 described in the preceding paragraph above. In all cases in which CONTRACTOR requests an  
1164 increase in the Disposal Fee Element above that provided for in Section 6.01.1 based on the  
1165 costs of compliance with a Change in Law, CONTRACTOR shall provide CITY, on an annual  
1166 basis, evidence showing (1) that the work required by the Change in Law has been performed,  
1167 (2) the amount of costs actually incurred, and (3) that the costs incurred were necessary to  
1168 comply with the Change in Law.

1169           6.04.5 Procedures for Sharing in Cost of Changes in Laws. If CONTRACTOR  
1170 believes that complying with Changes in Law will increase the costs of operating the Disposal  
1171 Facility, and that it is entitled, under this Article to an increase in the Disposal Fee Element to  
1172 reflect the costs of compliance, then it must follow the procedures in this Article before the  
1173 Disposal Fee Element will be increased.

1174           6.04.5.1 CONTRACTOR shall give CITY prompt notice (in no case  
1175 less than ninety (90) days before their effective date, if possible) of the regulations, specifically  
1176 identifying them and describing what changes in operations at the Disposal Facility are required,  
1177 when compliance is required, and whether CONTRACTOR or the Disposal Facility is eligible for  
1178 any exemptions or variances.

1179           6.04.5.2 CONTRACTOR shall thereafter submit to CITY for review  
1180 and comment, its proposed method for complying with the regulations, the estimated cost of  
1181 compliance, CITY'S proportionate share thereof, and the associated increase necessary in the  
1182 Disposal Fee Element. CITY will act promptly on the submission.

1183           6.04.5.3 CONTRACTOR shall thereafter submit its proposed  
1184 method of compliance to the appropriate regulatory agency. If the regulatory agency approves  
1185 that method without conditions, the proportionate share of the costs necessary to implement  
1186 that method of compliance will be the amount by which the Disposal Fee Element may be  
1187 increased.

1188           6.04.6 No fees or charges to which CONTRACTOR agrees contractually or  
1189 negotiates shall be passed through to customers unless agreed to in writing by CITY.

1190           6.05 Payment of Taxes. CONTRACTOR shall pay, when and as due, any and all  
1191 governmental assessments, or taxes incurred as a result of CONTRACTOR'S provision of  
1192 services under this Contract, including estimated taxes and shall provide CITY with proof of  
1193 such payments promptly upon request.

1194           6.06 Disposal Facility Closure/Post Closure Funding. CITY and CONTRACTOR  
1195 agree that CITY shall not be liable for any Disposal Facility closure/Post-Closure costs for waste  
1196 Disposal prior to July 1, 2015.

1197           6.06.1 CONTRACTOR acknowledges and agrees that from July 1, 2015,  
1198 going forward, the Disposal Tipping Fee adequately funds CITY'S liability for Disposal Facility  
1199 closure/Post-Closure costs.

1200           6.07 Proposal Development Fee. No later than thirty (30) calendar days after the  
1201 execution of this Contract by CITY and CONTRACTOR, CONTRACTOR shall submit a one-  
1202 time proposal development fee to CITY in the amount of Two Hundred Fifty Thousand Dollars  
1203 (\$250,000).



1250 which case CONTRACTOR'S indemnification shall be reduced in proportion to CITY'S degree  
1251 of comparative fault. CONTRACTOR shall indemnify and hold harmless the Indemnitees from  
1252 and against all costs of investigation, litigation, negotiation or alternative dispute resolution;  
1253 counsel fees; expenses incurred in obtaining expert testimony and the attendance of witnesses;  
1254 and all other expenses and liabilities incurred in connection with the defense of any action or  
1255 proceedings brought thereon, and from and against any orders, judgments, or decrees which  
1256 may be entered therein. CITY shall provide CONTRACTOR with prompt notice of any claims,  
1257 and CONTRACTOR shall assume the defense of any claim, with counsel reasonably  
1258 acceptable to the Indemnitees, and CONTRACTOR shall have authority to settle any claim, with  
1259 CITY'S consent which may not be unreasonably withheld and provided such settlement fully  
1260 releases and extinguishes Indemnitees' alleged liability under the claim. Where a conflict of  
1261 interest exists between the Indemnitees and CONTRACTOR with respect to a claim,  
1262 CONTRACTOR shall provide the Indemnitees with independent legal counsel of the  
1263 Indemnitees' choice, at CONTRACTOR'S expense. Without limiting the generality of the  
1264 foregoing, CONTRACTOR'S indemnification shall include: personal injury, death or damage to  
1265 property (including contamination); product liability, violation of federal, State, or local law; or  
1266 any other claim whatsoever connected with the activities of CONTRACTOR, its subcontractors,  
1267 agents, and/or employees under this Contract or on account of the performance of character of  
1268 the work performed hereunder, including unforeseen difficulties, accidents, occurrence, or  
1269 omissions, including but not limited to, any failure to exclude Hazardous Waste from Collection  
1270 or Processing; any claim that CONTRACTOR, or its agents, subcontractors, directors, officers,  
1271 employees or representatives, has breached an express or implied warranty of merchantability  
1272 or fitness for particular use or any other warranty relating to any materials marketed pursuant to  
1273 this Contract; or any claim that any of them has violated any license, copyright, or other  
1274 limitation on CONTRACTOR'S use of computer software in connection with CONTRACTOR'S  
1275 performance of services under this Contract. Notwithstanding the foregoing, CONTRACTOR  
1276 shall not be required to indemnify the Indemnitees for: (i) claims resulting entirely from the acts  
1277 or omissions of independent (not affiliated with Contractor) third party owners or operators of  
1278 facilities approved by CITY under this Contract, where such third party acts or omissions are  
1279 beyond CONTRACTOR'S control; (ii) third party claims based solely on CONTRACTOR'S  
1280 delivery of the de minimis amounts of materials excluded from the definition of Hazardous  
1281 Waste under this Contract to a facility approved by CITY under this Contract, and (iii) any claim  
1282 that CITY set or approved Disposal Tipping Fees in violation of applicable law. Approval of  
1283 insurance coverage or acceptance of work or services by CITY under this Contract does not  
1284 relieve CONTRACTOR or its agents, subcontractors, directors, officers, employees, or  
1285 representatives of liability under this Article.

1286       7.02 Contractor Indemnity Regarding City Approvals. To the maximum extent  
1287 permitted by law, CONTRACTOR shall defend (with counsel reasonably acceptable to the City),  
1288 indemnify, and hold harmless the CITY, the Oakland City Council, and their respective agents,  
1289 officers, employees and volunteers (hereafter collectively called "City Parties") from any liability,  
1290 damages, claim, judgment, loss (direct or indirect) action, causes of action, or proceeding  
1291 (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff  
1292 time, expenses or costs) (collectively called "Action") against the CITY to set aside, void or  
1293 annul this Agreement or any City Approvals approved concurrently herewith or any Subsequent  
1294 Approval or the implementation of the same based upon an allegation that the City shall have  
1295 failed to comply with the California Environmental Quality Act. The CITY may elect, in its sole  
1296 discretion, to participate in the defense of said Action, and CONTRACTOR shall reimburse the  
1297 CITY for its reasonable legal costs and attorneys' fees.

1298           7.02.1 Within ten (10) calendar days of the filing of any Action as specified in the  
1299 preceding paragraph, CONTRACTOR shall execute a Joint Defense Letter Agreement with the  
1300 CITY, acceptable to the Office of the City Attorney, which memorializes the above obligations.  
1301 These obligations and the Joint Defense Letter of Agreement shall survive termination,  
1302 extinguishment, or invalidation of the City Approval or any Subsequent Approval requested by  
1303 CONTRACTOR. Failure to timely execute the Letter Agreement does not relieve the  
1304 CONTRACTOR of any of the obligations contained in this Section or other requirements or  
1305 Conditions of Approval that may be imposed by the CITY.

1306           7.03 Contractor Cooperation. In the event there is a legal challenge by a third party to  
1307 the City's award of the Disposal Services Contract, CONTRACTOR agrees to cooperate with  
1308 the CITY in the defense of such a challenge to the extent CITY's and CONTRACTOR's  
1309 respective legal positions are not in conflict. As a condition of the acceptance of the award of  
1310 the Disposal Services Contract, CONTRACTOR agrees to waive any claims it may have against  
1311 the CITY pertaining to any issues arising from and/or related to the Zero Waste Services  
1312 procurement process regarding the Disposal Services Contract award.

1313           7.04 Hazardous Material Indemnification. CONTRACTOR shall indemnify, defend  
1314 with counsel acceptable to CITY, and hold harmless, at CONTRACTOR'S sole cost and  
1315 expense, CITY, its City Council, officers, officials, employees, volunteers and agents, and the  
1316 Collection Contractor(s) (collectively, "Indemnitees") from and against any and all claims,  
1317 damages, injuries, costs (including and without limit any and all response, remediation and  
1318 removal costs), losses, demands, debts, liens, liabilities, causes of action, suits, legal or  
1319 administrative proceedings, interest, fines, charges, penalties, and expenses (including  
1320 reasonable attorneys' and expert witness fees, expenditures for investigation and remediation)  
1321 and costs of any kind whatsoever, paid, imposed upon, incurred, or suffered by or asserted  
1322 against any of the Indemnitees by reason of, or arising from, the presence, Disposal, escape,  
1323 migration, leakage spillage, discharge, emission, release, handling or transportation of  
1324 Hazardous Materials in, on, at, or under the Disposal Facility (collectively, "environmental  
1325 events"), any personal injury, death, or property damage, arising out of or related to any of the  
1326 environmental events; any lawsuit brought or threatened, settlement reached, or government  
1327 hearing, investigation, inquiry, proceeding, or order relating to any Hazardous Materials or any  
1328 of the environmental events.

1329           7.04.1 Such indemnification shall apply to all events arising from or attributable  
1330 to the acts or omissions of CONTRACTOR, its officers, directors, employees, whether or not  
1331 negligent or otherwise culpable, in connection with or related to CONTRACTOR'S performance  
1332 of this Contract, including without limit damages arising from or attributable to any operations,  
1333 repair, clean-up or detoxification, or preparation and implementation of any removal, remedial,  
1334 response, closure, Post-Closure or other plan (regardless of whether undertaken due to  
1335 governmental action) concerning any Hazardous Materials at the Disposal Facility. For the  
1336 avoidance of doubt, the foregoing indemnity is intended to operate as an agreement pursuant to  
1337 section 107(e) of the Comprehensive Environmental Response, Compensation and Liability Act,  
1338 CERCLA, 42 U.S.C. section 9607(e) and California Health and Safety Code section 25364, to  
1339 defend, protect, hold harmless, and indemnify CITY from liability thereunder.

1340           7.04.2 This provision is in addition to all other provisions in this Contract and is  
1341 intended to survive the end of the term of this Contract. CONTRACTOR'S Guaranty shall  
1342 extend to the indemnification obligation hereunder.

1343           7.05 Environmental Indemnification. CONTRACTOR shall indemnify, defend with  
1344 counsel acceptable to CITY, and hold harmless, at CONTRACTOR'S sole cost and expense,

1345 CITY, its City Council, officers, officials, employees, volunteers and agents, and the Collection  
1346 Contractor (collectively, "Indemnitees") from and against any and all claims, damages, injuries,  
1347 costs (including and without limit any and all response, remediation and removal costs), losses,  
1348 demands, debts, liens, liabilities, causes of action suits, legal or administrative proceedings,  
1349 interest, fines, charges, penalties, and expenses (including reasonable attorneys' and expert  
1350 witness fees, expenditures for investigation and remediation) and costs of any kind whatsoever,  
1351 paid, imposed upon, incurred, or suffered by or asserted against any of the Indemnitees by any  
1352 lawsuit brought or threatened, settlement reached, or government hearing, investigation, inquiry,  
1353 proceeding, or order relating to, or arising from, directly or indirectly, CONTRACTOR'S alleged  
1354 failure or actual failure to comply with the environmental laws and regulations. This  
1355 indemnification will not extend to environmental claims to the extent they are caused by the sole  
1356 or joint or contributory negligence or intentional misconduct or omission of CITY, its officers,  
1357 employees or agents, or the Collection Contractor(s).

1358           7.05.1 This provision is in addition to all other provisions in this Contract and is  
1359 intended to survive the end of the term of this Contract. CONTRACTOR'S Guaranty shall  
1360 extend to the indemnification obligation hereunder.

1361           7.06 Insurance. CONTRACTOR shall secure and maintain throughout the course of  
1362 the Contract, at CONTRACTOR's own cost and expense, insurance against claims for injuries  
1363 to persons or damages to property which may arise from or in connection with the performance  
1364 of the work hereunder by CONTRACTOR, its agents, representatives, employees or  
1365 subcontractors.

1366           7.06.1 Commercial General Liability Insurance. CONTRACTOR, at its own  
1367 expense, shall maintain liability and property damage insurance for the period covered by this  
1368 Contract in the amount of Five Million Dollars (\$5,000,000) per occurrence. If such CGL  
1369 insurance contains an aggregate limit, either the general aggregate limit shall apply separately  
1370 to this project/location or the general aggregate limit shall be twice the required occurrence limit.  
1371 The scope of such coverage shall be at least as broad as Insurance Services Office  
1372 Commercial General Liability Coverage (occurrence form CG0001). CITY and CONTRACTOR  
1373 shall review coverage within sixty (60) days of the end of calendar year 2020. Such coverage  
1374 shall include, but not be limited to, protection against claims arising from: bodily and personal  
1375 injury, including death resulting therefrom; damage to property resulting from activities  
1376 contemplated under this Contract; product liability; and claims relating to completed operations.  
1377 As respects the services provided by CONTRACTOR under this Agreement, the policy shall  
1378 stipulate that this insurance is primary insurance and that no other insurance carried by CITY  
1379 will be called upon to contribute to a loss suffered by CONTRACTOR hereunder, except where  
1380 indemnity from CITY applies. The policy shall stipulate that this insurance shall apply  
1381 separately to each of the insured parties against whom a claim is made, except with respect to  
1382 the limits of the insurer's liability. Such insurance shall be with insurers and under forms of  
1383 policies reasonably satisfactory in all respects to CITY and shall provide that written notice must  
1384 be given to CITY thirty (30) days prior to policy cancellation. CONTRACTOR shall notify CITY  
1385 within thirty (30) days of its knowledge of or any material change in coverage that impacts this  
1386 Contract.

1387           7.06.2 Motor Vehicle Liability Insurance. CONTRACTOR, at its own expense,  
1388 shall maintain motor vehicle liability insurance for the period covered by this Contract in the  
1389 amount of Five Million Dollars (\$5,000,000) per occurrence combined single limit coverage for  
1390 personal and bodily injury and property damage. The scope of such coverage shall be at least  
1391 as broad as Insurance Services Office form number CA 0001 Covering Automobile Liability,  
1392 Code (any auto). CITY and CONTRACTOR shall review coverage within sixty (60) days of the

1393 end of calendar year 2020. CITY may require reasonable changes in the amount of the  
1394 insurance coverage set forth herein based on documented changes in industry standards during  
1395 the five (5) year period ended June 30, 2020. Such insurance shall be with insurers and under  
1396 forms of policies reasonably satisfactory in all respects to CITY and shall provide that written  
1397 notice must be given to CITY thirty (30) days prior to policy cancellation. CONTRACTOR shall  
1398 notify CITY within thirty (30) days of its knowledge or any material change in coverage that  
1399 impacts this Contract.

1400           7.06.3 Worker Compensation Insurance. CONTRACTOR, at its own expense,  
1401 shall carry and maintain full Worker Compensation Insurance, as required by the California  
1402 Labor Code and Employer's Liability insurance with limits not less than Five Million Dollars  
1403 (\$5,000,000) for each employee per accident or disease. The scope of such coverage shall be  
1404 at least as broad as the Worker's Compensation insurance required by the State of California  
1405 and Employer's Liability insurance. Such insurance shall be with insurers and under forms of  
1406 policies reasonably satisfactory in all respects to CITY, unless CONTRACTOR is self-insured  
1407 and complies with the requirements of Section 7.04.5. Such policies shall provide that written  
1408 notice must be given to CITY thirty (30) days prior to cancellation. CONTRACTOR shall notify  
1409 CITY within thirty (30) days of its knowledge or any material change in coverage that impacts  
1410 this Contract. The Workers Compensation policy shall be endorsed with a waiver of  
1411 subrogation in favor of CITY for all work performed by CONTRACTOR, its employees, agents  
1412 and subcontractors.

1413           7.06.4 Environmental Impairment and Pollution Liability. CONTRACTOR, at its  
1414 own expense, shall carry and maintain environmental impairment and pollution liability  
1415 insurance for the term, including any extensions thereto, in the amount of Ten Million Dollars  
1416 (\$10,000,000) per loss and in annual aggregate, covering liability arising from the release of  
1417 waste materials and/or irritants, contaminants or pollutants. Such coverage shall, if  
1418 commercially available, without involvement of CITY, automatically broaden in its form of  
1419 coverage to include legislative changes in the definition of waste materials and/or irritants,  
1420 contaminants or pollutants. The policy shall stipulate this insurance is primary insurance and no  
1421 other insurance carried by CITY will be called upon to contribute to a loss suffered by  
1422 CONTRACTOR hereunder and waive subrogation against CITY and other additional insureds.

1423           7.06.5 Other Insurance Provisions. The liability policies are to contain, or be  
1424 endorsed to contain, the following provisions:

1425                   7.06.5.1       CITY may require reasonable changes in the amount of  
1426 the insurance coverage set forth herein based on documented changes in industry standards  
1427 during the five (5) year period ended June 30, 2020.

1428                   7.06.5.2       CITY, its Councilmembers, directors, officers, agents,  
1429 employees and volunteers are to be covered as respects: liability arising out of activities  
1430 performed by or on behalf of CONTRACTOR, products and completed operations of  
1431 CONTRACTOR; premises owned, occupied or used by CONTRACTOR; or vehicles owned,  
1432 leased, hired or borrowed by CONTRACTOR. The coverage shall contain no special limitations  
1433 on the scope of protection afforded to CITY, its Councilmembers, directors, officers, agents,  
1434 employee's agents (including attorneys and consultants) or volunteers.

1435                   7.06.5.3       For any claims related to this Contract, CONTRACTOR'S  
1436 insurance coverage shall be primary insurance as respects CITY, its Councilmembers,  
1437 directors, officers, agents, employees and volunteers. Any insurance or self-insurance  
1438 maintained by CITY, its officers, officials, employees, agents, or volunteers shall be excess of  
1439 CONTRACTOR'S insurance and shall not contribute with it.

1440                   7.06.5.4       CONTRACTOR'S insurance shall apply separately to each  
1441 insured against whom claim is made or suit is brought, except with respect to the limits of the  
1442 insurer's liability. CONTRACTOR shall monitor its insurance contracts and coverage at all times  
1443 to provide the minimum coverage specified by this Article.

1444                   7.06.5.5       Each insurance policy required by this Article shall be  
1445 occurrence based (except as provided in Section 7.04.5.11), shall be endorsed to state  
1446 coverage, shall not be canceled except after thirty (30) days' prior written notice has been given  
1447 to CITY. CONTRACTOR shall provide at least thirty (30) days' written notice to CITY, by  
1448 certified mail, return receipt requested, of any insurance policy required hereunder being  
1449 materially changed.

1450                   7.06.5.6       CITY, its Councilmembers, directors, officers, agents,  
1451 employees and volunteers shall be named as additional insured on all policies. In the event of  
1452 cancellation, thirty (30) days prior written notice thereof shall be given to CITY. CONTRACTOR  
1453 shall provide at least thirty (30) days' written notice to CITY, by certified mail, return receipt  
1454 requested, of any insurance policy required hereunder being materially changed.

1455                   7.06.5.7       CONTRACTOR shall furnish CITY with original certificates  
1456 affecting coverage required by this clause. The certificates are to be signed by a Person  
1457 authorized by that insurer to bind coverage on its behalf. All endorsements are to be received  
1458 and approved by CITY before work commences. The insurance information required by this  
1459 provision shall be provided to CITY by May 15, 2015.

1460                   7.06.5.8       Insurance is to be placed with insurers with a current A.M.  
1461 Best's rating of no less than A:VII or a rating which is acceptable to CITY.

1462                   7.06.5.9       CONTRACTOR and insurer agree to waive all rights of  
1463 subrogation against CITY for losses arising from work performed by CONTRACTOR for CITY.  
1464 CONTRACTOR shall deliver certificates of insurance and/or a waiver of subrogation  
1465 endorsement.

1466                   7.06.5.10      The Comprehensive General Liability Insurance and  
1467 Automobile Liability insurance shall be written on an occurrence basis and kept in force during  
1468 the entire term of this Contract; Environmental Impairment and Pollution Liability Insurance is  
1469 written on a claims-made basis and shall be maintained through continuous renewals so as to  
1470 provide the same levels of coverage after the expiration of this Contract as might be necessary  
1471 to protect CITY from any and all liability during all applicable statutes of limitation which might  
1472 apply to claims of third parties arising out of the activities of CONTRACTOR during the term of  
1473 this Contract. The deductibles or self-insured retention with respect to any Environmental  
1474 Impairment and Pollution Liability Insurance, including any renewals as set forth herein, shall  
1475 not exceed Five Million Dollars (\$5,000,000). Hazardous Waste and Environmental Impairment  
1476 Liability will include coverage for all operations of CONTRACTOR under this Contract. If  
1477 coverage is on a claims made basis, the retroactive date must be shown, and must be before  
1478 the date of the Contract or the beginning of the Contract work. Insurance must be maintained  
1479 and evidence of insurance must be provided for at least five (5) years after completion of the  
1480 Contract of work. If coverage is cancelled or non-renewed, and not replaced with another  
1481 claims-made policy form with a retroactive date prior the contract effective date, CONTRACTOR  
1482 must purchase "extended reporting" coverage for a minimum of five (5) years after completion of  
1483 work.

1484                   7.06.5.11      CONTRACTOR shall comply with all requirements of the  
1485 insurers issuing policies. The carrying of insurance shall not relieve CONTRACTOR from any

1486 obligation under this Contract. If any claim exceeding the amount of any deductibles or self-  
1487 insured reserves is made by any third Person against CONTRACTOR or any subcontractor on  
1488 account of any occurrence related to this Contract, CONTRACTOR shall promptly report the  
1489 facts in writing to the insurance carrier and to CITY.

1490 7.06.5.12 The limits of insurance are the minimum required limits and  
1491 if CONTRACTOR maintains higher limits, CITY shall be entitled to coverage for the higher limits  
1492 maintained by CONTRACTOR.

1493 7.07 Subcontractors. CONTRACTOR shall include subcontractors as insureds under  
1494 its policies or shall furnish separate certificates and endorsements for each subcontractor.  
1495 Coverage for subcontractors shall be subject to all requirements stated herein.

1496 7.08 Non-renewal or Cancellation. Upon notification of receipt by CITY of a notice of  
1497 cancellation, material change in coverage, or expiration of policy(ies), CONTRACTOR shall file  
1498 with CITY certificates for such policy(ies), satisfactory to CITY.

1499 7.09 Failure to Comply. If at any time during the term of the Contract, CONTRACTOR  
1500 fails to comply with the provisions of Section 7.04 CITY may, in addition to any other remedy  
1501 available to CITY, take out and maintain, at CONTRACTOR'S expense, such insurance as  
1502 CITY may deem proper and charge the cost thereof to CONTRACTOR.

1503 7.10 Deductibles and Self-Insured Retentions. Any deductibles or self-insured  
1504 retentions shall be for the account of CONTRACTOR and shall be the sole responsibility of  
1505 CONTRACTOR.

## 1506 **ARTICLE 8. PERFORMANCE SECURITY**

1507 8.01 Performance Bond. A performance bond must be furnished by CONTRACTOR  
1508 within fifteen (15) calendar days of notification to CONTRACTOR that that the Contract has  
1509 been executed. CONTRACTOR shall furnish to CITY, and keep current, a performance bond in  
1510 a form with language that is acceptable to CITY, for the faithful performance of this Contract and  
1511 all obligations arising hereunder in an amount of Five Million Dollars (\$5,000,000). The  
1512 performance bond must be executed by a surety company that is acceptable to CITY; an  
1513 admitted surety company licensed to do business in the State of California; has an "A:VII" or  
1514 better rating by A. M. Best or Standard and Poors; and is included on the list of surety  
1515 companies approved by the Treasurer of the United States

1516 8.02 Renewal. Beginning July 1, 2016, and each July 1 thereafter, CONTRACTOR  
1517 shall have the performance bond renewed annually and be executed by a surety company that  
1518 is acceptable to CITY; an admitted surety company licensed to do business in the State of  
1519 California; has an "A:VII" or better rating by A. M. Best or Standard and Poors; and is included  
1520 on the list of surety companies approved by the Treasurer of the United States.

1521 8.03 Letter of Credit. As an alternative to the performance bond required by Section  
1522 8.01, at CITY'S option, CONTRACTOR may deposit with CITY an irrevocable letter of credit in  
1523 an amount as set forth in Section 8.01 or such other amount as may be agreed to between  
1524 CITY and CONTRACTOR. If allowed, the letter of credit must be issued by an FDIC insured  
1525 banking institution chartered to business in the State of California, (consistent with the Uniform  
1526 Customs and Practice for Documentary Credits, then current revision or similar uniform  
1527 convention approved by CITY), in CITY's name, and be callable at the discretion of CITY.  
1528 Nothing in this Article shall, in any way, obligate CITY to accept a letter of credit in lieu of the  
1529 performance bond.

1530

## ARTICLE 9. CORPORATE GUARANTY

1531 9.01 In addition to the performance security required in Article 8, CONTRACTOR is  
1532 required to obtain a Guaranty, and Guarantor has agreed to guarantee CONTRACTOR'S  
1533 performance of this Contract, including CONTRACTOR'S indemnification obligations hereunder  
1534 pursuant to a Guaranty in substantially the form attached as Exhibit 3. The Guaranty is being  
1535 provided concurrently with CONTRACTOR'S execution of this Contract.

1536

## ARTICLE 10. FORCE MAJEURE

1537 10.01 The parties shall be excused from performing their respective obligations under  
1538 this Contract in the event they are prevented from so performing by reason of Force Majeure.

1539

## ARTICLE 11. DEFAULT OF CONTRACT

1540 11.01 Termination by CITY. Subject to Article 10, CITY may cancel this Contract,  
1541 except as otherwise provided below in this Article, by giving CONTRACTOR thirty (30) calendar  
1542 days advance written notice, to be served as provided in Article 21, upon the happening of any  
1543 one of the following events:

1544 11.01.1 CONTRACTOR shall take the benefit of any present or future  
1545 insolvency statute, or shall make a general assignment for the benefit of creditors, or file a  
1546 voluntary petition in bankruptcy court or a petition or answer seeking an arrangement for its  
1547 reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or  
1548 under any other law or statute of the United States or any state thereof, or consent to the  
1549 appointment of a receiver, trustee or liquidator of all or substantially all of its property; or

1550 11.01.2 By order or decree of a court, CONTRACTOR shall be adjudged  
1551 bankrupt or an order shall be made approving a petition filed by any of its creditors or by any of  
1552 the stockholders of CONTRACTOR, seeking its reorganization or the readjustment of its  
1553 indebtedness under the federal bankruptcy laws or under any law or statute of the United States  
1554 or of any state thereof, provided that if any such judgment or order is stayed or vacated within  
1555 sixty (60) calendar days after the entry thereof, any notice of default shall be and become null,  
1556 void and of no effect; unless such stayed judgment or order is reinstated in which case, said  
1557 default shall be deemed immediate; or

1558 11.01.2.1 By, or pursuant to, or under the authority of any legislative  
1559 act, resolution or rule or any order or decree of any court or governmental board, agency or  
1560 officer having jurisdiction, a receiver, trustee or liquidator shall take possession or control of all  
1561 or substantially all of the property of CONTRACTOR, and such possession or control shall  
1562 continue in effect for a period of sixty (60) calendar days; or

1563 11.01.3 CONTRACTOR has defaulted, by failing or refusing to pay in a  
1564 timely manner the franchise fees, liquidated damages or other monies due CITY and said  
1565 default is not cured within thirty (30) calendar days of receipt of written notice by CITY to do so;  
1566 or

1567 11.01.4 CONTRACTOR has defaulted by allowing any final judgment, in  
1568 favor of CITY, for the payment of money related to performance under this Contract to stand  
1569 against it unsatisfied and said default is not cured within thirty (30) calendar days of receipt of  
1570 written notice by CITY to do so; or

1571                    11.01.5            In the event that the monies due CITY under Section 11.01.3  
1572 above or an unsatisfied final judgment under Section 11.01.4 above is the subject of a judicial  
1573 proceeding, CONTRACTOR shall not be in default if the sum of money is bonded. All bonds  
1574 shall be in the form acceptable to the CITY Attorney; or

1575                    11.01.6            CONTRACTOR has defaulted, by failing or refusing to perform or  
1576 observe the terms, conditions or covenants in this Contract or any of the rules and regulations  
1577 promulgated by CITY pursuant thereto or has wrongfully failed or refused to comply with the  
1578 instructions of the Contract Manager relative thereto and said default is not cured within thirty  
1579 (30) calendar days of receipt of written notice by CITY to do so, or if by reason of the nature of  
1580 such default, the same cannot be remedied within thirty (30) calendar days following receipt by  
1581 CONTRACTOR of written demand from CITY to do so, CONTRACTOR fails to commence the  
1582 remedy of such default within said thirty (30) calendar days following such written notice or  
1583 having so commenced shall fail thereafter to continue with diligence the curing thereof with  
1584 CONTRACTOR having the burden of proof to demonstrate (a) that the default cannot be cured  
1585 within thirty (30) calendar days, and (b) that it is proceeding with diligence to cure said default,  
1586 and such default will be cured within a reasonable period of time; or

1587                    11.01.7            CONTRACTOR fails to perform its obligations under this Contract,  
1588 and: (i) if the failure or refusal of CONTRACTOR to perform Disposal Services required by this  
1589 Contract has created an imminent threat to public health and is not cured within (2) Work Days  
1590 after receiving written notice from CITY specifying the breach; or (ii) in the case of any other  
1591 breach of the Contract, the breach continues for more than thirty (30) calendar days after  
1592 receiving written notice from CITY for the correction thereof, provided that where such breach  
1593 cannot be cured within such thirty (30) calendar day period, CONTRACTOR shall not be in  
1594 default of this Contract if CONTRACTOR shall have commenced such action required to cure  
1595 the particular breach within ten (10) calendar days after such notice, and it continues such  
1596 performance diligently until completed. However, if CONTRACTOR has complied with its  
1597 obligations to arrange and pay for Disposal of Mixed Materials, Garbage and Residue at an  
1598 alternative disposal facility as set forth in Section 5.13, it shall not be in default of this Contract.

1599                    11.02 Effective Date of Termination. In the event of the aforesaid events specified  
1600 above, and except as otherwise provided in said subsections, termination shall be effective  
1601 upon the date specified in CITY'S written notice to CONTRACTOR and upon said date this  
1602 Contract shall be deemed immediately terminated and upon such termination all liability of CITY  
1603 under this Contract to CONTRACTOR shall cease, and CITY shall have the right to call the  
1604 performance security instrument and shall be free to negotiate with other contractors for the  
1605 operation of the herein specified services.

1606                    11.03 Right to Perform. If this Contract is suspended and/or terminated due to  
1607 CONTRACTOR default, CITY shall have the right to perform and complete, by contract or  
1608 otherwise, the work herein or such part thereof as it may deem necessary and incur all  
1609 expenses necessary for completion of the work, including, but not limited to, Disposal of Mixed  
1610 Materials, Garbage and Residue at an alternative disposal facility, but not including any right to  
1611 operate the Disposal Facility. If such expenses (including, but not limited to, the actual fees  
1612 charged for Disposal) exceed the amounts which would have been paid to CONTRACTOR  
1613 under this Contract, if it had been fully performed by CONTRACTOR, then CONTRACTOR shall  
1614 pay for the remaining term of this Contract, the amount of such excess costs to CITY within  
1615 thirty (30) calendar days of CONTRACTOR'S receipt of a claim for reimbursement, and  
1616 evidence of costs incurred, from CITY.

1617 11.04 Immediate Termination. CITY may terminate this Contract immediately upon  
1618 written notice to CONTRACTOR (provided CITY has first given CONTRACTOR written notice of  
1619 breach and ten (10) Work Days to cure) in the event CONTRACTOR fails to provide and  
1620 maintain the performance security as required by this Contract, CONTRACTOR fails to obtain or  
1621 maintain insurance policies endorsements as required by this Contract, or CONTRACTOR fails  
1622 to provide the proof of insurance as required by this Contract.

1623 11.05 Termination Cumulative. CITY'S right to terminate this Contract is cumulative to  
1624 any other rights and remedies provided by law or by this Contract.

1625 **ARTICLE 12. LEGAL REPRESENTATION**

1626 12.01 Acknowledgement. It is acknowledged that each party was, or had the  
1627 opportunity to be, represented by counsel in the preparation of and contributed equally to the  
1628 terms and conditions of this Contract and, accordingly, the rule that a Contract shall be  
1629 interpreted strictly against the party preparing the same shall not apply herein due to the joint  
1630 contributions of both parties.

1631 **ARTICLE 13. FINANCIAL INTEREST**

1632 13.01 Representation. CONTRACTOR warrants and represents that no elected official,  
1633 officer, agent or employee of CITY has a financial interest, directly or indirectly, in this Contract  
1634 or the compensation to be paid under it and, further, that no CITY employee who acts in the  
1635 CITY as a "purchasing agent" as defined in the appropriate section of California Statutes, nor  
1636 any elected or appointed officer of CITY, nor any spouse or child of such purchasing agent,  
1637 employee or elected or appointed officer, is a partner, officer, director or proprietor of  
1638 CONTRACTOR and, further, that no such CITY employee, purchasing agent, CITY elected or  
1639 appointed officer, or the spouse or child of any of them, alone or in combination, has a material  
1640 interest in CONTRACTOR. Material interest means direct or indirect ownership of more than  
1641 five (5) percent of the total assets or capital stock of CONTRACTOR.

1642 **ARTICLE 14. INDEPENDENT CONTRACTOR**

1643 14.01 In the performance of services pursuant to this Contract, CONTRACTOR shall be  
1644 an independent contractor and not an officer, agent, servant or employee of CITY.  
1645 CONTRACTOR shall have exclusive control of the details of the services and work performed  
1646 and over all persons performing such services and work. CONTRACTOR shall be solely  
1647 responsible for the acts and omissions of its officers, agents, employees, contractors and  
1648 subcontractors, if any. Neither CONTRACTOR nor its officers, employees, agents, contractors  
1649 or subcontractors shall obtain any right to retirement benefits, Workers Compensation benefits,  
1650 or any other benefits which accrue to CITY employees and CONTRACTOR expressly waives  
1651 any claim it may have or acquire to such benefits.

1652 **ARTICLE 15. LAWS TO GOVERN**

1653 15.01 The law of the state of California shall govern the rights, obligations, duties and  
1654 liabilities of CITY and CONTRACTOR under this Contract and shall govern the interpretation of  
1655 this Contract.

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## ARTICLE 16. CONSENT TO JURISDICTION

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16.01 The parties agree that any litigation between CITY and CONTRACTOR concerning or arising out of this Contract shall be filed and maintained exclusively in the municipal or superior courts of Alameda County, state of California, or in the United States Court for the Northern District of California to the fullest extent permissible by law. Each party consents to service of process in any manner authorized by California law.

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## ARTICLE 17. ASSIGNMENT

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17.01 CITY Right to Terminate in Event of Assignment. CONTRACTOR acknowledges that this Contract involves rendering a vital service to CITY's residents and businesses, and that CITY has selected CONTRACTOR to perform the services specified herein based on (1) CONTRACTOR's experience, skill and reputation for conducting its operations in a safe, effective and responsible fashion, at all times in keeping with applicable environmental laws, regulations and best management practices for Disposal of Mixed Materials, Garbage and Residue and (2) CONTRACTOR's financial resources to maintain the required equipment and to support its indemnity obligations to CITY under this Contract. CITY has relied on each of these factors, among others, in choosing CONTRACTOR to perform the services to be rendered by CONTRACTOR under this Contract. Any assignment by CONTRACTOR, either directly or indirectly, in whole or in part, of its rights or any interest it may have in this Contract including any transfer of its stock or assets to a third party shall give CITY, in its sole discretion, the basis for terminating this Contract in whole or in part upon the giving of a thirty (30) day written notice to CONTRACTOR. In the event such notice of termination is given as authorized by this Article, CONTRACTOR shall continue, for up to six (6) months following notice of termination, to provide any or all of the services it is obligated to perform under this Contract if requested by CITY in writing. CITY'S right to terminate the Contract in whole or in part shall expire unless exercised within sixty (60) days of receiving written notice from CONTRACTOR as provided herein of an assignment by CONTRACTOR. "Assignment" or "Assign" as used in this Contract shall include, but not be limited to, (i) a sale, exchange or other transfer of substantially all of CONTRACTOR's assets dedicated to any or all of the services to be provided under this Contract to a third party (ii) a sale, exchange or other transfer of outstanding common stock of CONTRACTOR to a third party provided said sale, exchange or transfer results in a change of control of CONTRACTOR or any sale, exchange or transfer of the common stock of CONTRACTOR which results in the effective transfer of control of substantially all of CONTRACTOR's assets dedicated to any or all of the services to be provided under this Contract to a third party; (iii) any dissolution, reorganization, consolidation, merger, recapitalization, stock issuance or re-issuance, voting trust, pooling agreement, escrow arrangement, liquidation or other transaction to which results in a change of ownership or control of CONTRACTOR; (iv) any assignment by operation of law, including insolvency or bankruptcy, making assignment for the benefit of creditors, writ of attachment for an execution being levied against this Contract, appointment of a receiver taking possession of CONTRACTOR's property, or transfer occurring in the event of a probate proceeding; and (v) any combination of the foregoing (whether or not in related or contemporaneous transactions) which has the effect of any such transfer or change of ownership, or change of control of CONTRACTOR, or substantially all of the assets used for providing any of the services under this Contract to a third party. For purposes of this Contract, an "assignment" shall not include a sale, transfer or exchange with Waste Management, Inc. or any of its subsidiaries, successors or assigns, provided such affiliated entity has financial capabilities equal to or greater than CONTRACTOR.

1703           17.02 Procedure for CITY Evaluation of Proposed Assignment. If CONTRACTOR  
1704 requests CITY'S consideration of and consent to an assignment, CONTRACTOR shall meet the  
1705 following preliminary requirements:

1706           17.02.1       CONTRACTOR shall pay CITY its reasonable expenses for  
1707 attorney's fees, consultant's fees and investigation costs necessary to investigate the suitability  
1708 of any proposed assignee, and to review and finalize any documentation required as a condition  
1709 for approving any such assignment;

1710           17.02.2       CONTRACTOR shall furnish CITY with audited financial  
1711 statements of the proposed assignee's operations for the immediately preceding three (3)  
1712 operating years;

1713           17.02.3       CONTRACTOR shall furnish CITY with satisfactory proof that: (1)  
1714 the proposed assignee has at least ten (10) years of Mixed Materials, Garbage and Residue  
1715 Disposal experience on a scale equal to or exceeding the scale of operations conducted by  
1716 CONTRACTOR under this Contract; (2) in the last five (5) years, the proposed assignee has not  
1717 suffered any significant citations or other censure from any federal, State or local agency having  
1718 jurisdiction over its Mixed Materials, Garbage and Residue Disposal operations due to any  
1719 significant failure to comply with State, federal or local environmental laws and the assignee has  
1720 provided CITY with a complete list of such citations and censures; (3) the proposed assignee  
1721 has at all times conducted its operations in an environmentally safe and conscientious fashion;  
1722 (4) the proposed assignee conducts its Mixed Materials, Garbage and Residue Disposal  
1723 practices in accordance with sound management practices in full compliance with all federal,  
1724 State and local laws regulating the Disposal of Mixed Materials, Garbage and Residue including  
1725 hazardous substances; and, (5) of any other information required by CITY to ensure the  
1726 proposed assignee can fulfill the terms of this Contract in a timely, safe and effective manner.

1727           17.03 CONTRACTOR Default. Under no circumstances shall CITY be obliged to  
1728 consider any proposed assignment if CONTRACTOR is in default at any time during the period  
1729 of consideration.

1730           17.04 CITY Discretion to Accept or Reject Assignment. CITY, in its sole discretion,  
1731 may accept, reject or conditionally accept the proposed assignment. If CITY accepts a partial  
1732 assignment, the corporate guaranty provided in Section 1.23 and Exhibit 3 and the performance  
1733 security provided in Article 8 shall remain in effect unless CITY in its sole discretion consents to  
1734 adequate substitutes by the assignee or to a novation, and absent a novation CONTRACTOR  
1735 shall not be released from liability under this Contract.

1736           17.05 Subcontractor. The use of a subcontractor to perform services under this  
1737 Contract shall not constitute delegation of CONTRACTOR's duties provided that  
1738 CONTRACTOR has received prior written authorization from CITY to subcontract such services  
1739 and the Contract Manager has approved a subcontractor who will perform such services.  
1740 CONTRACTOR shall be responsible for directing the work of CONTRACTOR's subcontractors  
1741 and any compensation due or payable to CONTRACTOR's subcontractor shall be the sole  
1742 responsibility of CONTRACTOR. CITY shall have the right to require the removal of any  
1743 approved subcontractor for reasonable cause. No subcontractors have been approved by  
1744 CITY.

1745

**ARTICLE 18. COMPLIANCE WITH LAWS**

1746 18.01 In the performance of this Contract, CONTRACTOR shall comply with all  
1747 applicable laws, regulations, ordinances and codes of the federal, State and local governments,  
1748 including without limitation those of CITY.

1749 18.02 CITY shall provide written notice to CONTRACTOR of any planned amendment  
1750 to the CITY Ordinances that would affect the performance of CONTRACTOR'S services or  
1751 obligations pursuant to this Contract, in which case Change in Law could apply. Such notice  
1752 shall be provided at least thirty (30) calendar days prior to the Oakland City Council's approval  
1753 of such an amendment.

1754

**ARTICLE 19. WAIVER**

1755 19.01 Waiver by CITY or CONTRACTOR of any breach for violation of any term  
1756 covenant or condition of this Contract shall not be deemed to be a waiver of any other term,  
1757 covenant or condition or any subsequent breach or violation of the same or of any other term,  
1758 covenant or condition. The subsequent acceptance by CITY of any fee, tax, or any other  
1759 monies which may become due from CONTRACTOR to CITY shall not be deemed to be a  
1760 waiver by CITY of any breach for violation of any term, covenant or condition of this Contract.

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**ARTICLE 20. POINT OF CONTACT**

1762 20.01 The day-to-day dealings between CONTRACTOR and CITY shall be between  
1763 CONTRACTOR and the Contract Manager.

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**ARTICLE 21. NOTICES**

1765 21.01 Except as provided herein, whenever either party desires to give notice to the  
1766 other, it must be given by written notice by registered or certified mail, or by other methods  
1767 designated for next day delivery with proof of receipt, addressed to the party for whom it is  
1768 intended, at the place last specified and to the place for giving of notice in compliance with the  
1769 provisions of this paragraph. For the present, the parties designate the following as the  
1770 respective persons and places for giving of notice:

1771

As to CITY:

1772 City Administrator  
1773 Office of the City Administrator  
1774 CITY OF OAKLAND  
1775 One Frank Ogawa Plaza, Third Floor  
1776 Oakland, CA 94612  
1777 Telephone: (510) 238-3301  
1778 E-mail: cityadministrator@oaklandnet.com

1779

With copies to:

1780 Director of Public Works  
1781 Public Works Agency  
1782 CITY OF OAKLAND  
1783 250 Frank Ogawa Plaza, Suite 4314

1784 Oakland, CA 94612  
1785 Telephone (510) 238-4470  
1786 E-mail: [blevin@oaklandnet.com](mailto:blevin@oaklandnet.com)  
1787 City Attorney

1788 Office of the City Attorney  
1789 CITY OF OAKLAND  
1790 One Frank Ogawa Plaza, Sixth Floor  
1791 Oakland, CA 94612  
1792 Telephone: (510) 238-3601  
1793 E-mail: [info@oaklandcityattorney.org](mailto:info@oaklandcityattorney.org)

1794 Director of Finance and Management  
1795 Finance and Management Agency  
1796 CITY OF OAKLAND  
1797 150 Frank Ogawa Plaza, Suite 5215  
1798 Oakland, CA 94612  
1799 Telephone: (510) 238-2220  
1800 E-mail: [sjohnson@oaklandnet.com](mailto:sjohnson@oaklandnet.com)

1801 As to CONTRACTOR:

1802 Area Vice President  
1803 WASTE MANAGEMENT OF ALAMEDA COUNTY, INC.  
1804 172 98th Avenue  
1805 Oakland, CA 94603  
1806 Email: [bskolnic@wm.com](mailto:bskolnic@wm.com)

1807 With copies to:

1808 Contract Compliance  
1809 WASTE MANAGEMENT OF ALAMEDA COUNTY, INC.  
1810 172 98th Avenue  
1811 Oakland, CA 94603  
1812 Email: [RParnes@wm.com](mailto:RParnes@wm.com)

1813 Assistant General Counsel  
1814 WASTE MANAGEMENT  
1815 222 S. Mill Avenue, Suite 333  
1816 Tempe, AZ 85281

1817 General Counsel  
1818 WASTE MANAGEMENT  
1819 1001 Fannin Street, Suite 4000  
1820 Houston, TX 77002

1821 21.02 Notices shall be effective when received at the address as specified above.  
1822 Changes in the respective address to which such notice is to be directed may be made by  
1823 written notice with a courtesy copy provided by email. The original of items that are transmitted  
1824 by email must also be mailed as required herein.

1825

## ARTICLE 22. NONDISCRIMINATION

1826           22.01 Nondiscrimination. In the performance of all work and services under this  
1827 Contract, CONTRACTOR shall not discriminate against any person on the basis of such  
1828 person's race, color, religion/religious creed, sex/gender, pregnancy, marital status, age,  
1829 national origin/ancestry, physical and/or mental disability, medical condition, sexual orientation,  
1830 gender identity, military or veteran status, or status in any other group protected by federal,  
1831 State or local law. CONTRACTOR shall comply with all applicable local, State and federal laws  
1832 and regulations regarding nondiscrimination, including those prohibiting discrimination in  
1833 employment.

1834

## ARTICLE 23. CONTRACTOR'S RECORDS

1835           23.01 CONTRACTOR shall maintain all documents and records that demonstrate  
1836 performance under this Contract for a minimum period of five (5) years, or for any longer period  
1837 required by law, from the date of termination or completion of this Contract.

1838           23.02 Any records or documents required to be maintained pursuant to this Contract  
1839 shall be made available for inspection, copy or, audit at any time during regular business hours,  
1840 upon written request by the Contract Manager, City Attorney, City Auditor, CITY Administrator,  
1841 or a designated representative of any of these officers. Copies of such documents shall be  
1842 provided to CITY for inspection at CITY offices when it is practical to do so. Otherwise, unless  
1843 an alternative site is mutually agreed upon, the records shall be available at CONTRACTOR'S  
1844 address indicated for receipt of notices in this Contract.

1845           23.03 Where CITY has reason to believe that such records or documents may be lost  
1846 or discarded due to the dissolution, disbandment or termination of CONTRACTOR'S business,  
1847 CITY may, by written request or demand of any of the above named officers, require that  
1848 custody of the records be given to CITY and that the records and documents be maintained in  
1849 CITY offices. Access to such records and documents shall be granted to any party authorized  
1850 by CONTRACTOR, CONTRACTOR'S representatives or CONTRACTOR'S successor-in-  
1851 interest.

1852

## ARTICLE 24. QUALITY OF PERFORMANCE OF CONTRACTOR

1853           24.01 Liquidated Damages. The parties further acknowledge that consistent and  
1854 reliable Disposal Services are of utmost importance to CITY and that CITY has considered and  
1855 relied on CONTRACTOR'S representations as to its quality of service commitment in awarding  
1856 the Contract to it. The parties further recognize that some quantified standards of performance  
1857 are necessary and appropriate to ensure consistent and reliable service and performance. The  
1858 parties further recognize that if CONTRACTOR fails to achieve the performance standards, or  
1859 fails to submit required documents in a timely manner, CITY, Collection Contractor(s) and  
1860 CITY'S residents and businesses will suffer damages, and that it is and will be impractical and  
1861 extremely difficult to ascertain and determine the exact amount of damages. Therefore, without  
1862 prejudice to CITY'S right to treat such non-performance as an event of default under Article 11  
1863 the parties agree that the liquidated damages amounts defined in this Article represent  
1864 reasonable estimates of the amounts of such damages considering all of the circumstances  
1865 existing on the Effective Date of this Contract, including the relationship of the sums to the  
1866 range of harm to CITY that reasonably could be anticipated and the anticipation that proof of  
1867 actual damages would be costly or impractical. In placing their initials at the places provided,  
1868 each party specifically confirms the accuracy of the statements made above and the fact that

1869 each party has had ample opportunity to consult with legal counsel and obtain an explanation of  
 1870 the liquidated damage provisions at the time that the Contract was made.

1871 CITY Initial Here                      CONTRACTOR Initial Here                     

1872 24.01.1 CONTRACTOR agrees to pay (as liquidated damages and not as  
 1873 penalty) the following amounts:

Liquidated Damages		
	Item	Amount
a.	Failure to maintain minimum operation hours or days. (Section 5.04)	\$1,000 per Work Day.
b.	Failure to turnaround Collection Contractor vehicles at the Disposal Facility as set forth in Section 5.07.	\$100 per occurrence.
c.	Failure to provide adequate primary and alternate capacity to accept and Dispose of Mixed Materials, Garbage and/or Residue. (Sections 5.12 and 5.13)	\$10,000 per calendar day.
d.	Failure to submit complete and accurate required reports to CITY in a timely manner. (Sections 5.14 and 5.15)	\$300 per calendar day.
e.	Failure to correct submittal of inaccurate data within three (3) Work Days (or such other time period as may be agreed to in writing between CITY and CONTRACTOR) of written notification by CITY as set forth in Section 5.16.	\$500 per incident per calendar day.
f.	Omitted	\$150 per calendar day.
g.	Failure to comply with the insurance provisions of this Contract as set forth in Article 7.	\$500 per incident per calendar day.
h.	Failure to cure non-compliance with the provisions of this Contract in the manner and time set forth in the Contract (Various Articles).	\$150 per incident per calendar day.

1874 24.02 CITY may determine the occurrence of events giving rise to liquidated damages  
 1875 through the observation of its own employees or representative or investigation of complaints by  
 1876 Collection Contractor(s).

1877 24.03 Liquidated damages shall apply to service disruptions caused by a  
 1878 CONTRACTOR-initiated lockout or similar CONTRACTOR-initiated work stoppage.

Disposal Services Contract

1869 each party has had ample opportunity to consult with legal counsel and obtain an explanation of  
 1870 the liquidated damage provisions at the time that the Contract was made.

1871 CITY Initial Here \_\_\_\_\_ CONTRACTOR Initial Here 

1872 24.01.1 CONTRACTOR agrees to pay (as liquidated damages and not as  
 1873 penalty) the following amounts:

Liquidated Damages		
	Item	Amount
a.	Failure to maintain minimum operation hours or days. (Section 5.04)	\$1,000 per Work Day.
b.	Failure to turnaround Collection Contractor vehicles at the Disposal Facility as set forth in Section 5.07.	\$100 per occurrence.
c.	Failure to provide adequate primary and alternate capacity to accept and Dispose of Mixed Materials, Garbage and/or Residue. (Sections 5.12 and 5.13)	\$10,000 per calendar day.
d.	Failure to submit complete and accurate required reports to CITY in a timely manner. (Sections 5.14 and 5.15)	\$300 per calendar day.
e.	Failure to correct submittal of inaccurate data within three (3) Work Days (or such other time period as may be agreed to in writing between CITY and CONTRACTOR) of written notification by CITY as set forth in Section 5.16.	\$500 per incident per calendar day.
f.	Omitted	\$150 per calendar day.
g.	Failure to comply with the insurance provisions of this Contract as set forth in Article 7.	\$500 per incident per calendar day.
h.	Failure to cure non-compliance with the provisions of this Contract in the manner and time set forth in the Contract (Various Articles).	\$150 per incident per calendar day.

1874 24.02 CITY may determine the occurrence of events giving rise to liquidated damages  
 1875 through the observation of its own employees or representative or investigation of complaints by  
 1876 Collection Contractor(s).

1877 24.03 Liquidated damages shall apply to service disruptions caused by a  
 1878 CONTRACTOR-initiated lockout or similar CONTRACTOR-initiated work stoppage.



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## ARTICLE 28. DISPUTE RESOLUTION

28.01 Except for a CONTRACTOR Default under Article 11, and except as provided below in Section 28.01.3, should any dispute arise under this Contract, including but not limited to the performance and obligations of the parties, or service or compensation changes, such disputes shall be resolved by the following procedures:

28.01.1 The parties shall resolve their disputes informally to the maximum extent possible and shall attempt to resolve such disputes in a cooperative and mutually satisfactory manner. Either party shall give the other written notice of such dispute, and also provide written notice to the Contract Manager. The Contract Manager shall then schedule a meeting between CONTACTOR and the CITY Administrator or the CITY Administrator's designee as soon as reasonably possible. In the event such dispute cannot be resolved by the parties themselves within thirty (30) days of their first meeting, either party may propose the appointment of a mediator. The parties shall agree on a mediator within 30 days of either party's request for mediation.

28.01.2 Mediation. If the disputing parties cannot informally resolve the dispute, they shall attempt to resolve such dispute through non-binding mediation for a period not to exceed ninety (90) days from the date of their last informal meeting, absent a written agreement to extend the time of non-binding mediation.

28.01.2.1 The party desiring mediation shall give written notice thereof to the other party to this Contract, specifying the dispute to be mediated.

28.01.2.2 The mediation shall be held at Oakland, California, or at such other location as may be mutually agreed among the parties. The mediation shall be conducted and a mediator chosen pursuant to the rules of JAMS Mediation Rules.

28.01.2.3 At least ten (10) days before the date of the mediation, each side shall provide the mediator with a statement of its position and copies of all supporting documents. Each party shall send to the mediation a person who has authority to bind the party. If a subsequent dispute will involve third parties, such as insurers or subcontractors, they shall also be asked to participate in the mediation.

28.01.2.4 Should mediation be unsuccessful, and if the dispute does not concern valuation items for which binding arbitration is required in Section 28.01.3, then a party may commence an adversarial proceeding before any court of competent jurisdiction in the County of Alameda. Disputes that concern valuation items defined in Section 28.01.3 shall proceed with binding arbitration procedures as set forth below.

28.01.3 Binding Arbitration. This Section only applies to disputes over "Valuation Items," which are defined herein as disputes over a specific amount of money or compensation that is due or owed by either party, and the dispute arises under one of the following provisions of this Contract: Article 6 and Section 5.20.2.. Disputes relating to Valuation Items shall be referred to binding arbitration upon mutual written approval of the disputing parties. If the disputing parties do not mutually agree in writing to binding arbitration, a party may commence an adversarial proceeding before any court of competent jurisdiction in the county of Alameda.

28.01.3.1 Binding arbitration proceedings shall be in accordance with California Code of Civil Procedure section 1280 et seq., the then-current JAMS Streamlined Arbitration Rules, and the terms of section 28.01.3 and its subsections. In the event of any inconsistency, the terms of section 28.01.3 and its subsections shall control. The arbitration

1966 shall be administered by JAMS and conducted in the County of Alameda. If the parties are  
1967 unable to select an arbitrator within twenty (20) days after delivering written notice requesting  
1968 arbitration, JAMS shall select a qualified arbitrator from its panel. If JAMS is unwilling or unable  
1969 to (i) serve as the provider of arbitration or (ii) enforce any provision of this arbitration clause,  
1970 the parties may mutually designate another arbitration organization with similar procedures to  
1971 serve as the provider of arbitration. If the parties cannot agree on the arbitration organization,  
1972 the Presiding Judge of the Alameda County Superior Court shall designate such an organization  
1973 upon the petition of either party.

1974 28.01.3.2 The arbitrator shall be independent of, and unaffiliated  
1975 with, each party and shall not ever have been an employee of either party, under contract with  
1976 either party in the past five (5) years or acted as an arbitrator for such party within the past five  
1977 (5) years.

1978 28.01.3.3 Within twenty (20) days after initiation of the arbitration, if  
1979 not previously done so under the terms of this Contract, the parties shall each submit to each  
1980 other and the arbitrator their respective relevant value for the item subject to the valuation  
1981 dispute, with such supporting information as is reasonably necessary to support such suggested  
1982 value. If the two (2) valuations so submitted differ by less than or equal to ten (10) percent of  
1983 the higher of the two, the average of the two shall become the agreed upon amount for  
1984 purposes of this Contract and the arbitration shall not be continued. If the two valuations differ  
1985 by more than ten (10) percent of the higher of the two, then the arbitrator shall make a  
1986 determination of the relevant value and submit such determination to both the parties. This third  
1987 valuation will then be averaged with the closer of the two previous valuations and the result shall  
1988 be the relevant value. In no event shall the resolution of a valuation dispute result in a valuation  
1989 higher than that which was set forth by Contractor (e.g., an impact of a "material" disclosure or a  
1990 higher tip fee adjustment). The final arbitrated value shall be binding on the parties.

1991 28.01.3.4 The arbitrator shall have the authority and power to  
1992 award costs, including attorneys' fees and costs to the prevailing party. Unless otherwise  
1993 awarded by the arbitrator, the parties shall evenly split the cost of any arbitration under this  
1994 Article.

1995 28.01.3.5 By agreeing to binding arbitration, the parties  
1996 irrevocably and voluntarily waive any right they may have to a trial by jury to the extent  
1997 permitted by law.

1998

1999 28.01.4 During the pendency of any dispute under this Article, all  
2000 applicable time periods directly related to the dispute shall be tolled until its resolution; provided,  
2001 however, that no tolling shall apply to any matters other than those directly related to the dispute  
2002 and such tolling shall not entitle a party to breach, default, or fail to perform its obligations under  
2003 this Contract.

## 2004 **ARTICLE 29. ALL PRIOR CONTRACTS SUPERSEDED**

2005 29.01 This document incorporates and includes all prior negotiations, correspondence,  
2006 conversations, agreements and understandings applicable to the matters contained in this  
2007 Contract and the parties agree that there are no commitments, agreements or understandings  
2008 concerning the subject matter of this Contract that are not contained in this document or in the  
2009 Collection Service Contracts which are being executed simultaneously with this document.

2010 Accordingly, it is agreed that no deviation from the terms of this Contract shall be predicated  
2011 upon any prior representations or agreements, whether oral or written. For the avoidance of  
2012 doubt, nothing in this Contract shall be deemed to amend any agreement between the Parties  
2013 for services prior to the term of this Contract or to release CONTRACTOR or CITY from any  
2014 obligation thereunder.

2015 **ARTICLE 30. HEADINGS**

2016 30.01 Headings in this document are for convenience of reference only and are not to  
2017 be considered in any interpretation of this Contract.

2018 **ARTICLE 31. EXHIBITS**

2019 31.01 Each Exhibit referred to in this Contract forms an essential part of this Contract.  
2020 Each such Exhibit is a part of this Contract and each is incorporated by this reference.

2021 **ARTICLE 32. EFFECTIVE DATE**

2022 32.01 This Contract shall become effective at such time as it is properly executed by  
2023 CITY and CONTRACTOR and CONTRACTOR shall begin Disposal Services, as covered  
2024 herein, as of July 1, 2015.

2025 **ARTICLE 33. COUNTERPARTS**

2026 33.01 This Contract may be executed in counterparts with each counterpart being  
2027 interpreted as an original, and all of which, taken together, shall constitute one and the same  
2028 instrument.

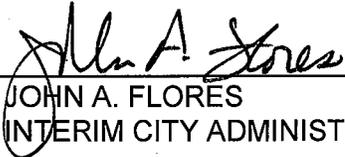
2029 IN WITNESS WHEREOF, CITY and CONTRACTOR have duly authorized execution of this  
2030 Contract and have executed the Contract as of the dates set forth below.

2031

2032

2033 CITY OF OAKLAND

WASTE MANAGEMENT OF ALAMEDA COUNTY, INC.

2034 By:   
2035 JOHN A. FLORES  
2036 INTERIM CITY ADMINISTRATOR

By: \_\_\_\_\_  
BARRY SKOLNICK  
PRESIDENT

2037 2-20-2015  
2038 Date

\_\_\_\_\_  
Date

2039  
2040

\_\_\_\_\_  
City of Oakland Business License Number

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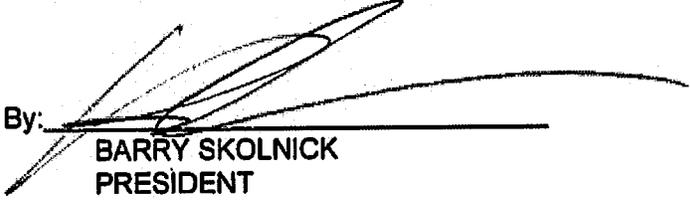
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2032

2033 CITY OF OAKLAND

WASTE MANAGEMENT OF ALAMEDA COUNTY, INC.

2034 By: \_\_\_\_\_  
2035 JOHN A. FLORES  
2036 INTERIM CITY ADMINISTRATOR

By:   
BARRY SKOLNICK  
PRESIDENT

2037 \_\_\_\_\_  
2038 Date

2/20/2015  
\_\_\_\_\_  
Date

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2040

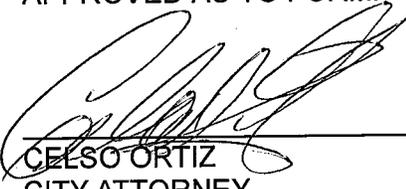
1335469  
\_\_\_\_\_  
City of Oakland Business License Number

2041 **The foregoing Contract has been reviewed and approval is recommended:**

2042 Ordinance No. 13259 C.M.S.

2043 APPROVED BY CITY COUNCIL

2044 APPROVED AS TO FORM:

2045   
2046 \_\_\_\_\_  
2047 CELSO ORTIZ  
2047 CITY ATTORNEY

2048 2-20-15  
2049 Date