

## Redline of Changes to Franchise Agreement in Proposed Amendment

### 2.4 Term of Agreement

The term of this Agreement (the “Term”) shall ~~be eight (8) years, commencing~~commence on July 1, 2013, and ~~expiring June 30, 2021~~expire December 31, 2032 (“Initial Term”), subject to extension as provided in Section 2.5, as applicable. Notwithstanding the foregoing, the unexcused failure or refusal of Collector to perform any material term, covenant, obligation or condition contained in this Agreement shall give rise to the right, in favor of City, for earlier termination of this Agreement for cause in accordance with the procedures elsewhere contained herein.

### 2.5 ~~Term City’s Option~~Options to Extend

~~City shall have the sole option to extend the Term of this Agreement up to twenty-four (24) months following the Agreement Term under Section 2.4. The City may, upon at least ninety day (90 day) advance written notice to the Contractor prior to the expiration of the Term of this Agreement, exercise this extension option. This extension period shall terminate, upon the earlier of: (i) the expiration of the aforementioned twenty-four (24) months, or (ii) the date City instructs Contractor that the contract will end, provided written notice of termination is provided to Contractor by City at least ninety (90) days prior to this termination date.~~

The Term may be extended for up to three (3) additional extensions, with each extension for a period of three (3) to five (5) years (each a “Successive Term”), following the expiration of the Initial Term or each Successive Term, upon mutual written agreement of the Parties made not less than one hundred (180) days prior to the end of the Initial Term or any Successive Term.

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#### 4.1.9 Bin Scout ~~Vehicles~~Services

~~Scout vehicles are defined as vehicles that transport a Solid Waste Container to and from the point of Collection by a Collection vehicle. Customers receiving scout truck service immediately prior to the start of service under this Agreement will continue to receive this service as identified in Exhibit 8. Contractor may continue to charge existing scout service Customers for this service, if it is operationally required to service the Bin. Contractor may add Customers to this service if the Bin cannot otherwise be positioned for Collection or if the service is requested by the Customer, or remove Customers from the scout route, in accordance with the approved rate schedule. In the event of a disagreement, the City shall make the final decision.~~

#### ~~4.1.10 Bin Push-out Service~~

Scout service requires Contractor ~~shall maneuver Customers’ to utilize specialized trucks to transport a Customer’s Bins to~~ and from the point of Collection, ~~and return the Bins to Bin enclosures or other storage locations. Company may only charge a push-out fee, included in the approved rate schedule, if the push-out distance is at least ten (10) feet from the front of the enclosure or other storage location to the point on the Bin closest to the storage location when positioned for Collection, and that this point of Collection is as close to the storage location as operationally feasible. If it is operationally feasible for the route Collection vehicles to Collect at~~

~~a location close enough that this measurement does not reach ten feet, a fee will not be applied. In accordance with Exhibit 2, if a fee is permitted per this section, it may be applied for by a Collection vehicle. Contractor may charge Customers for scout service if operationally required to service any Bin or upon Customer request. Any charge for scout service shall be assessed in accordance with maximum rates specified in Exhibit 2 and calculated for each Bin serviced, the frequency of such service per Bin, and the distance travelled by Contractor for each fifty (50) feet the any Bin must be moved; charged once for, beginning ten (10) to fifty (50) feet, twice for fifty-one (51) to one hundred (100) feet, etc. Application of this fee to Customers not already being charged is subject to written approval of the City and each fifty (50) feet thereafter. In the event of a disagreement concerning the need for scout service or any charged assessed hereunder, the City Manager shall make the final decision.~~

~~A push-out and a scout charge may not both be applied for servicing the same Bin.~~

#### 4.1.10 Cart Push-out Services

Push-out service requires Contractor to utilize Contractor personnel to push-out Customer Carts from Customer enclosures or other storage locations to and from the point of Collection by a Collection vehicle. Contractor may charge Customers for push-out service if operationally required to service any Cart or upon Customer request. Any charge for push-out service shall be assessed in accordance with maximum rates specified in Exhibit 2 and calculated for each Cart serviced, the frequency of such service per Cart, and the distance travelled by Contractor for each fifty (50) feet any Cart must be moved, beginning ten (10) to fifty (50) feet, for fifty-one (51) to one hundred (100) feet, and each fifty (50) feet thereafter. In the event of a disagreement concerning the need for push-out service or any charged assessed hereunder, the City Manager shall make the final decision.

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#### **4.12-Downtown Compactor Facility Development**    Parking Lot Enclosure Fee

Upon transfer of title to the Parking Lot Fencing, City shall be solely responsible for the operation, maintenance, cleaning and insurance of the Parking Lot Fencing and the enclosed area thereof ("Enclosure Area") and Contractor will have no liability in connection therewith. Effective January 1, 2023, all of Contractor's rights and duties with respect to the Parking Lot Fencing and Enclosure Area will terminate and Contractor will have no further liability in connection therewith, including for claims arising prior to such date; provided, however, that in order to support the City's operation, cleaning, maintenance, and responsibility for the foregoing, for each Customer utilizing the Enclosure Area, Contractor shall collect and remit to City a "Enclosure Support Fee" in an amount equal to \_\_\_\_\_ (\$ \_\_\_\_\_) per month. No later than the third (3<sup>rd</sup>) day of every month, City shall identify and provide a written list to Contractor Customers utilizing the Enclosure Area for the prior month. City shall provide written notice of any change in such customers within five (5) days of learning of any change. Contractor will retain the first \$11,225.34 collected from the Enclosure Support Fee in consideration of purchase price for the Parking Lot Fencing sold to City as specified in Section 4.1.14. The Enclosure Support Fee will be remitted to the City in accordance with Section 3.5.

~~City shall build a Downtown Compactor Facility that, at a minimum, is a permanent, fully contained facility with utilities located in City Parking Lot A to contain the Downtown Compactor(s) and facilities required to provide solid waste services to the Downtown Compactor Facility Service Area in compliance with regulatory requirements. Contractor shall reimburse City the costs of designing and building the Facility, estimated to be approximately \$130,000; provided that, if the City builds public restrooms at the facility, Contractor shall only be responsible for paying the costs associated with the Downtown Compactor Facility and not the public restrooms. Contractor shall reimburse City within 30 days of receipt of a written invoice from City. Failure to pay City in a timely manner shall be a material breach of this agreement. Alternatively, should the City elect not to include public restrooms in the facility, City shall have the right to assign the Contractor the responsibility for building the Facility in accordance with specifications approved by the City. In such event, Contractor shall pay prevailing wage rates in accordance with the California Labor Code. Contractor shall convey title to the facility to the City upon completion and acceptance by City. Contractor shall operate, maintain and be responsible for the Downtown Compactor Facility throughout the Term of this Agreement, including without limitation the same cleaning obligations as described for enclosure cleaning in Section 4.1.14. City shall have no obligations with respect to the Downtown Facility throughout the Term of this Agreement, provided that the City shall be responsible for maintaining and cleaning any public restrooms constructed at the Facility. Contractor shall provide all necessary utility services to the Downtown Compactor Facility and, if Contractor builds the Facility, shall be responsible for obtaining all necessary approvals and permits to construct Facility.~~

~~The City hereby grants Contractor a revocable license to enter and use the Facility Premises for the sole purpose of constructing, maintaining and operating the Downtown Compactor and Downtown Compactor Facility at the Facility Premises and to the specifications specified above and as required by the City for the Term of this Agreement. Upon expiration or termination of this Agreement, this license shall automatically become null and void, shall be of no further force and effect.~~

~~Contractor may amortize the cost to construct the Downtown Compactor Facility over a twenty (20) year period and pass those costs through to the participating businesses in the Downtown Compactor Facility Service Area in proportion to the service levels of each of those participant businesses through the business' monthly billing statement. Any amount of the amortized pass-through costs outstanding at the time this Agreement terminates or expires may be assigned to the City's subsequent Collection contractor. City shall require the subsequent Collection contractor to reimburse Contractor in a lump sum any remaining as yet unreimbursed construction costs. In no event shall the City be responsible for paying the Downtown Compactor Facility construction costs, or any other costs associated with Downtown Compactor Facility maintenance or operation.~~

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#### **4.14.4 Transfer of Parking Lot Fencing**

Effective January 1, 2023, Contractor hereby transfers to City all of Contractor's right to, title to and interest in the enclosure fencing at or surrounding City Parking Lots A and B, as depicted in Exhibit 11 ("Parking Lot Fencing"). City acknowledges that Contractor is selling and City is purchasing the Parking Lot Fencing on an "as is with all faults" basis, and, except as noted below, City is not relying on any representations or warranties or any kind whatsoever, express, implied, or statutory from Contractor, its agents, or brokers as to any matters concerning such personal property, including,

without limitation, any warranties as to title or implied warranties of merchantability or fitness for a particular purpose. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, CITY ACKNOWLEDGES THAT CONTRACTOR EXPRESSLY DISCLAIMS AND NEGATES, AS TO THE PARKING LOT FENCING TRANSFERRED HEREBY: (A) ANY IMPLIED OR EXPRESS WARRANTY OF MERCHANTABILITY; (B) ANY IMPLIED OR EXPRESS WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; AND (C) ANY IMPLIED OR EXPRESS WARRANTY OF CONFORMITY TO MODELS OR MATERIALS. Notwithstanding the foregoing, Contractor is unaware of any defect or asserted or unasserted claim by any third party related to the Parking Lot Fencing.

#### **~~4.1.14 Shared Solid Waste Downtown Compactor Facility and Porter Service~~**

~~Customers in the Downtown Compactor Facility Service Area share Solid Waste Container(s) due to space constraints on using individual Collection Containers and must utilize the Compactor Facility for solid waste collection.~~

~~Contractor shall monitor and control access to the shared solid waste facility. Additional collection containers, such as for grease collection, may be housed in this Facility, and access will be provided to Customers paying for the shared Collection service and to third parties hired to provide collection of grease or other materials from the enclosure. Contractor is responsible for enclosure cleanliness and shall steam clean this enclosure, in accordance with all National Pollution Discharge Elimination System (NPDES) regulations, reclaiming and properly removing for disposal water, a minimum of three times per week, or more frequently if needed to control cleanliness of enclosure. Contractor is responsible for monitoring and maintaining cleanliness of adjacent areas used to place other Solid Waste Containers, including Recycling Bins.~~

#### **~~A. Shared Solid Waste Containers in Downtown Compactor Facility Service Area Prior to Construction of Downtown Compactor Facility~~**

- ~~a) Prior to construction of new Downtown Compactor Facility, businesses in the Downtown Compactor Facility Service Area utilizing the shared solid waste containers in the existing non-automated enclosure shall continue bringing solid waste to the enclosure for Collection. Rates shall be charged based on generation level data from previous hauler.~~
- ~~b) When construction on new Downtown Compactor Facility begins, Contractor shall also provide a secured temporary staging area that will serve to provide trash collection services during the construction process. The Contractor shall have a designated representative to coordinate disposal operations during the construction process.~~
- ~~c) Access and Cleaning — Contractor shall monitor and control access to the shared solid waste facility. Additional collection containers, such as for grease collection, may be housed in this Facility, and access will be provided to Customers paying for the shared Collection service and to third parties hired to provide collection of grease or other materials from the enclosure. Contractor is responsible for enclosure cleanliness and shall steam clean this enclosure, in accordance with all National Pollution Discharge Elimination System (NPDES) regulations, reclaiming and properly removing for disposal water, a minimum of three times per week, or more frequently if needed to control cleanliness of enclosure. Contractor is responsible for monitoring and maintaining cleanliness of adjacent areas used to place other Solid Waste Containers, including Recycling Bins.~~

#### **~~B. Shared Solid Waste Containers in Downtown Compactor Facility Service Area After Construction of Downtown Compactor Facility~~**

~~a) Porter Service. Porter service is the provision of Contractor employee(s) to operate and maintain the Downtown Compactor Facility. Contractor may assess fees for porter service in accordance with the approved rate schedule. This fee shall represent full compensation for the porter service. Contractor shall be responsible for dividing the porter service fee among Customers based on level of generation, which will, at a minimum, be done at the start of service, each time there is a change in the amount of the fee, and if requested by City. Contractor shall maintain records of level of generation and Collection of Solid Waste at participating businesses, and shall update the records, at a minimum, once a year, and each time the City requests a report or there is a change in tenants that may significantly alter the distribution of Collection efforts.~~

~~City may request an increase or decrease in the customer base receiving porter service, may add additional enclosures, or make other service adjustments; if such service changes make a significant impact in the cost of providing service, the porter service fee shall be adjusted to reflect the actual change in costs.~~

~~b) Cost Allocation. Only costs included on the approved rate schedule and as provided in this section, and the new Downtown Compactor Facility construction cost and utilities as described in Section 4.12, may be charged and allocated by Contractor. Contractor shall determine shared Container Collection costs in accordance with the approved rate schedule and shall allocate the cost to participating Customers based upon usage. This allocated Solid Waste Collection fee shall be identified on the Customer's invoice separately from the allocated porter service fee.~~

~~In addition to rates for Collection services under the approved rate schedule, businesses in the Downtown Compactor Facility Service Area utilizing the Downtown Compactor Facility described in Section 4.12 may also be charged for utility services and lease of the compactor.~~

~~Utility services for said Facility operation may be charged, including Gas, Water, and Electric service. Gas may be employed for the provision of hot water service. Electrical service will be required for lighting, and operation of compactors, roll up doors, and miscellaneous equipment. Water will be required for operation and cleaning of facilities.~~

~~The cost of leasing the compactor may be charged to participating businesses provided City provides written approval of the amount based on documentation of cost of the lease.~~

~~The Facility will also include a confined area for the installation of an aboveground grease receptacle, providing a means for disposal of used restaurant grease. While Contractor does not provide the grease collection service, Contractor shall keep the grease collection area clean. Contractor shall also be responsible for operation and maintenance of facility's grease clarifier.~~

~~These Downtown Compactor Facility costs shall be proportionally allocated amongst the participants in the same manner that the other Facility costs are proportioned among the participating businesses (see above), and shall be charged on the businesses' monthly billing statements.~~

~~c) Dispute over Allocation of Fees and Costs. If Customer and Contractor dispute the allocation of porter fees or shared Solid Waste Collection costs, Contractor shall provide Solid Waste Collection reports to the City Manager identifying the estimated quantity of Solid Waste Collected by Customer versus total Solid Waste Collected, based upon capacity, and the City Manager's determination as to the allocation shall be final. Reallocation of these costs among Customers shall be done only upon request by, or with the approval of, the City. Reasons for reallocation may include a significant shift in the waste stream due to a change in mix of Customers or vacancy.~~

- ~~c) Dispute over Participation in Shared Downtown Compactor Facility Collection and Porter Service. If there is a dispute between a Customer and Contractor as to whether a business is to participate in porter service and in sharing Collection services and service costs, or if the City Manager otherwise determines a change is warranted for health and safety or other reasons, City Manager shall make the final determination as to participation.~~

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#### 4.2.5 Minimum ~~Recycling~~Diversion Requirements

~~Contractor shall divert from landfilling a minimum of fifty percent (50%) of all Solid Waste it Collects under this Agreement. Recycling of materials not Collected by the Contractor is not to be counted towards meeting this requirement. For the purposes of this section, diversion includes Recycling, Transformation and other forms of converting Solid Waste into energy to the extent that such diversion is accepted by the State toward meeting the City's diversion goal under AB 939.~~

City requires Contractor to achieve fifty percent (50%) citywide diversion in accordance with the mandated minimum annual CalRecycle diversion required of the City under Public Resources Code Section 41780 ("Diversion Requirement"). In furtherance of the Diversion Requirement, at a minimum, Contractor shall ensure that its individual waste stream diversion programs include the following: (i) collection of source-separated Organic Waste generated at Residential Premises and delivery to an Organic Waste Processing Facility selected by Contractor; (ii) collection of source-separated Recyclable Materials generated at Residential and Commercial Premises and delivery to a MRF or certified recycling facility selected by Contractor; (iii) collection of Refuse generated at Residential Premises and delivery to landfill, but at Contractor's option, diverted to a MRF or a certified transformation facility (refuse to energy); (iv) collection all mixed waste generated at Commercial Premises and Multi-Family Dwellings or otherwise collected in roll-off containers and delivery to a MRF selected by Contractor; (v) collect and deliver all source-separated Organic Waste generated Commercial Premises and Multi-Family Dwellings to an Organic Waste Processing Facility; (vi) collection of all Construction and Demolition Debris collected by Contractor and delivery of all such material to a certified Construction and Demolition Debris facility selected by Contractor that meets California Green Building Standards Code (CALGreen) requirements of sixty-five percent (65%) minimum diversion; and (v) collection of all material from roll-off inert containers and delivery to a certified inert facility selected by Contractor.

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#### 4.3.1 ~~Single Family Green~~ Organic Waste ~~Collection~~Program

Contractor will provide an Organic Waste program for all generators in the City, as specified in Exhibits 3, 3A, and 3B.

~~Contractor shall provide all Customers receiving Cart Refuse Collection who opt to receive Green Waste service with 96, 64 or 32-gallon Cart(s), as requested, for Collection of Green Waste ("Green Waste Cart(s)"). Green Waste service shall only be provided using Carts, not Cans. See Section 4.4.1.1 for Cart distribution.~~

~~Customers shall be charged for Green Waste Cart Collection based upon the number and size of Green Waste Carts requested in accordance with the approved rate schedule.~~

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#### **4.3.7 ~~Residential Food Waste Pilot Program~~ SB 1383 Guarantee**

Upon notice from City, Contractor shall be deemed in material breach of the Agreement subject to at least thirty (30) days to cure, in the event CalRecycle determines that the requirements of SB 1383 have not been satisfied: (i) due to the failure of Contractor to meet its obligations under this Agreement; or, (ii) due to Contractor's delay in providing information required under this Agreement that prevents City from submitting reports to CalRecycle in a timely manner (alternatively, a "Noncompliance Event"). Upon any Noncompliance Event, City shall be entitled to the reimbursement of penalties and/or fines assessed by CalRecycle against City to the extent the penalties and/or fines arise from the Noncompliance Event. Notwithstanding other provisions of this Agreement, Contractor's obligations hereunder shall be limited by Public Resources Code Section 40059.1.

~~Contractor shall provide a three-month pilot program including Residential Green Waste Program Customers, but not less than ten percent (10%) of the City's Residential Refuse Cart Collection Customers, for the Collection and Diversion of Food Waste. The program shall consist of educating participating residents to place Food Waste in their Green Waste Cart(s) for Collection on their regularly scheduled Green Waste Cart Collection day. Contractor shall collect tonnage data from participants before and during the pilot program period for comparison, and shall survey participants for feedback on program. This pilot program shall be conducted at no additional cost to City or ratepayers, and will be conducted at a time requested by City. (See Section 4.3.1 for conversation to City-wide Residential Food Waste Diversion program at closure of the Puente Hills Landfill.)~~

~~The public schools in the City of Hermosa Beach shall be provided the option of participating in this, or any, Food Waste pilot program at no cost to the City or schools. The schools shall be provided sufficient Carts to accommodate the Food Waste generated by the schools. The schools need not add Green Waste to the Carts.~~

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#### **4.5.6 Abandoned Item Collection**

Because time is of the essence, City crews will typically Collect items abandoned in the City and dispose of those items at City yard. Contractor will Collect such items from City yard and properly divert from landfilling or dispose of such items in accordance with Sections 4.1.16 and 4.1.17. To

assist City crews, City may request that Contractor Collect abandoned items within 24 hours of request up to ~~four~~twenty (20) times per month at no additional charge.

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#### **4.8 Approved Facilities**

~~The approved Disposal Site for non-diverted Solid Waste is the Chiquita Canyon Landfill, Sunshine Canyon Landfill, El Sobrante Landfill and/or Puente Hills Landfill. Contractor must receive written advance approval from City to use each Transfer Station, Transformation Facility, processing Facility or other Facility used by Contractor in the fulfillment of this Agreement. Contractor is responsible for ensuring that each Facility it uses is properly permitted prior to requesting City approval to use such Facility. Unless and until the City instructs otherwise, the designated Disposal Site and other Facilities are: Athens Services Transfer Facility and MRF (City of Industry), Potential Industries (Wilmington), Chiquita Canyon Landfill (Castaic), Sunshine Canyon Landfill (Sylmar), El Sobrante Landfill (Corona), Puente Hills Landfill in Whittier, California Waste Systems (Gardena), Commerce Refuse to Energy (Commerce), Southeast Resource Recovery Facility or "SERRF" (Long Beach), Waste Resources Recovery (Gardena), Edco Recycling and Transfer (Signal Hill), and San Bernardino County Solid Waste Disposal sites.~~

No later than January 1, 2023, and anytime thereafter upon any changes or as requested by City, Contractor shall submit a list of all facilities it intends to utilize in connection with the disposal and processing of Solid Waste, Recyclable Materials, and Organic Waste. All facilities selected by will be operated in accordance with 14 CCR Article 6.2 and Hermosa Beach Municipal Code Section 8.14.090, as applicable. Notwithstanding the foregoing, to the extent a facility is not owned or operated by Contractor, Contractor shall be in compliance with this Section 4.8 if, as directed by City, Contractor requests a statement from the owner or operator of a facility that it is operated in accordance with 14 CCR Article 6.2 or Hermosa Beach Municipal Code Section 8.14.090, as applicable. In the event Contractor discovers any facility used in connection with this Agreement is not permitted or operated in compliance with applicable law, Contractor shall designate an alternative facility that is permitted and in compliance with applicable law ("Alternative Facility"). Contractor shall immediately inform City in writing in the event of any noncompliance, and City, in its sole discretion, shall have the right to require the use of an Alternative Facility, to be selected by Contractor. If an Alternative Facility is not available within a radius of twenty-five (25) miles of the facility previously used by Contractor, the Parties shall meet and confer to discuss costs due to use of such an Alternative Facility.

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#### **5.1.25.1.2.1 Production and Inspection of Complaint Documentation Log**

~~Service complaints received by City shall be directed to Contractor. Contractor shall keep daily logs of complaints forwarded to it for a minimum of three (3) years.~~



~~Contractor shall log all complaints received, and said log shall include the date and time the complaint was received, the name, address and telephone number of the caller/complainant, a description of the complaint, the name of the employee recording the complaint and the action taken by Contractor to respond to and remedy the complaint. Log shall also include each instance that Solid Waste and/or Recyclables are not Collected, the form of notification used to inform the participants of the reasons for non Collection, and the end result or means of resolution of the incident.~~

~~All written Customer complaints and inquiries shall be date stamped when received. All complaints shall be initially responded to within one (1) business day of receipt, except missed pickups, which shall be addressed within the time frame described in 4.6.1.3. Contractor shall use best efforts to resolve complaints within two (2) business days. Contractor shall log action taken by Contractor to respond to and remedy the complaint.~~

All Customer service records and logs kept by Contractor shall be available to City upon request. Contractor shall supply ~~compliant log to City~~[its log of Customer complaints log to](#) on a quarterly basis [and as part of its annual report required under Section 8.3.3.](#) City shall, ~~at any time~~ during regular Office Hours, have access to ~~Contractor's~~[Contractor's](#) Customer service department for purposes that may include monitoring the quality of Customer service or researching Customer complaints.

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## 5.4 Community Support

Contractor shall support the following events:

- ~~● Sunset Concerts — through annual sponsorship~~
- [●](#) ~~●~~ Fiesta Hermosa - through annual sponsorship and through providing employee volunteers at event
- ~~● Hermosa Beach Murals Project — Corporate membership contribution of \$1,000~~
- [●](#) ~~●~~ Hermosa Beach Education Foundation - Contractor shall match contributions to this foundation made by any Contractor employee, provide four \$500 scholarships per year, and provide volunteer hours for foundation events.
- [●](#) ~~●~~ Hermosa Beach Historical Society - Business membership of \$50
- [●](#) ~~●~~ Hermosa Beach Sister Cities - Corporate membership of \$250
- [●](#) ~~●~~ Hermosa Beach Friends of the Library - Annual donation of \$500
- [●](#) ~~●~~ Hermosa Beach Friends of the Park - Annual donation of \$500

- Pier Ave. Holiday Decorations - Annual fund of \$5,000

- Other non-profit organizations - Additional \$10,000 (funding or in-kind services) to be distributed to organizations as directed by the City.

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### **6.3.2 Approval Process**

Annual adjustment to the maximum rates calculated in accordance with Section ~~6.4~~6.4.2 and Section 6.4.3 is subject to the approval of the City Manager, with any other adjustments subject to approval of City Council. If a rate adjustment requested per this Section 6.3 is determined by the City to be accurately calculated in accordance with Agreement procedures, and would otherwise have been approved by the City Council, but is prevented from implementation due to a protest under Proposition 218, then Contractor is permitted to terminate this Agreement upon 24-month written notice to City, but shall not be entitled to compensation from City or Customers for lost revenue due to the Proposition 218 protest.

### **~~6.4.2 Cost Components for Rate Adjustment Indices~~**

~~The approved Company Compensation consists of the following cost component categories. Each cost component may be adjusted by the change in the corresponding index below. See Section 6.4.3 for detailed Company Compensation adjustment procedures.~~

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### **~~6.4.3~~6.4.2 Annual Rate Adjustment Steps**

Beginning July 1, 2023, and annually thereafter on July 1, Contractor may request an adjustment to the maximum rates in accordance with the Annual Rate Adjustment. For the purposes of this Section 6.4, “Annual Rate Adjustment” means the annual adjustment of maximum rates set forth in Exhibit 2 by the percentage increase in Trash CPI for the prior 12-month period (March of the prior year to March of the current year) plus one percent (1%) (i.e., Trash CPI +1), where “Trash CPI” means the Consumer Price Index for Trash and Garbage Collection (CUUR0000SEHG02), U.S. City Average (not seasonally adjusted) or an equivalent index approved by mutual agreement in the event said index is no longer published.

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### **6.4.3 Rates Phase-in**

Notwithstanding any provision in this Agreement to the contrary, for the rate periods beginning July 1, 2023 and July 1, 2024, respectively, in addition to any other rate adjustment permitted under this Agreement, including the Annual Rate Adjustment, the rates for provided in Exhibit 2 shall be subject to supplemental adjustments such that net rates for (i) Single-Family generators increase fifteen percent (15%) each rate period; and (ii) Commercial generators increase eighteen and thirty-three hundredths percent (18.3%) each rate period.

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### EXHIBIT 3

#### ORGANIC WASTE PROGRAM

1. General. Contractor shall (i) provide account site visits and reviews, and the tracking thereof; (ii) support public education and outreach efforts in the City; (iii) meet with CalRecycle staff; (iv) provide Organic Waste tonnage data to both City and CalRecycle; and (v) provide Organic Waste collection services, as provided herein.

2. Default Organic Waste Service.

A. Residential. Contractor shall provide all Single-Family generators Source Separated Organic Waste service with 35-, 64-, or 96-gallon Green Containers, as determined by Contractor. Customers shall be charged for Organic Waste Collection based upon the number and size of Green Containers necessary for customer to comply with SB 1383 in accordance with the approved rate schedule.

B. Commercial. For Commercial generators, including the Hermosa Beach City School District, Contractor shall collect one (1) 35-gallon container for Source Separated Organic Waste one (1) time per week. Based on a waste assessment performed by Contractor, Contractor may adjust the foregoing default level of service to any one of the following container types: (i) one (1) container of 64 gallons in size; (ii) one (1) bin of 1.5 to 2 cubic yards in size; and (iii) one (1) metal roll-off container with a capacity of 10 or more cubic yards.

C. Acceptable Materials. Notwithstanding any provision in this Agreement to the contrary, the Organic Waste materials that are to be accepted for collection in a Green Container are set forth in Exhibit 3A, and Recyclable Materials that are to be accepted for collection in a Blue Container are set forth in Exhibit 3B. City and Contractor agree that the list of acceptable Organic Waste and Recyclable Materials may be modified from time to time with the written approval of City.

D. Collection Routes. Contractor may collect Source Separated Organic Waste from multiple cities within one Organic Waste route and, if so, will report to City source-separated Organic Waste tonnage among the cities by volume.

E. Service Changes. Contractor may reduce or increase any Organic Waste service level, including service frequency and container types, based on inspection, audit, or review at any time, subject to the City Manager's right to review and disapprove. Contractor may assess additional charges for Organic Waste services above the default service level and/or above the minimum collection frequency for a given Customer.

3. Education and Outreach. Contractor and City have a shared responsibility to cooperatively provide education and outreach activities and to create and disseminate educational materials that comply with 14 CCR Section 18985.1 to Customers. In accordance with the foregoing, Contractor will provide the education information required by this Section by including it with regularly scheduled notices, education materials, billing inserts, or other information

disseminated to Customers. Contractor shall maintain records of its education and outreach activities and provide this information upon request to City. Education and outreach provided by Contractor to Customers per this provision shall include:

A. Information on the Organic Waste Customer's requirements to properly separate materials in appropriate containers.

B. Information on methods for: the prevention of Organic Waste generation, recycling Organic Waste on-site, sending Organic Waste to community composting, and any other local requirements regarding Organic Waste.

C. Information regarding the methane reduction benefits of reducing the landfill disposal of Organic Waste, and the methods of Organic Waste recovery contemplated by the Agreement.

D. Information regarding how to recover Organic Waste.

E. Information related to the public health and safety and environmental impacts associated with the landfill disposal of Organic Waste.

F. The above information will be provided, at a minimum, through print and/or electronic media, and may also be provided through workshops, meetings and/or on-site visits.

G. Educational materials provided pursuant to the above shall be translated into Spanish.

#### 4. Reporting.

A. Notwithstanding any provision in this Agreement to the contrary, Contractor will provide an annual report of the following: (i) the average daily gross tons of Organic Waste collected by route, with a map of routes; (ii) the total number of generators that receive each type of Organic Waste collection service provided by Contractor; (iii) the number of Organic Waste collection containers distributed by size and Customer type; and (iv) annual totals of Organic Waste processed, including facility name(s) and location(s).

B. For the Outreach and Education provision of Section 3 of this Exhibit, Contractor shall provide: (i) copies of all such information (including flyers, brochures, newsletters, invoice messaging, website and social media postings, emails, and other electronic messages); and (ii) the date the information was disseminated or the direct contact made (for website and social media postings, this shall be the date posted).

C. For the Route Reviews and Compliance Reviews provisions of Sections 8 and 9 this Exhibit, Contractor shall provide: (i) the dates that each such review was conducted; (ii) the name and title of each person conducting the review; (iii) a list of the account names and addresses covered by the review; (iv) a description of each Hauler Route reviewed, including Contractor's route number and a description of the Hauler Route area; (v) the results of such review (i.e. the addresses where any Prohibited Container Contaminants were found), and any photographs taken; (vi) the results of such review (i.e. Contractor's findings as to whether the

customers reviewed are subscribed for Organic Waste Collection Service, have an applicable waiver, or neither), and any relevant evidence supporting such findings (e.g. account records); (v) copies of any educational materials issued pursuant to such reviews; (vi) documentation relating to observed Prohibited Container Contaminants, whether observed during Route Reviews or otherwise; (vii) copies of the form of each notice issued to generators for Prohibited Container Contaminants, as well as, for each such form, a list of the Customers to which such notice was issued, the date of issuance, the Customers name and service address, and the reason for issuance; (viii) the number of times notices were issued to Customers for Prohibited Container Contaminants; (ix) the number of Containers where the contents were disposed due to observation of Prohibited Container Contaminants; and (x) a description of Contractor's process for determining the level of Container contamination under the Agreement.

D. The Parties shall meet and confer if City elects to modify the records and reports required of Contractor pursuant to this Exhibit with respect to type of report, number, content, format (including digital submission), or frequency. Contractor shall provide records to City within ten (10) business days of a request. Contractor shall provide City with business hours access to and any necessary training for use of a Contractor-hosted records systems in order to validate Contractor performance in accordance with the Organic Waste Program specified in this Exhibit.

5. **Senate Bill No. 1383 Procurement.** As part of City's efforts to satisfy annual procurement requirements specified in SB 1383, Contractor shall have the option to, at levels commensurate with those required in the City under SB 1383, (i) provide compost or mulch from qualifying organic waste sources, as approved by CalRecycle, delivered to location(s) selected by City and agreed upon by Contractor, and/or (ii) assist City in the procurement of Renewable Natural Gas (RNG) from qualifying organic waste sources for collection vehicles used by Contractor in City, such that the Contractor's providing of mulch, compost, or RNG will meet no less than 25% of the City's annual SB 1383 organic waste product procurement target ("Procurement Target"). Notwithstanding the foregoing, annually, upon the request of City, City and Contractor will meet and confer to discuss and determine the specific levels of compost, mulch, and/or RNG that City would like Contractor to provide in furtherance of the Procurement Target for the upcoming calendar year. If Contractor and City cannot reasonably agree on the Procurement Target, Contractor may elect the mix from SB 1383 qualifying sources as outlined in this Section. Should products such as greater quantities of compost or mulch, other or additional biofuels, or different forms of electricity be needed for City to satisfy its procurement requirements, and if City requests that Contractor provide the same, City and Contractor shall meet and confer to discuss an amendment to the Agreement prior to such procurement. Further, any compost provided hereunder shall be provided free of charge and in addition to compost provided to the City in accordance with Section 4.3.6.

## 6. **Container Color and Labeling.**

A. Container Color. Notwithstanding any provision in this Agreement to the contrary, all new containers put into service as of the Amendment Effective Date must comply with the color requirements specified in 14 CCR Section 18984.7. Additionally, no later than January 1, 2036, all containers provided to Customers must comply with the color requirements specified in 14 CCR Section 18984.7. Containers shall be colorfast and resistant to fading as a result of weathering or ultraviolet degradation, and the lids and bodies shall be uniform for each

container type, as follows: (i) Solid Waste container bodies and/or lids shall be black or gray; (ii) Recyclable Materials container bodies and/or lids shall be blue; and (iii) Organic Waste Container bodies and/or lids shall be green. Hardware such as hinges and wheels on the containers may be a different color than specified herein.

B. Container Labeling. Beginning on the Amendment Effective Date, Contractor shall, in accordance with 14 CCR Section 18984.8, imprint or place a label on the body or lid of each new container that has been provided to a Customer that includes language or graphic images, or both, indicating the primary materials accepted and the primary materials prohibited in that container. Imprints or labels shall clearly indicate items that are prohibited container contaminants for each container.

7. Route Reviews. Contractor shall on a quarterly basis, commencing as of the Agreement Effective Date, conduct hauler route reviews for “Prohibited Container Contaminants” consistent with and as defined in 14 CCR Section 18984.5(b) in a manner deemed safe by Contractor. Containers may be randomly selected along hauler routes. Contractor shall develop a hauler review methodology in compliance with 14 CCR Section 18984.5(b) and submit it to City not more than annually upon the request of City. Contractor shall conduct a Route Review for each Hauler Route. For each Route Review of a Hauler Route, Contractor shall inspect at least the following minimum number of Containers but may inspect more if Contractor wishes. Each inspection shall involve lifting the Container lid and observing the contents but shall not require Contractor to disturb the contents or open any bags. For the avoidance of doubt, Contractor shall not be required to annually inspect every Container on a Hauler Route. Contractor shall include the results of each Route Review in its next regularly scheduled report to City, as required by Section 4 of this Exhibit.

<u>Route Size (# garbage accounts/ week)</u>	<u>Minimum Number of Containers</u>
<u>Less than 1,500</u>	<u>25</u>
<u>1,500-3,999</u>	<u>30</u>
<u>4,000-6,999</u>	<u>35</u>
<u>7,000 or more</u>	<u>40</u>

8. Compliance Reviews. At least once annually, commencing as of the Amendment Effective Date, Contractor shall review the records of its Commercial and Multi-Family Dwelling Customers in City that are subscribed for at least two (2) cubic yards per week of combined Refuse, Organic Waste and Recyclable Materials collection service, to determine whether such customers are subscribed for Organic Waste collection service or have an applicable waiver. Contractor shall include the results of each compliance review in its next regularly scheduled report to City, as required by Section 4 of this Exhibit.

9. Facilities Waste Evaluations. Contractor shall at least twice per year but no more than quarterly, commencing as of the Amendment Effective Date, conduct waste evaluations that meet the requirements of 14 CCR Section 17409.5.1 with respect to waste delivered to an Contractor-owned or -controlled facility or with respect to information otherwise accessible to Contractor that permits it to perform characterization studies. City maintains the right to observe, or hire a third party to observe, the waste evaluations.

10. **Contamination Protocols.** In order to prevent Prohibited Container Contaminants, Contractor shall implement the protocols, as specified herein.

A. **First and Second Events.** Upon the first and second discoveries of Prohibited Container Contaminants within a given calendar year starting January 1, Contractor will collect the contaminated waste if safe to do so, treat the waste as Refuse for handling and billing purposes, and affix a “Contamination Violation Notice” to any container with contaminated waste. Contractor shall also report issuance of any such notices to City. The Contamination Violation Notice will contain instructions on the proper procedures for sorting waste, and Contractor must notify the Customer by phone, by U.S. mail, by email, in person, or by tag of the following: (i) for the third and subsequent discovery of Prohibited Container Contaminants, the Customer may be charged a contamination fee for each contaminated container, and (ii) for the fifth and subsequent discoveries of Prohibited Container Contaminants, the Customer may be charged a contamination fee for each contaminated container, and Contractor may increase the size of the Customer’s Refuse container or require an additional container(s). Contractor must also contact the Customer by phone, by U.S. mail, by email, in person, or by tag to ensure that the Customer has the appropriate level of service for proper collection of waste.

B. **Third and Fourth Events.** Upon the third and fourth discoveries of Prohibited Container Contaminants within a given calendar year starting January 1, Contractor will collect the waste in the contaminated container(s) if safe to do so, treat the waste as Refuse for handling and billing purposes, and affix a Contamination Violation Notice to the contaminated container. Contractor may also elect to charge the then-maximum contamination fee for the discovery of Prohibited Container Contaminants. For any assessed contamination fee, Contractor must provide digital/visual documentation of Contractor’ discovery of Prohibited Container Contaminants to the Customer and City.

C. **Five or More Events.** Upon each of the fifth and any subsequent discoveries of Prohibited Container Contaminants within a given calendar year starting January 1, Contractor will collect the waste in the contaminated container(s) if safe to do so, treat the waste as Refuse for handling and billing purposes, and charge a contamination fee for each event. For any assessed contamination fee, Contractor must provide to the customer and the city digital/visual documentation of Contractor’ discovery of Prohibited Container Contaminants. Upon five (5) business days’ notice to City and the Customer, Contractor may (i) increase the size of the Customer’s Refuse container, require additional Refuse containers for excessive Prohibited Container Contaminants, or increase collection frequency of Refuse containers; (ii) impose the then-maximum contamination fee; and/or (iii) provide notice that Contractor has recommended that City commence any applicable code enforcement action against the Customer. City will consult with Contractor and consider, and pursue as applicable, appropriate legal remedies against offending Customers in order to secure discontinuance of the Prohibited Container Contaminants. All City costs of such action shall be recovered from the offending Customers.

D. **Disputes.** If a Customer disputes, in writing, an assessment of a contamination fee within 30 days of the assessment, Contractor will temporarily halt any such assessment and Contractor may request a ruling by the City Manager to resolve the dispute. A request by Contractor to the City Manager to render a decision on any such dispute must be filed within ten (10) business days of receipt of a Customer’s written dispute, and Contractor must include written



documentation and digital/visual evidence of ongoing overall problems. Upon receipt of such documentation, the City Manager will rule on the dispute within ten (10) business days, and the City Manager's decision resolving the dispute between the Customer and Contractor will be final.

11. **Waivers.** Upon Contractor' request, City may provide Contractor waivers as follows: (a) in the event of a disaster, City may grant Contractor a waiver of some or all discarded materials collection requirements under this Agreement and 14 CCR, Division 7, Chapter 12, Article 3 in the disaster-affected areas for the duration of the waiver, provided that such waiver has been approved by CalRecycle; (b) Contractor may, but is not required to, separate or recover Organic Waste that City removes from homeless encampments and illegal disposal sites as part of an abatement activity to protect public health and safety; and/or (c) Contractor may dispose of rather than process specific types of Organic Waste and/or Recyclable Materials that are subject to quarantine and meet the requirements described in 14 CCR Section 18984.13(d) for a period of time specified by City or until City provides notice that the quarantine has been removed and directs Contractor to transport the materials to facilities designated by Contractor for such material.

12. **Organic Waste Ordinance; Enforcement.** City may implement an Organic Waste ordinance that will require all Customers to subscribe to Organic Waste services. Contractor shall coordinate with City by providing, upon City request, notice to City of any and all persons refusing Organic Waste services. Contractor shall cooperate with City in implementing the Organic Waste ordinance and shall provide support to the City in establishing the administrative record of Contractor's outreach, education, site visits, and communications with any Customers that may ultimately be subject to City enforcement. City shall bear the responsibility for code enforcement actions such as notices of code violation and assessment of penalties per the Organic Waste ordinance. Contractor shall not be liable for any claims, actions, obligations, demands, damages, liabilities, costs, or expenses for any damages or injuries caused by or arising from (i) the failure of Customers to accept Organic Waste services, or (ii) the suspension or termination of services upon nonpayment in whole or in part by Customers, provided Contractor reports such instances of noncompliance or nonpayment to City for code enforcement.

13. **Program Changes.** If additional or modified Organic Waste services are directed by City or required due to a change in law and Contractor will otherwise incur additional costs, such as but not limited to changes in service frequency requirements mandated by applicable law adopted or implemented after the Amendment Effective Date, Contractor may be entitled to a rate adjustment as set forth in Section 6.5 of the Agreement. Nothing in this Agreement shall be construed as obligating Contractor to provide additional or modified services prior to City and Athens Services having first agreed in writing to any such change.



## EXHIBIT 3A

### LIST OF ACCEPTABLE ORGANIC WASTE MATERIALS FOR GREEN CONTAINERS

#### GREEN WASTE

- Flower and hedge trimmings
- Grass clippings
- Leaves and branches
- Lumber, scrap wood, and plywood (not painted or treated)
- Weeds

#### FOOD SCRAPS

- ~~Cart, Can~~ Bread, rice, and ~~Bin Rates~~ pasta
- Cheese and dairy
- Coffee grounds and filters
- Fruits and vegetables
- Flowers and herbs
- Meat, bones, and poultry
- Seafood and soft shells
- Pet food (nonmedicated)

~~Bin, Can, and Cart rates will be adjusted using the cost component weightings identified above for Bin, Can, and Cart rates as described below. See Exhibit 3A.~~

~~Step One — Calculate the percentage increase or decrease in each index listed in Section 6.4.2. The increase or decrease in the published indices for labor, fuel, equipment, disposal and all other (CPI) will be the change in the average annual published index between the 12 months ended the September prior to the Rate Year anniversary date and prior 12 month average (See Exhibit 3C).~~

~~Step Two — The first rate adjustment cost components as a percentage of total costs are provided in Section 6.4.2 above, with subsequent components calculated in Step Four of the rate adjustment. For Step Two of each subsequent rate adjustment, use the cost components recalculated in Step Four during the previous rate adjustment.~~

~~Multiply the percentage changes for each rate adjustment component by that component's weighting and add these resulting percentages together to get the total weighted change to the rates. If this percentage change exceeds 5%, the change shall be capped at 5%.~~

~~Step Three — Multiply the total weighted percent change from Step Two by the existing Customer rates to calculate the increase or decrease to the maximum rates. Add the rate increase or decrease to the existing rates to derive the newly adjusted rates.~~

~~Step Four — Recalculate weightings for the following year based upon these changes. “Pull Plus Dump” Roll-Off Box Rates~~

~~Roll-Off Box pull rates (excluding disposal-inclusive COD rates) will be adjusted using the same methodology above, with the weightings identified above for Roll-Off Pulls. The 5% cap on annual increases as described in Step 2 applies as well. The per ton Roll-Off Box Refuse Disposal rate shall adjust based upon the change in the disposal component of the rates (per the rate adjustment factor in Section 6.4.2). See Exhibit 3B.~~

#### FOOD-SOILED PAPER\*

- Food-stained paper
- Paper egg cartons
- Paper napkins and kitchen paper towels
- Pizza boxes
- Plates
- To-go boxes (no coating)
- Wood and fiber-based utensils

\*Must be 100% fiber-based. No materials with - plastic, wax, or bioplastic coating, liner, or laminate.

#### UNACCEPTED ITEMS

- All plastics
- Cacti, succulents, and yucca
- Compostable plastics (bioplastics)
- Coffee cups and pods
- Fats, oils, and grease
- Food stickers (please remove from items)
- Gloves
- Hard shells (clams, mussels, oysters)
- Medication
- Palm fronds
- Paper napkins and paper towels with cleaning chemicals
- Parchment and wax paper
- Pet waste
- Rocks and soil
- Rubber bands and twist ties
- Tea bags
- Textiles
- Tissues and wet wipes

#### **EXHIBIT 3B**

**LIST OF ACCEPTABLE RECYCLABLE SOLID WASTE MATERIALS**  
**FOR BLUE CONTAINERS**

**PLASTICS**

- Plastics number 1 as bottle or clamshell
- Plastics numbers 2, 4, 5, and 7
- Soda, juice, and water bottles
- Beverage and detergent jugs

**METALS**

- Aluminum foil and pie tins (clean)
- Scrap metal
- Steel cans, dishware, etc.
- Tin and aluminum cans

**PAPER**

- Paper (clean and dry, white and mixed color)
  - Envelopes
  - File folders (paper only)
  - Junk mail and magazines
  - Newspaper
  - Paper grocery bags
  - Telephone books
- Acceptable (but may not be recycled)
- Cereal boxes (no plastic insert)
  - Egg cartons (paper only and clean)
  - Frozen food boxes
  - Soup, milk, and juice cartons

**CARDBOARD (or similar)**

- Cardboard and corrugated boxes

**GLASS**

- Amber, green, and mixed-color glass
  - Clear food glass jars
  - Soda, tea, and liquor bottles
- No window glass, porcelain, or non-food-related glass.

<b>Summary report:</b> <b>Litera Compare for Word 11.3.0.46 Document comparison done on</b> <b>12/8/2022 3:18:56 PM</b>	
<b>Style name:</b> Default Style	
<b>Intelligent Table Comparison:</b> Active	
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<del>Delete</del>	87
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<del>Table moves from</del>	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
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