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**AMENDED AND RESTATED AGREEMENT
BETWEEN
NOVATO SANITARY DISTRICT
AND
NOVATO DISPOSAL SERVICE, INC.
FOR
SOLID WASTE COLLECTION,
PROCESSING, DIVERSION
AND DISPOSAL**

March 2011

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Table of Contents

1

2 **AGREEMENT** 1

3 **RECITALS** 1

4 **ARTICLE 1 DEFINITIONS** 3

5 1.1 AB 32 3

6 1.2 AB 939 OR CIWMA 3

7 1.3 AGREEMENT OR FRANCHISE AGREEMENT 3

8 1.4 AGREEMENT YEAR 3

9 1.5 ALTERNATIVE DAILY COVER (ADC)..... 3

10 1.6 BIOHAZARDOUS OR BIOMEDICAL WASTE 3

11 1.7 BULKY WASTE..... 3

12 1.8 BUSINESS SERVICE UNIT..... 3

13 1.9 CITY..... 3

14 1.10 COLLECTION DAY 4

15 1.11 COLLECTION 4

16 1.12 COLLECTION SERVICES..... 4

17 1.13 COMMERCIAL COLLECTION SERVICE..... 4

18 1.14 COMMERCIAL ORGANIC WASTE 4

19 1.15 COMMERCIAL ORGANIC WASTE COLLECTION SERVICE..... 4

20 1.16 COMMERCIAL RECYCLING COLLECTION SERVICE 4

21 1.17 COMMERCIAL SERVICE UNIT 4

22 1.18 COMMERCIAL GARBAGE COLLECTION SERVICE 4

23 1.19 COMPACTOR 4

24 1.20 COMPANY 4

25 1.21 COMPOSTING 5

26 1.22 CONSTRUCTION AND DEMOLITION DEBRIS 5

27 1.23 CONTAINER OR CONTAINERS 5

28 1.24 COUNTY 5

29 1.25 CUSTOMER..... 5

30 1.26 DEBRIS BOX COLLECTION SERVICE..... 5

31 1.27 DEBRIS BOX..... 5

32 1.28 DETAILED RATE REVIEW 5

33 1.29 DISPOSAL FACILITY 5

34 1.30 DISTRICT..... 6

35 1.31 DISTRICT MANAGER-ENGINEER 6

36 1.32 DIVERSION FROM LANDFILL RATE 6

37 1.33 DWELLING UNIT 6

38 1.34 E-WASTE 6

39 1.35 ENVIRONMENTAL LAWS 6

40 1.36 EXEMPT WASTE..... 6

41 1.37 FISCAL YEAR 7

42 1.38 FOOD WASTE 7

43 1.39 GARBAGE..... 7

44 1.40 GARBAGE BIN..... 7

1	1.41 GARBAGE CART.....	7
2	1.42 GREEN WASTE.....	7
3	1.43 HAZARDOUS WASTE.....	7
4	1.44 HOUSEHOLD HAZARDOUS WASTE (HHW).....	8
5	1.45 HHW ELEMENT.....	8
6	1.46 INTERFAMILIAL ASSIGNMENTS.....	8
7	1.47 LARGE GREEN WASTE.....	8
8	1.48 MATERIALS RECOVERY FACILITY (MRF).....	8
9	1.49 MULTI-FAMILY DWELLING (MFD COLLECTION SERVICE).....	8
10	1.50 MFD ORGANIC WASTE.....	8
11	1.51 MFD ORGANIC WASTE COLLECTION SERVICE.....	8
12	1.52 MFD RECYCLING SERVICE.....	8
13	1.53 MFD SERVICE UNIT.....	9
14	1.54 MFD GARBAGE COLLECTION SERVICE.....	9
15	1.55 NON-COLLECTION NOTICE.....	9
16	1.56 OCCUPIED.....	9
17	1.57 ORGANIC WASTE.....	9
18	1.58 ORGANIC WASTE BIN.....	9
19	1.59 ORGANIC WASTE CART.....	9
20	1.60 ORGANIC WASTE PROCESSING FACILITY.....	9
21	1.61 OWNER.....	9
22	1.62 PASS-THROUGH COST.....	10
23	1.63 RECYCLABLE MATERIALS.....	10
24	1.64 RECYCLABLE MATERIALS BALANCING ACCOUNT.....	10
25	1.65 RECYCLING BIN.....	10
26	1.66 RECYCLING CART.....	10
27	1.67 RELATED PARTY ENTITY.....	10
28	1.68 SERVICE AREA.....	10
29	1.69 SERVICE RECIPIENT.....	10
30	1.70 SERVICE UNIT.....	11
31	1.71 SINGLE-FAMILY DWELLING (SFD) COLLECTION SERVICE.....	11
32	1.72 SFD ORGANIC WASTE.....	11
33	1.73 SFD ORGANIC WASTE COLLECTION SERVICE.....	11
34	1.74 SFD RECYCLING COLLECTION SERVICE.....	11
35	1.75 SFD GARBAGE COLLECTION SERVICE.....	11
36	1.76 SFD SERVICE UNIT.....	11
37	1.77 SHARPS.....	11
38	1.78 SLUDGE.....	11
39	1.79 SOLID WASTE.....	11
40	1.80 SRRE ELEMENT.....	12
41	1.81 UNIVERSAL WASTE OR U-WASTE.....	12
42	1.82 WHITE GOODS.....	12
43	1.83 WORK DAY.....	12
44	1.84 ZERO WASTE.....	12
45	1.85 ZERO WASTE MINIMUM REQUIREMENTS.....	12
46	ARTICLE 2 GRANT AND ACCEPTANCE OF FRANCHISE.....	13

1	2.1 GRANT AND ACCEPTANCE OF FRANCHISE	13
2	2.2 EFFECTIVE DATE	13
3	2.3 TERM OF AGREEMENT	13
4	2.4 OPTION TO EXTEND TERM	13
5	2.5 REDUCTION TO SEVEN YEAR TERM	13
6	2.6 CONDITIONS TO EFFECTIVENESS OF AGREEMENT	14
7	2.7 SCOPE OF FRANCHISE	14
8	2.8 LIMITATIONS TO SCOPE	14
9	2.9 DISTRICT'S RIGHT TO DIRECT CHANGES	16
10	2.10 OWNERSHIP OF SOLID WASTE.....	16
11	ARTICLE 3 FRANCHISE FEE AND OTHER MISCELLANEOUS FEES	18
12	3.1 FRANCHISE FEE.....	18
13	3.2 OTHER MISCELLANEOUS FEES.....	18
14	ARTICLE 4 ZERO WASTE COLLECTION AND PROCESSING SERVICES	19
15	4.1 GENERAL CONDITIONS.	19
16	4.2 SFD COLLECTION SERVICE.	19
17	4.3 COMMERCIAL COLLECTION SERVICE.....	25
18	4.4 MFD COLLECTION SERVICE	30
19	4.5 DEBRIS BOX COLLECTION SERVICE	31
20	4.6 COLLECTION SERVICE FOR LOCAL GOVERNMENT AGENCIES WITHIN DISTRICT BOUNDARIES	
21	32	
22	4.7 HOUSEHOLD HAZARDOUS WASTE PROGRAMS	32
23	4.8 DROP-OFF PROGRAM AND FACILITY	33
24	4.9 ZERO WASTE MINIMUM REQUIREMENTS	34
25	4.10 FUTURE ZERO WASTE SERVICES	35
26	4.11 DISPOSAL, PROCESSING, DROP-OFF, AND REUSE FACILITIES	35
27	4.12 OPERATIONS	36
28	4.13 CONTINGENCY PLAN.....	42
29	ARTICLE 5 OTHER SERVICES	43
30	5.1 MANDATORY COMPANY BILLING SERVICES	43
31	5.2 CUSTOMER SERVICE	44
32	5.3 DISCONTINUANCE OF COLLECTION SERVICE AND/OR REFUSAL TO COLLECT	45
33	5.4 COMMUNITY OUTREACH SERVICES	46
34	ARTICLE 6 COMPANY'S COMPENSATION AND RATES	49
35	6.1 GENERAL	49
36	6.2 REFUSE RATE INDEX ADJUSTMENTS TO SERVICE RATES	49
37	6.3 RRI FINANCIAL INFORMATION	49
38	6.4 RECYCLABLE MATERIALS BALANCING ACCOUNT.....	50
39	6.5 DISTRICT OR COMPANY REQUESTED DETAILED RATE REVIEW	50
40	ARTICLE 7 RECORDS, REPORTS, AND INFORMATION REQUIREMENTS.....	51
41	7.1 GENERAL	51
42	7.2 RECORDS	51

1	7.3	REPORTS	53
2	7.4	RIGHT TO INSPECT RECORDS	55
3		ARTICLE 8 INDEMNIFICATION, INSURANCE, AND BOND	56
4	8.1	INDEMNIFICATION	56
5	8.2	8.2 HAZARDOUS WASTE INDEMNIFICATION.....	56
6	8.3	CIWMA INDEMNIFICATION.....	57
7	8.4	INSURANCE	58
8	8.5	FAITHFUL PERFORMANCE BOND.....	62
9		ARTICLE 9 DISTRICT’S RIGHT TO PERFORM SERVICE	63
10	9.1	GENERAL	63
11	9.2	TEMPORARY POSSESSION FOR SERVICE INTERRUPTION CAUSED BY OTHER EVENTS	64
12	9.3	BILLING AND COMPENSATION TO DISTRICT DURING DISTRICT'S POSSESSION	64
13	9.4	DISTRICT'S RIGHT TO RELINQUISH POSSESSION.....	64
14	9.5	DISTRICT'S POSSESSION NOT A TAKING	64
15	9.6	DURATION OF DISTRICT'S POSSESSION	65
16	9.7	POSSESSION IN EVENT OF TERMINATION	65
17		ARTICLE 10 DEFAULT, REMEDIES, AND LIQUIDATED DAMAGES	66
18	10.1	EVENTS OF DEFAULT	66
19	10.2	RIGHT TO TERMINATE UPON DEFAULT.....	67
20	10.3	LIQUIDATED DAMAGES.....	67
21	10.4	EXCUSE FROM PERFORMANCE	69
22	10.5	NOTICE, HEARING AND APPEAL OF DISTRICT BREACH	70
23	10.6	ASSURANCE OF PERFORMANCE.....	70
24		ARTICLE 11 OTHER AGREEMENTS OF THE PARTIES	71
25	11.1	RELATIONSHIP OF PARTIES	71
26	11.2	COMPLIANCE WITH LAW.....	71
27	11.3	GOVERNING LAW.....	71
28	11.4	JURISDICTION.....	71
29	11.5	MEDIATION.....	71
30	11.6	ASSIGNMENT	71
31	11.7	OTHER AGREEMENTS.....	74
32	11.8	RELATED PARTY ENTITIES.....	74
33	11.9	SUBCONTRACTING	74
34	11.10	BINDING ON ASSIGNS.....	74
35	11.11	TRANSITION TO NEXT COMPANY	74
36	11.12	PARTIES IN INTEREST	75
37	11.13	WAIVER	75
38	11.14	COMPANY'S INVESTIGATION	75
39	11.15	NOTICE	75
40	11.16	REPRESENTATIVES OF THE PARTIES	76
41	11.17	DISTRICT FREE TO NEGOTIATE WITH THIRD PARTIES	76
42	11.18	LEASE OF EQUIPMENT AND FACILITIES	76
43	11.19	LOANS.....	76

1	11.20 FAIR MARKET VALUE	76
2	11.21 PRIVACY	76
3	11.22 SAVINGS CLAUSE.....	77
4	ARTICLE 12 MISCELLANEOUS AGREEMENTS	78
5	12.1 ENTIRE AGREEMENT.....	78
6	12.2 SECTION HEADINGS	78
7	12.3 REFERENCES TO LAWS.....	78
8	12.4 INTERPRETATION	78
9	12.5 AGREEMENT	78
10	12.6 SEVERABILITY	78
11	12.7 AGREEMENT SUPERSEDES PRIOR AGREEMENTS	78
12	12.8 EXHIBITS.....	78
13	EXHIBIT 1 SERVICE RATES EFFECTIVE JANUARY 1, 2011	80
14	EXHIBIT 2 REFUSE RATE INDEX.....	83
15	EXHIBIT 3 FAITHFUL PERFORMANCE BOND.....	85
16	EXHIBIT 4 ZERO WASTE COMMUNITY OUTREACH OUTLINE.....	86
17	EXHIBIT 5 SCHOOL RECYCLING AND FOOD WASTE PROGRAM OUTLINE.....	87
18	EXHIBIT 6 ZERO WASTE PROGRAM IMPLEMENTATION SCHEDULE	90
19	EXHIBIT 7 RECYCLABLE MATERIALS BALANCING ACCOUNT.....	92
20	EXHIBIT 8 DETAILED RATE REVIEW METHODOLOGY.....	96
21		

1 **AGREEMENT**

2 This Amended and Restated Franchise Agreement (“Agreement”) is entered into this
3 _____ day of _____, 2011, between the Novato Sanitary District (the “District”) and Novato
4 Disposal Service, Inc. (the “Company”), for the collection, transportation, recycling, reduction,
5 composting, and disposal of solid waste and other services related to meeting the goals and
6 requirements of the California Integrated Waste Management Act (“CIWMA”).

7 **RECITALS**

8 WHEREAS, the Company currently provides solid waste collection, recycling and
9 disposal services within the jurisdictional boundary of the District, including the City of Novato
10 (the “City”) and surrounding areas, and has provided said services for a number of years in a
11 manner which has been consistent with quality service being provided at competitive rates; and

12 WHEREAS, the Company provides said solid waste collection, recycling and disposal
13 services pursuant to an existing Franchise Agreement dated January 1, 2001 and such term of the
14 existing agreement provide for termination on December 31, 2015; and

15 WHEREAS, the Legislature of the State of California, by enactment of the CIWMA, has
16 declared that it is within the public interest to authorize and require local agencies to make
17 adequate provisions for solid waste handling, source reduction and recycling within their
18 jurisdictions; and

19 WHEREAS, said CIWMA sets goals for the diversion of solid wastes from landfills, and
20 imposes the responsibility on cities and counties within the State to reduce the amount of solid
21 waste disposed of by fifty percent (50%) by the year 2000, and beyond; and

22 WHEREAS, the District and the City entered into an arrangement under which the City
23 will make policy decisions on solid waste programs necessary to meet the goals of the CIWMA
24 and the District will, through the Company as its franchisee, implement those programs under its
25 jurisdiction; and

26 WHEREAS, pursuant to California Health and Safety Code Sections 6512, 6515, 6518.5,
27 and 6522, the Board of Directors of the District has determined that the public health, safety, and
28 well-being may best be obtained by updating the existing exclusive franchise for the collection,
29 transportation, recycling, and disposal of solid waste and other services related to meeting said
30 CIWMA diversion goals and other requirements of the CIWMA; and

31 WHEREAS, the Board of Directors of the District declares its intention of maintaining
32 reasonable rates for the collection, transportation, recycling, reducing, composting, and disposal
33 of solid waste and other services related to meeting and maintaining the District’s Zero Waste
34 goal of eighty percent (80%) landfill diversion by December 31, 2025 and beyond; and,

35 WHEREAS, the Board of Directors of the District finds that the service which has been
36 provided by the Company has been consistently satisfactory in meeting the direction of the
37 District and the cost for such services has been provided at competitive rates as compared to
38 surrounding communities; and

1 District and the cost for such services has been provided at competitive rates as compared to
2 surrounding communities; and

3 WHEREAS, the District has determined that in order to continue to provide satisfactory
4 service levels at competitive prices, modifications to the current manner of providing service are
5 required, which include, increased recycling collection services, and food waste collection
6 services; and

7 WHEREAS, the District's current franchise agreement requires revisions in order to
8 reflect the changes necessary to implement expanded residential recycling programs, residential,
9 commercial, and multi-family food waste collection programs; and

10 WHEREAS, the District continues to conclude that the best interest of the constituents of
11 the District is served by providing an exclusive franchise for the group of interrelated solid waste
12 and Household Hazardous Waste services through a single provider, and further that the
13 provision of these services can be best obtained through an integrated program controlled
14 pursuant to a franchise agreement providing for collection, processing, disposal, marketing, and
15 other related activities; and

16 WHEREAS, the parties hereto desire to enter into an updated franchise agreement with
17 an adequate term to amortize the costs associated with these service changes; and

18 NOW, THEREFORE, the parties agree as follows:

ARTICLE 1 DEFINITIONS

1

2 **1.1 AB 32**

3 The California Global Warming Solutions Act (Assembly Bill 32).

4 **1.2 AB 939 or CIWMA**

5 The California Integrated Waste Management Act (Assembly Bill 939, California Public
6 Resources Code Sections 40000 et seq.), as amended from time to time.

7 **1.3 Agreement or Franchise Agreement**

8 The written document and all amendments thereto, between the District and the
9 Company, governing the provision of Collection Services as provided herein.

10 **1.4 Agreement Year**

11 Each twelve (12) month period from January 1st to December 31st and the last Agreement
12 Year will end on December 31, 2025 unless otherwise extended by the District according
13 to Section 2.4 of this Agreement.

14 **1.5 Alternative Daily Cover (ADC)**

15 Disposal Facility cover material, other than Organic Waste and at least six (6) inches of
16 earthen material, placed on the surface of the active face of the disposal fill area at the
17 end of each operating day to control vectors, fires, odor, blowing litter and scavenging, as
18 defined in Section 20164 of the California Code of Regulations.

19 **1.6 Biohazardous or Biomedical Waste**

20 Any waste which may cause disease or reasonably be suspected of harboring pathogenic
21 organisms; included are waste resulting from the operation of medical clinics, hospitals,
22 and other facilities processing wastes which may consist of, but are not limited to, human
23 and animal parts, contaminated bandages, pathological specimens, hypodermic needles,
24 sharps, contaminated clothing and surgical gloves.

25 **1.7 Bulky Waste**

26 Those materials including furniture, carpets, White Goods without Freon, clothing, Green
27 Waste, up to a total of 3 cubic yards (21 garbage bags, boxes, or cans) which are
28 attributed to the normal activities of a SFD Service Unit, or a MFD Service Unit. Each
29 piece of furniture, large carpet, or white good count as 3 cubic yards. Bulky Waste does
30 not include loose items such as construction and demolition debris. Items must not
31 require any special equipment for loading and handling. Bulky Waste must be generated
32 by and at the Service Unit wherein the Bulky Waste is collected. Bulky Waste does not
33 include items herein defined as Exempt Waste.

34 **1.8 Business Service Unit**

35 All retail, professional, office, wholesale and industrial facilities, and other commercial
36 enterprises offering goods or services to the public.

37 **1.9 City**

38 The City of Novato, California.

- 1 **1.10 Collection Day**
2 The specific Work Day on which Collection Services are scheduled to be conducted by
3 the Company at a Service Unit.
- 4 **1.11 Collection**
5 The process whereby Garbage, Recyclable Materials and Organic Waste are removed and
6 transported to the Disposal Facility, an Organic Waste Processing Facility, or a Materials
7 Recovery Facility, as appropriate.
- 8 **1.12 Collection Services**
9 Single-Family Collection Service (SFD), Multi-family Collection Service (MFD),
10 Commercial Collection Service, and Debris Box Collection Service, and Collection
11 Service For Local Government Agencies Within the District Boundaries.
- 12 **1.13 Commercial Collection Service**
13 Commercial Garbage Collection Service, Commercial Recycling Collection Service, and
14 Commercial Organic Waste Collection Service.
- 15 **1.14 Commercial Organic Waste**
16 Green Waste and Food Waste separated at the source of generation for inclusion in the
17 Commercial Organic Waste Collection Service program.
- 18 **1.15 Commercial Organic Waste Collection Service**
19 The Collection of Commercial Organic Waste by the Company from Commercial Service
20 Units in the Service Area, and the delivery of that Commercial Organic Waste to an
21 Organic Waste processing facility.
- 22 **1.16 Commercial Recycling Collection Service**
23 The Collection of Recyclable Materials by the Company from Commercial Service Units
24 in the Service Area, the delivery of those Recyclable Materials to a Materials Recovery
25 Facility and the processing and marketing of those Recyclable Materials.
- 26 **1.17 Commercial Service Unit**
27 Business Service Units, and mixed Commercial and Residential Service Units that utilize
28 a Garbage Cart or Bin for the accumulation and set-out of Garbage.
- 29 **1.18 Commercial Garbage Collection Service**
30 The Collection of Garbage by the Company, from Commercial Service Units in the
31 Service Area, and the delivery of that Garbage to the Disposal Facility.
- 32 **1.19 Compactor**
33 Any Debris Box or Bin, which has a compaction mechanism, whether stationary or
34 mobile.
- 35 **1.20 Company**
36 Novato Disposal Services, Inc.

- 1 **1.21 Composting**
2 The controlled biological decomposition of Organic Waste into a specific mixture of
3 decayed organic matter used for fertilizing or soil conditioning.
- 4 **1.22 Construction and Demolition Debris**
5 Commonly used or discarded materials removed from construction, remodeling, repair,
6 demolition, or renovation operations on any pavement, house, commercial building, or
7 other structure, or from landscaping. Such materials include, but are not limited to, dirt,
8 sand, rock, gravel, bricks, plaster, gypsum wallboard, aluminum, glass, asphalt material,
9 plastics, roofing material, cardboard, carpeting, cinder blocks, concrete, copper, electrical
10 wire, fiberglass, formica, granite, iron, lead, linoleum, marble, plaster plant debris,
11 pressboard, porcelain, steel, stucco, tile, vinyl, wood, masonry, rocks, trees, remnants of
12 new materials, including paper, plastic, carpet scraps, wood scraps, scrap metal, building
13 materials, packaging and rubble resulting from construction, remodeling, renovation,
14 repair and demolition operations on pavements, houses, commercial buildings and other
15 structures. Construction and Demolition Debris does not include Exempt Waste.
- 16 **1.23 Container or Containers**
17 Means any Cart, Bin, or Debris Box used for the Collection of Garbage, Recyclable
18 Materials, Organic Waste, or Construction and Demolition Debris from a Service
19 Recipient.
- 20 **1.24 County**
21 Marin County, California.
- 22 **1.25 Customer**
23 Means a Service Recipient that receives Collection Services under the terms of this
24 Agreement.
- 25 **1.26 Debris Box Collection Service**
26 Collection utilizing (10) to (forty)(40) cubic yard containers, on a temporary or
27 permanent basis, and provided to Service Units for the Collection of Garbage, Recyclable
28 Materials, Organic Waste, and Construction and Demolition Debris and for the delivery
29 of that material to an appropriate facility.
- 30 **1.27 Debris Box**
31 A metal container that is normally tipped loaded onto a motor vehicle and transported to
32 an appropriate facility.
- 33 **1.28 Detailed Rate Review**
34 The process for adjusting the Company's compensation and rates as specified in Exhibit
35 8.
- 36 **1.29 Disposal Facility**
37 A facility designated by District for the disposal, or processing as appropriate, of Garbage
38 and other materials as appropriate.

- 1 **1.30 District**
2 The Novato Sanitary District.
- 3 **1.31 District Manager-Engineer**
4 Manager-Engineer of the Novato Sanitary District or his or her designated representative.
- 5 **1.32 Diversion From Landfill Rate**
6 The Diversion From Landfill Rate will be calculated as the tons of materials collected by
7 the Company from providing services as specified in this Agreement that are sold or
8 delivered to a Materials Processing Facility, Organic Waste Processing Facility, recycler
9 or re-user, net of all residue, divided by the total tons of materials collected under this
10 Agreement by the Company in each twelve (12) month calendar year (January 1st–
11 December 31st).
- 12 **1.33 Dwelling Unit**
13 Any individual living unit in a Single Family Dwelling (SFD) or Multi-Family Dwelling
14 (MFD) structure or building intended for, or capable of being utilized for, residential
15 living other than a hotel or motel.
- 16 **1.34 E-Waste**
17 E-Waste, includes discarded items such as CRT devices including televisions and
18 computer monitors, LCD desktop computers, laptop computers, LCD and plasma
19 televisions, DVD players, cash registers computers and computer peripherals, telephones,
20 cell phones, answering machines, stereo equipment, radios, tape and CD
21 players/recorders, phonographs, video cassette recorders, calculators, Personal Data
22 Assistants (PDAs) small household and kitchen electronic equipment.
- 23 **1.35 Environmental Laws**
24 All federal and state statutes, city, county, and the District's ordinances concerning public
25 health, safety, and the environment including, by way of example and not limitation, the
26 Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42
27 U.S.C. Sections 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C.
28 Sections 6901 et seq.; the Federal Clean Water Act, 33 U.S.C. Sections 1251 et seq.; the
29 Toxic Substances Control Act, 15 U.S.C. Sections 1601 et seq.; the Occupational Safety
30 and Health Act, 29 U.S.C. Sections 651 et seq.; the California Hazardous Waste Control
31 Act, California Health and Safety Code Sections 25300 et seq.; the Safe Drinking Water
32 and Toxic Enforcement Act, California Health and Safety Code Sections 5249.5 et seq.;
33 as currently in force or as hereafter amended, and all rules and regulations promulgated
34 thereunder.
- 35 **1.36 Exempt Waste**
36 Biohazardous or Biomedical Waste (except Sharps), Hazardous Waste, Sludge,
37 automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion
38 engines, and those wastes under the control of the Nuclear Regulatory Commission.

1 **1.37 Fiscal Year**

2 The period commencing January 1st of one year and concluding December 31st of the
3 same year for the Company. For the District, it means the period commencing July 1st of
4 one (1) year and concluding June 30th of the subsequent year. Nothing herein shall limit
5 the right of the Company to change its fiscal year, if the Company should so elect.

6 **1.38 Food Waste**

7 Food scraps and trimmings from food preparation, including but not limited to: meat, fish
8 and dairy waste, fruit and vegetable waste, grain waste, and acceptable food packaging
9 such items as pizza boxes, paper towels, waxed cardboard and food contaminated paper
10 products.

11 **1.39 Garbage**

12 All non-recyclable packaging, and putrescible waste attributed to normal activities of a
13 Service Unit. Garbage must be generated by and at the Service Unit wherein the Garbage
14 is collected. Garbage does not include those items defined herein as Recyclable
15 Materials, Organic Waste, Bulky Waste, E-Waste, U-Waste, or Exempt Waste.

16 **1.40 Garbage Bin**

17 A metal or plastic container, with a capacity of at least one (1) cubic yard up to, and
18 including, six (6) cubic yards, designed or intended to be mechanically dumped into a
19 loader packer type collection vehicle that is approved for such purpose by the District.
20 Garbage Bins may also include Compactors that are owned by the MFD or Commercial
21 Service Unit wherein the MFD or Commercial Collection Service occurs.

22 **1.41 Garbage Cart**

23 A heavy plastic receptacle with wheels and a rated capacity of at least twenty (20) gallons
24 and not more than ninety-six (96) gallons, having a hinged tight-fitting lid and wheels,
25 that is approved by the District Manager-Engineer for use by Service Recipients for
26 Collection Services under this Agreement.

27 **1.42 Green Waste**

28 Any vegetative matter resulting from normal yard and landscaping maintenance that is
29 not more than three (3) feet in its longest dimension or six (6) inches in diameter and fits
30 in the Organic Waste Cart utilized by the Service Recipient. Green Waste includes plant
31 debris, such Yucca and Cactus, ivy, grass clippings, leaves, pruning, weeds, branches,
32 brush, holiday trees, and other forms of vegetative waste and must be generated by and at
33 the Service Unit wherein the Green Waste is collected. Green Waste does not include
34 items herein defined as Exempt Waste.

35 **1.43 Hazardous Waste**

36 Any material which is defined as a hazardous waste under California or United States law
37 or any regulations promulgated pursuant to such law, as such as local, state or federal law
38 or regulations may be amended from time to time.

- 1 **1.44 Household Hazardous Waste (HHW)**
2 Residential household hazardous is governed by Health and Safety Code 25218 –
3 25218.13. HHW includes dry cell household batteries, cell phones and PDAs; used
4 motor oil; used oil filters when contained in a sealed plastic bag; compact fluorescent
5 light bulbs contained in a sealed plastic bag; cleaning products, pesticides, herbicides,
6 insecticides, painting supplies, automotive products, solvents, stripes, and adhesives, auto
7 batteries; and Universal Waste.
- 8 **1.45 HHW Element**
9 The Household Hazardous Waste Element of the Integrated Solid Waste Plan required to
10 be developed by the City and the County.
- 11 **1.46 Interfamilial Assignments**
12 The sale, exchange, or other transfer of substantially all of the Company's assets
13 dedicated to service under this Agreement to a spouse, sibling, child, or grandchild of
14 James Ratto.
- 15 **1.47 Large Green Waste**
16 Oversized Green Waste such as tree trunks and branches with a diameter of not less than
17 six (6) inches and not more than two (2) feet and a length of not more than six (6) feet in
18 its longest dimension, and not weighing more than seventy (70) pounds, which are
19 attributed to the normal activities of a SFD, or MFD. Large Green Waste must be
20 generated by and at the Service Unit wherein the Large Green Waste is collected.
- 21 **1.48 Materials Recovery Facility (MRF)**
22 Any facility, selected by the Company and approved by the District, or specifically
23 designated by the District, designed, operated, and legally permitted for the purpose of
24 receiving, sorting, processing, storing, or preparing Recyclable Materials for sale.
- 25 **1.49 Multi-Family Dwelling (MFD) Collection Service**
26 MFD Garbage Collection Service, MFD Recycling Service, MFD Organic Collection
27 Service, and MFD Bulky Waste Collection Service.
- 28 **1.50 MFD Organic Waste**
29 Green Waste and Food Waste separated at the source of generation for inclusion in the
30 MFD Organic Waste Collection Service program.
- 31 **1.51 MFD Organic Waste Collection Service**
32 The Collection of MFD Organic Waste by the Company from MFD Service Units in the
33 Service Area, and the delivery of that MFD Organic Waste to an Organic Waste
34 processing facility.
- 35 **1.52 MFD Recycling Service**
36 The Collection of Recyclable Materials, by the Company, from MFD Service Units in the
37 Service Area, the delivery of those Recyclable Materials to a Materials Recovery Facility
38 and the processing and marketing of those Recyclable Materials.

- 1 **1.53 MFD Service Unit**
2 Any combination of Dwelling Units in the Service Area utilizing a common Garbage Bin
3 for the accumulation and set-out of Garbage.
- 4 **1.54 MFD Garbage Collection Service**
5 The Collection of Garbage, by the Company, from MFD Service Units in the Service
6 Area and the delivery of that Garbage to the Disposal Facility.
- 7 **1.55 Non-Collection Notice**
8 A form developed and used by the Company, as approved by the District, to notify
9 Service Recipients of the reason for non-collection of materials set out by the Service
10 Recipient for Collection by the Company pursuant to this Agreement.
- 11 **1.56 Occupied**
12 When a person or persons has taken or is/are holding possession of the Service Unit for
13 temporary or permanent use. For the purpose of determining whether a Service Unit was
14 occupied during periods when Collection Service was available to such Service Unit, the
15 Service Unit shall be presumed to have been so occupied unless evidence is presented
16 that no gas, electric, telephone, or water utility services were consumed on such Service
17 Unit during such periods or such other evidence is presented to the satisfaction of the
18 District Manager-Engineer.
- 19 **1.57 Organic Waste**
20 Includes Food Waste and Green Waste.
- 21 **1.58 Organic Waste Bin**
22 A metal or plastic container, with a capacity of at least one (1) cubic yard up to and
23 including six (6) cubic yards, designed or intended to be mechanically dumped into a
24 loader packer type truck that is approved for such purpose by the District.
- 25 **1.59 Organic Waste Cart**
26 A heavy plastic receptacle with wheels and a rated capacity not exceeding ninety-six (96)
27 gallons, having a hinged tight-fitting lid, and wheels, that is approved for such purpose by
28 the District. If the Organic Waste Cart is used to hold Food Waste the Cart must have a
29 Food Waste program sticker attached in a clearly visible area.
- 30 **1.60 Organic Waste Processing Facility**
31 Any facility selected by the Company that is designed, approved by the District, or
32 specifically designated by the District, operated and legally permitted for the purpose of
33 receiving and processing Organic Waste and Large Green Waste.
- 34 **1.61 Owner**
35 The person holding the record title to the real property constituting the Service Unit to
36 which Collection Service is to be provided under this Agreement.

1 **1.62 Pass-Through Cost**

2 A cost to which no element of overhead, administrative expense, profit, or other mark-up
3 is added when included in calculations for compensation and rates as part of a Detailed
4 Rate Review as specified in Exhibit 8.

5 **1.63 Recyclable Materials**

6 Those materials which are capable of being recycled and which would otherwise be
7 processed or disposed of as Garbage. Recyclable Materials includes those materials as
8 defined by the District, including, but limited to, newsprint (including inserts); mixed
9 paper (including magazines, catalogs, envelopes, junk mail, corrugated cardboard, brown
10 bags and paper, paperboard, paper egg cartons, office ledger paper, and telephone books);
11 glass containers; aluminum beverage containers; small scrap and cast aluminum (up to 20
12 pounds); steel including "tin" cans, empty aerosol cans (empty, non-toxic products) and
13 small scrap (up to 20 pounds); bimetal containers; plastic bags, plastic food containers,
14 #1-7 plastics regardless of form or mold (including but not limited to plastic containers,
15 bottles, wide mouth tubs, plastic bags, film plastic, and polystyrene), aluminum foil and
16 pans. The District, in consultation with the Company, may modify the list of Recyclable
17 Materials.

18 **1.64 Recyclable Materials Balancing Account**

19 The process for incorporating changes in the value of Recyclable Materials as specified
20 in Exhibit 7.

21 **1.65 Recycling Bin**

22 A plastic or metal container, with a capacity of at least one (1) cubic yard up to and
23 including six (6) cubic yards, designed or intended to be mechanically dumped into a
24 loader packer type recycling truck that is approved for such purpose by the District and is
25 appropriately labeled as a Recycling Bin.

26 **1.66 Recycling Cart**

27 A heavy plastic receptacle with wheels and a rated capacity of at least sixty-four (64)
28 gallons and not more than ninety-six (96) gallons, having a hinged tight-fitting lid, and
29 wheels that is approved for such purpose by the District and is appropriately labeled as a
30 Recycling Cart.

31 **1.67 Related Party Entity**

32 Any entity that has contractual relationships with the Company during the term of this
33 Agreement, including extensions, and in which a majority of the ownership interest of the
34 other entity is owned or effectively controlled by the Company, or by one or more of the
35 current, then current or former shareholders, directors, officers, or senior management
36 employees of the Company or by their spouses, siblings, or issue.

37 **1.68 Service Area**

38 That area within the jurisdictional limits of the Novato Sanitary District, California.

39 **1.69 Service Recipient**

40 An individual or company receiving Collection Services.

- 1 **1.70 Service Unit**
2 SFD Service Units, MFD Service Units, and Commercial Service Units.
- 3 **1.71 Single-family Dwelling (SFD) Collection Service**
4 SFD Garbage Collection Service, SFD Recycling Collection Service, SFD Organic Waste
5 Collection Service, and SFD Bulky Waste Collection Service.
- 6 **1.72 SFD Organic Waste**
7 Green Waste and Food Waste comingled for inclusion in the SFD Organic Waste
8 Collection Service program.
- 9 **1.73 SFD Organic Waste Collection Service**
10 The Collection of Organic Waste by the Company from SFD Service Units in the Service
11 Area, the delivery of that Residential Organic Waste to an Organic Waste Processing
12 Facility.
- 13 **1.74 SFD Recycling Collection Service**
14 The Collection of Recyclable Materials by the Company from SFD Service Units in the
15 Service Area, the delivery of those Recyclable Materials to a Materials Recovery Facility
16 and the processing and marketing of those Recyclable Materials.
- 17 **1.75 SFD Garbage Collection Service**
18 The Collection of Garbage, by the Company, from SFD Service Units in the Service Area
19 and the delivery of that Garbage to a Disposal Facility.
- 20 **1.76 SFD Service Unit**
21 Any Dwelling Unit in the Service Area utilizing a Garbage Cart, or any combination of
22 Dwelling Units sharing Garbage Carts, for the accumulation and set out of Garbage.
- 23 **1.77 Sharps**
24 California law defines household sharps as hypodermic needles, pen needles, intravenous
25 needles, lancets and other devices used to penetrate the skin for the delivery of
26 medications. It also includes broken medical glass, broken capillary tubes and ends of
27 dental wires.
- 28 **1.78 Sludge**
29 The accumulated solids, residues, and precipitates generated as a result of waste
30 treatment or processing, including wastewater treatment, water supply treatment, or
31 operation of an air pollution control facility, and mixed liquids and solids pumped from
32 septic tanks, grease traps, privies, or similar disposal appurtenances or any other such
33 waste having similar characteristics or effects.
- 34 **1.79 Solid Waste**
35 Garbage, Organic Waste, Recyclable Materials, and Construction and Demolition Debris.

1 **1.80 SRRE Element**

2 The Source Reduction and Recycling Element of the County Integrated Waste
3 Management Plan prepared by the City and the County.

4 **1.81 Universal Waste or U-Waste**

5 Universal Wastes are Hazardous Wastes that are widely produced by households and
6 many different types of businesses. Universal Wastes include televisions, cathode ray
7 tubes, computers and other electronic devices as well as batteries, fluorescent lamps, non-
8 empty aerosol cans, mercury thermostats, and other mercury containing equipment,
9 among others.

10 **1.82 White Goods**

11 Discarded refrigerators, ranges, water heaters, freezers, and other similar household
12 appliances.

13 **1.83 Work Day**

14 Any day, Monday through Saturday that is not a holiday.

15 **1.84 Zero Waste**

16 The term “Zero Waste” derives from applying the principal of sustainability to redefine
17 the concept of waste in our society. Zero Waste principals promote the highest and best
18 use of materials to eliminate waste and pollution, emphasizing a closed-loop system of
19 production and consumption, moving in logical increments toward the goal of Zero
20 Waste through the core principals of:

- 21 • Improving “downstream” reuse/recycling of end-of-life products and materials to
22 ensure their highest and best use;
- 23 • Pursuing “upstream” redesign strategies to reduce the volume and toxicity of
24 discarded products and materials, and promote low-impact or reduced
25 consumption lifestyles;
- 26 • Fostering and supporting use of discarded products and materials to stimulate and
27 drive local economic and workforce development.

28 **1.85 Zero Waste Minimum Requirements**

29 Those programs and standards as specified in Section 4.9 to be implemented by the
30 Company to meet the City’s and the District’s Zero Waste Goals.

1 **ARTICLE 2 GRANT AND ACCEPTANCE OF FRANCHISE**

2 **2.1 Grant and Acceptance of Franchise**

3 Subject to Section 2.5, the District hereby grants to the Company the exclusive franchise,
4 right and privilege to collect, transport, recycle, and dispose of Solid Waste accumulating
5 in the Service Area that is required to be offered for Collection to the Company in
6 accordance with current laws, regulations, and ordinances for the term of and within the
7 scope set forth in this Agreement. The Company hereby accepts the franchise on the
8 terms and conditions set forth in this Agreement.

9 **2.2 Effective Date**

10 The "Effective Date" of this Agreement shall be the date entered on the first page of this
11 Agreement.

12 **2.3 Term of Agreement**

13 Except as provided in Section 2.5, the Term of this Agreement shall begin on March 15,
14 2011 and shall expire at midnight on December 31, 2025, subject to extension as may
15 occur pursuant to Section 2.4 herein.

16 **2.4 Option to Extend Term**

17 Provided that the Company has met the Zero Waste Minimum Requirements as specified
18 in Section 4.9, the District shall have the option to extend this Agreement for a maximum
19 additional sixty (60) months. If the District elects to exercise this option, it shall give
20 written notice not less than one (1) year prior to the initial termination date provided in
21 Section 2.3 of this Agreement.

22 The Company may request, prior to the time for the District to provide written notice of
23 extension, that the District consider extending the Agreement as provided herein. Upon
24 request of the Company for such extension, the District agrees to consider any proposal
25 included with such request in good faith and the District agrees not to unreasonably
26 withhold approval of such request, provided that the Company has at no time breached
27 this Agreement, service has been provided at least at a satisfactory level, collection rates
28 are competitive by comparison with surrounding communities and the Zero Waste
29 Minimum Requirements as specified in Section 4.9 have been met. Nonetheless, the
30 granting of such extension shall remain in the sole discretion of the District.
31 Furthermore, should the provisions of Section 2.5 cause the term of the Agreement to be
32 reduced, no extension of the term under this provision shall be considered.

33 **2.5 Reduction to Seven Year Term**

34 In the event that the Company ceases to be within the effective management control of
35 James Ratto or an assignment occurs pursuant to the terms of Section 11.6 herein at any
36 time during the Term of this Agreement, then the Term shall be reduced to a maximum of
37 seven (7) years from the date of the change of control or assignment; provided such seven
38 (7) year term does not exceed the expiration date as provided in Section 2.3, including
39 any extension previously granted under Section 2.4. Interfamilial Assignments shall not

1 be subjected to the reduction in term; however, any such Interfamilial Assignment shall
2 be subject to all the provisions of Section 11.6.

3 **2.6 Conditions to Effectiveness of Agreement**

4 The obligation of the District to permit this Agreement to become effective and to
5 perform its undertakings provided for in this Agreement is subject to the satisfaction of
6 each and all of the conditions set out below, each of which may be waived in whole or in
7 part by the District.

8 **2.6.1 Accuracy of Representations.** Representations and warranties made by the
9 Company throughout this Agreement are accurate, true, and correct on and as of
10 the Effective Date of this Agreement.

11 **2.6.2 Absence of Litigation.** There is no litigation pending or threatened in any court
12 challenging the award of this franchise to the Company or the execution of this
13 Agreement, or seeking to restrain or enjoin its performance.

14 **2.6.3 Furnishing of Insurance and Bonds.** The Company has furnished evidence of
15 the insurance and bonds required by Article 8.

16 **2.6.4 Effectiveness of Board of Directors Action.** The District's Resolution
17 approving this Agreement shall have become effective pursuant to California law
18 prior to the Effective Date of this Agreement.

19 **2.7 Scope of Franchise**

20 Subject to Section 2.8, the franchise granted to the Company shall be exclusive for
21 Collection, processing and disposal of Garbage, Recyclable Materials, Organic Waste,
22 and Construction and Demolition Debris, within the Service Area. The franchise shall be
23 for a group of interrelated services, not merely for transportation or hauling, which
24 include the Collection, transportation, processing, recycling and disposal of the Garbage,
25 Recyclable Materials, Organic Waste, and Construction and Demolition Debris within the
26 Service Area.

27 **2.8 Limitations to Scope**

28 The franchise for the Collection, removal, and disposal of Solid Waste granted to the
29 Company shall be exclusive except as to the following categories of Solid Waste listed in
30 this Section. The granting of this franchise shall not preclude the categories of Solid
31 Waste listed below from being delivered to and collected and transported by others:

32 **2.8.1** Recyclable Materials separated from Solid Waste by the Service Recipient and for
33 which the Service Recipient sells or is otherwise compensated by a collector in a
34 manner resulting in a net payment to the Service Recipient;

35 **2.8.2** Recyclable Materials as may be accumulated for donation to youth, civic, and
36 charitable entities;

1 additional compensation claimed by the Company to arise out of a further
2 limitation to the scope of the Agreement as set forth above.

3 **2.9 District's Right to Direct Changes**

4 The District may direct the Company to perform additional Solid Waste services or
5 modify the manner in which it performs existing services. The Company shall promptly
6 take direction from the District in responding.

7 If the Company is capable of performing or developing the ability to perform a requested
8 service or modifying an existing service, and an adjustment in the Company's revenue
9 requirement has been requested but has not been agreed upon, the Company shall
10 commence the new or changed service while the appropriate revenue adjustment is being
11 determined. Pilot programs and innovative services that may entail new collection
12 methods, different kinds of services, and/or new requirements for waste generators are
13 included among the kinds of changes that the District may direct. The Company
14 acknowledges and agrees that the District may permit other persons besides the Company
15 to perform additional Solid Waste services, if the Company and the District cannot agree
16 on terms and conditions of such services one hundred twenty (120) days from the date
17 when the District first requests a proposal from the Company to perform such services,
18 provided such additional services are new services not subject to the exclusive rights of
19 the franchise as set forth in this Agreement.

20 **2.10 Ownership of Solid Waste**

21 Once Garbage, Recyclable Materials, Organic Waste, and Construction and Demolition
22 Debris are placed in Containers and properly presented for collection at curbside,
23 ownership and the right to possession shall transfer directly from the Service Recipient to
24 the Company by operation of law. The Company is hereby granted the right to retain,
25 recycle, compost, dispose of, and otherwise transport and/or use such Garbage,
26 Recyclable Materials, Organic Waste, and Construction and Demolition Debris, or any
27 part thereof, in any lawful fashion or for any lawful purpose desired by the Company.
28 Subject to the provisions of this Agreement, and the following optional ownership rights
29 of the District, the Company shall have the right to retain any benefit resulting from its
30 right to retain, recycle, compost, dispose of, or use the Garbage, Recyclable Materials,
31 Organic Waste, and Construction and Demolition Debris that it collects. Garbage,
32 Recyclable Materials, Organic Waste, and Construction and Demolition Debris, or any
33 part thereof, that is disposed of at a disposal facility (whether landfill, transformation
34 facility, transfer station, Material Recovery Facility, or Organic Waste Processing
35 Facility) shall become the property of the owner or operator of the disposal facility once
36 deposited there by the Company.

37 Notwithstanding the foregoing, the District may determine that in order to meet the
38 resource reduction and recycling goals of the CIWMA that apply to the District, the City,
39 and/or County, or in order to negotiate or bid for the most favorable transfer, disposal,
40 and/or Recyclable Materials marketing options, the District may assert its authority to
41 control the wastestream once the Solid Waste that is to be collected under this Agreement
42 is presented for Collection. In such event, the right to possession and ownership shall
43 transfer directly from the Service Recipient to the District by operation of law. The

1 District shall assert its right to ownership and control of the wastestream by providing the
2 Company with specific written notification of the District's intent to assert its authority
3 with regard to ownership and control of the wastestream. Thereafter, the District shall
4 have and retain the rights to direct the Company to particular facilities, such as resource
5 recovery, transfer, or disposal facility(ies) for purposes of processing of the waste, and
6 the District may, as a market participant, enter into contracts in its own name for the
7 disposal, processing, recycling, composting, transfer, transport, and use of a Materials
8 Recovery Facility. In the event that the District asserts its right to own and fully control
9 the wastestream, the Company shall be viewed as an agent of the District with regard to
10 the Company's actions in collection, transfer, recycling, and disposal of the Solid Waste
11 subject to this Agreement.

12 Nothing contained in this Section 2.10 is intended to nor shall it affect the exclusive right
13 granted to the Company to collect, transport, recycle and dispose of Garbage, Recyclable
14 Materials, Organic Waste, and Construction and Demolition Debris, as set forth in this
15 Agreement, provided that the Company remains in compliance with the District
16 directives and orders, once the District has elected to assume ownership and control of
17 the wastestream.

1 **ARTICLE 3 FRANCHISE FEE AND OTHER MISCELLANEOUS FEES**

2 **3.1 Franchise Fee.**

3 **3.1.1 Franchise Fee Amount.** In consideration of the exclusive franchise provided in
4 Section 2.1 of this Agreement Company shall pay to District \$45,000 per year (or
5 another amount as provided in Section 3.1.3). This franchise fee shall be a Pass-
6 Through Cost.

7 **3.1.2 Time and Method of Payment.** On or before the fifteenth (15th) day of July of
8 each year during the term of this Agreement, Company shall remit the franchise
9 fee amount set forth in Section 3.1.1 (or another amount as provided in Section
10 3.1.3).

11 **3.1.3 Adjustment to Franchise Fee.** ~~District may adjust the amount of the franchise~~
12 ~~fee annually with ninety (90) days' notice to the Company. Such adjustment shall~~
13 ~~be reflected in the rates that the Company is allowed to charge and collect from~~
14 ~~Customers. District may adjust the amount of the franchise fee annually as of~~
15 ~~January 1st each year, based on the previous year's June to June CPI, All Urban~~
16 ~~Consumers, San Francisco-Oakland-San Jose area. Such adjustment shall be~~
17 ~~reflected in the rates that Company is allowed to charge and collect from~~
18 ~~Customers.~~

19 **3.2 Other Miscellaneous Fees.**

20 District may incur expenses other than as set forth above in its administration of this
21 franchise and as a result of carrying out its individual or shared responsibilities with
22 regard to administration of solid waste and recycling programs within the greater Novato
23 area. These additional costs may include costs associated with membership in joint
24 powers authorities, CIWMA fees, participation in private solid waste programs,
25 undertaking additional public educational efforts with regard to solid waste recycling and
26 HHW, consulting and legal fees arising from District's solid waste activities, and other
27 miscellaneous costs that may be incurred as a result of District's role in solid waste
28 activities. District may from time to time determine that it is appropriate to fix additional
29 fees to reimburse District for the potential costs associated with these miscellaneous solid
30 waste activities. District may from time to time adopt and fix such fees, and thereafter
31 adjust the amount of such fees. Such fees may be included within the franchise fee or may
32 be set forth as an additional segregated fee. Company shall be allowed to charge and
33 collect from Customer such fees, and Company agrees to do so at the direction of District.
34 These fees shall be Pass-Through Costs. The time and method for payment and for
35 adjustment of such fees shall be the same as set forth in Sections 3.1.2 and 3.1.3 above.

36
37 By initialing below, I accept revisions to Paragraph 3.1.3, "Adjustment to Franchise Fee"
38 shown in italics.

39
40 

1 **ARTICLE 4 ZERO WASTE COLLECTION AND PROCESSING SERVICES**

2 **4.1 General Conditions**

3 **4.1.1 Service Units.** Service Units shall include all the following categories of Service
4 Unit which are in the Service Area as of March 2, 2011, and all such Service Unit
5 which may be added to the Service Area by means of annexation, new
6 construction, or as otherwise set forth in this Agreement during term of this
7 Agreement:

- 8 ▪ SFD Service Units
- 9 ▪ Commercial Service Units
- 10 ▪ MFD Service Units
- 11 ▪ Local Government Agencies Service Units

12 Any question as to whether a Service Unit falls within one of these categories
13 shall be determined by the District Manager-Engineer and the determination of
14 the District Manager-Engineer shall be final.

15 **4.1.2 Service Unit Changes.** The District and the Company acknowledge that during
16 the term of this Agreement it may be necessary or desirable to add or delete
17 Service Units for which the Company will provide Collection Services.

18 **4.1.3 Additions and Deletions.** The Company shall provide services described in this
19 Agreement to new Service Units within five (5) Work Days of receipt of notice
20 from the District or new Service Unit to begin such service.

21 **4.1.4 Route Map Update.** The Company shall revise the Service Unit route maps to
22 show the addition of Service Units added due to annexation and/or addition of
23 new service areas and shall provide such revised maps to the District Manager-
24 Engineer as requested.

25 **4.1.5 District Direction of Collected Materials.** The District reserves its right to
26 direct the Company to deliver Garbage, Recyclable Materials, Organic Waste, or
27 Construction and Demolition Debris collected by the Company under the terms of
28 this Agreement to an appropriately licensed and permitted facility that may
29 provide financial or environment benefits to the District. If such direction by the
30 District results in the Company's costs to provide services to increase, the
31 Company may request additional compensation.

32 **4.2 SFD Collection Service**

33 These services shall be governed by the following terms and conditions:

34 **4.2.1 General Conditions of Service.** The Company shall provide SFD Collection
35 Service to all SFD Service Units in the Service Area whose Garbage is properly
36 containerized in Garbage Carts, Recyclable Materials are properly containerized

1 in Recycling Carts; and Organic Waste is properly containerized in Organic
2 Waste Carts. Garbage, Recycling and Organic Waste Carts will be collected at
3 least once a week and on the same day of Collection. SFD Collection Service
4 shall be automated wherever feasible. The method of collection and location for
5 collection of SFD Carts shall at all times be consistent with the District's
6 Garbage, Recyclable Materials, and Organic Waste collection, removal, diversion,
7 and disposal regulation. The Company shall offer Garbage Carts in minimum
8 twenty (20), thirty-two (32), sixty-four (64) and ninety-six (96) gallon Cart sizes,
9 and Recyclable Materials and Organic Waste Carts in thirty-two (32), sixty-four
10 (64) or ninety-six (96) gallon Cart sizes. If containers smaller than twenty (20)
11 gallons become available and agree with collection methods, the District and the
12 Company agree to work together to provide the smaller Garbage Collection
13 Containers. The size of the Containers used to collect Recyclable Materials and
14 Organic Waste shall be determined by the Customer. Customers may request up
15 to one (1) additional recycling and Organic Waste container, which will be
16 supplied at no additional charge. As new programs are developed, the Company
17 may provide alternate containers with the approval of the District. The size of the
18 Cart shall be determined between the SFD Service Recipient and the Company.

19 **4.2.2 Ownership of and Replacement of Carts.** The Company-furnished Carts will
20 remain property of the Company. The Company shall be responsible for
21 reasonable maintenance and replacement of Carts. The Company may inform
22 Customers that containers are to remain at the residence upon sale or transfer of
23 the property. To the extent that Carts are lost or stolen, the Company shall
24 provide new Carts to the Service Recipient at no cost, provided that the Company
25 shall not be required to supply more than one (1) replacement Cart to any Service
26 Unit within a one (1) year period unless circumstances demonstrate that Service
27 Recipient had no responsibility for the loss or damage to the Cart. At the end of
28 the Term of this Agreement, including any extensions provided hereunder, the
29 Carts shall be property of the Company, and the Company shall be responsible for
30 removal of the Carts from all Service Units, unless alternative arrangements for
31 disposition of the Carts are agreed to by the Company and the District.

32 **4.2.3 Curbside Collection Service.** The Company shall service Carts that are used for
33 SFD Service Units that are placed at the curb or roadway edge, so as to be readily
34 accessible to the armature of the automated collection truck. In cases where
35 placement of containers at the curb or roadway edge would present a safety
36 hazard for motorists or pedestrians or represent a physical hardship to Customers,
37 the Company shall designate an alternate location for the placement of the Carts.
38 The designated pick-up area, if disputed by the Customer or the Company, shall
39 be determined by the District Manager-Engineer. In such cases, the Company
40 shall be responsible for service of the Cart, irrespective of whether the automated
41 armature can reach the Cart. However, the Company shall not be obligated to
42 provide off-sized Carts or nonstandard Carts. Some SFD Service Unit locations
43 may not be appropriate for standard automated service, due to the topography or
44 road conditions. In such cases, Customers may be required to supply their own

1 Solid Waste containers. Any dispute between the Company and Customer
2 concerning the availability and use of automated Carts shall be determined by the
3 District Manager-Engineer.

4 **4.2.4 On-Premise Collection Service - Subscription.** A SFD Service Recipient may
5 subscribe for On-premise SFD Collection Service where Garbage, Recyclable
6 Materials, and Organic Waste Carts are collected from a side-yard, backyard, or
7 other off-street location agreed on between the Company and the Service
8 Recipient. The Company may charge for On-premise Collection Service at the
9 rates as set forth in the SFD Collection Rates in Exhibit 1 unless all of the adults
10 at the SFD are disabled and proof of the disability is provided to the Company. In
11 cases of dispute, the Manager-Engineer will make the determination.

12 **4.2.5 Frequency and Scheduling of Service.** Unless otherwise approved by the
13 District, residential Recyclable Materials and Organic Waste collection will be on
14 the same day of the week as Garbage Collection Service. The Company will
15 notify recycling Customers, as is done for regular service, regarding holiday
16 collection schedules.

17 **4.2.6 Non-Collection.** The Company shall not be required to collect any Garbage,
18 Recyclable Materials, or Organic Waste that is not placed in a Cart except as
19 noted in Section 4.2.8(g). In the event of non-collection, the Company shall affix
20 to the Cart a Non-collection Notice explaining why Collection was not made, or
21 alternatively the Company shall telephone the Customer with an explanation on
22 the same day as the intended pick up. The Company shall maintain a copy of
23 such notices during the term of this Agreement.

24 **4.2.7 SFD Garbage Collection Service.** This service will be governed by the
25 following additional terms and conditions:

- 26 a) Disposal Facility. All Garbage collected as a result of performing SFD Garbage
27 Collection Services shall be transported to, and disposed of, at the Disposal
28 Facility meeting the requirements of Section 4.11.
- 29 b) Additional Garbage Carts. Upon notification to the Company by the District or a
30 Service Recipient that additional Garbage Carts are requested, the Company shall
31 deliver such Garbage Carts to such Service Recipient within five (5) Work Days.
32 The Company shall be compensated for the cost of additional Garbage Carts in
33 accordance with the SFD Collection Rates Rate in Exhibit 1 or as may be adjusted
34 under the terms of this Agreement.

35 **4.2.8 SFD Recycling Collection Service.** This service will be governed by the
36 following additional terms and conditions:

- 37 a) Free Service. The Company may not charge for the Collection of Recyclable
38 Materials, and SFD Recycling Collection Service shall be unlimited. However,

1 for a SFD Service Recipient to receive free recycling services, they must
2 subscribe to receive SFD Garbage Collection Service.

3 b) **Recyclable Materials.** The Company shall collect Recyclable Materials as
4 specified in this Agreement and consistent with direction of the District, the
5 District's Zero Waste Goals, AB 32, and the HHW and SRRE Element Plans
6 approved by the City and the County.

7 c) **Material Recovery Facility.** All Recyclable Materials collected as a result of
8 performing SFD Recycling Collection Service shall be delivered to the Materials
9 Recovery Facility meeting the requirements of Section 4.11.

10 d) **Marketing and Sale of Recyclable Materials.** All expenses related to Recyclable
11 Materials processing and marketing will be the sole responsibility of the
12 Company. Revenues from the sales of these materials shall be applied to the cost
13 of services under the Agreement to reduce the Company's revenue requirement.
14 The Company shall sell all Recyclable Materials collected pursuant to this
15 Agreement at not less than fair market value.

16 e) **Records.** The District shall have the right to request the Company to provide to
17 the District the Company's records, as to sale of Recyclable Materials, in such
18 form and to the extent as the District deems necessary to review the Company's
19 marketing methods, primary contingent markets, pricing policy, and assumed
20 salvage value for each collected type of recyclable.

21 f) **Additional Recycling Carts.** The Company shall provide additional SFD
22 Recycling Carts to SFD Collection Service Recipients within seven (7) days of
23 request at no additional cost provided that additional carts are used by Service
24 Recipients for the purposes of setting out additional Recyclable Materials for
25 regular weekly SFD Recycling Collection Service.

26 g) **Overages.** Corrugated cardboard or other Recyclable Materials that will not fit
27 inside the Recycling Cart may be flattened, bagged and/or bundled and placed
28 beside the Recycling Cart.

29 h) **Recycling - Changes to Work.** Should changes in law arise that necessitate any
30 additions or deletions to the work described herein including the type of items
31 included as Recyclable Materials, the parties shall negotiate any necessary cost
32 changes and shall enter into an Agreement amendment covering such
33 modifications to the work to be performed and the compensation to be paid before
34 undertaking any changes or revisions to such work.

35 i) **Recycling - Improper Procedure.** Except as set forth in Section 4.2.10 the
36 Company shall not be required to collect Recyclable Materials if the Service
37 Recipient does not segregate the Recyclable Materials from Garbage or Organic
38 Waste. If Recyclable Materials are contaminated through commingling with
39 Garbage or Organic Waste, the Company shall, if practical, separate the Garbage

1 or Organic Waste from the Recyclable Materials. The Recyclable Materials shall
2 then be collected and the Garbage or Organic Waste shall be left in the Recycling
3 Cart along with a Non-collection Notice explaining why the Garbage or Organic
4 Waste is not considered a Recyclable Material. However, in the event the
5 Recyclable Materials and Garbage or Organic Waste are commingled to the
6 extent that they cannot easily be separated by the Company or the nature of the
7 Garbage or Organic Waste renders the entire Recycling Cart contaminated, the
8 Company will leave the Recycling Cart un-emptied along with a Non-collection
9 Notice that contains instructions on the proper procedures for setting out
10 Recyclable Materials.

11 **4.2.9 SFD Organic Waste Collection Service.** This service will be governed by the
12 following terms and conditions:

13 a) Free Service For Up to Two (2) Organic Waste Carts. The Company may not
14 charge for the Collection of Organic Waste collected in up to two (2) Organic
15 Waste Carts. The Company may charge SFD Service Recipients for three (3) or
16 more Organic Waste carts in accordance with SFD Collection Rates in Exhibit 1.
17 However, the Company may not limit the amount of SFD Organic Waste
18 Collection Service provided to a Service Recipient.

19 b) Organic Waste Processing Services. The Company shall ensure that all Organic
20 Waste collected pursuant to this Agreement are diverted from the landfill and not
21 used for alternative daily cover in accordance with AB 939 and AB 32 and any
22 subsequent or other applicable legislation and regulations. The Company shall
23 ensure that all materials collected under this Organic Waste Collection Service
24 will qualify for CalRecycle diversion credits. If so directed in writing by the
25 District, the Company agrees to develop, implement, operate, and participate
26 (locally and/or regionally) in mulching, composting, and/or similar such activities
27 to achieve diversion requirements within the jurisdictional boundaries of the
28 District. The Company agrees to aggressively pursue new opportunities to divert
29 Organic Waste from disposal at the landfill.

30 c) Organic Waste Processing Facility. The Company shall deliver all collected
31 Organic Waste to a fully permitted Organic Waste Processing Facility or a fully
32 permitted Organic Waste transfer station. All expenses related to Organic Waste
33 processing and marketing will be the sole responsibility of the Company.

34 d) Organic Waste Processing. The Company shall ensure that the Organic Waste
35 collected pursuant to this Agreement is not disposed of in a landfill, except as a
36 residue resulting from processing, and the degree feasible, that Organic Waste
37 shall be composted and not be used as Alternative Daily Cover.

38 e) Additional Organic Waste Carts. The Company shall provide one (1) additional
39 SFD Organic Waste Cart to SFD Service Recipients within five (5) days of
40 request at no additional cost provided that additional carts are used by SFD

1 Service Recipients for the purposes of setting out additional Organic Waste
2 Materials for regular weekly Organic Waste Collection Service.

3 f) Kitchen Food Waste Pails. The Company shall make one kitchen Food waste pail
4 per SFD available for pick up at the Recycling Center for a period of one (1) year
5 after roll out of the food waste available at no additional cost. After the initial one
6 (1) year, kitchen food waste pails will be available at cost. The Company shall
7 advertise the availability of the pails in their newsletter and website and at
8 outreach events. The District shall approve the specific size and labeling of the
9 kitchen food waste pails to be provided by the Company.

10 g) Home Compost Bins. The Company shall provide, at direct cost, a Bio-Stack
11 Compost Bin to any SFD Collection Service Recipient that requests one.

12 h) Curbside Holiday Tree Collection. The Company shall operate an annual holiday
13 tree collection program. The program shall include, as a minimum service level,
14 curbside collection of reasonably-sized whole trees during at least a one (1) week
15 period each January, in addition to the collection of holiday trees placed within
16 the Organic Waste Carts and collected pursuant to ordinary Organic Waste
17 Collection procedures. The holiday tree collection program shall target all
18 properties in the service area.

19 i) Contaminated Holiday Trees. Holiday trees that are flocked or contain tinsel or
20 other decorations may be delivered to the Disposal Facility at the discretion of the
21 Company.

22 j) Non-collection. The Company shall not be required to Collect any Organic Waste
23 that is mixed with either Garbage, or Recyclable Materials. In the event of non-
24 collection, the Company shall affix to the Organic Waste Cart a Non-Collection
25 Notice explaining why Collection was not made. The Company shall maintain a
26 copy of such notices during the term of this Agreement.

27 **4.2.10 Bulky Waste Collection.** This service will be governed by the following terms
28 and conditions:

29 a) Maximum Reuse and Recycling. The Company shall dispose of Bulky Waste
30 collected from Service Units pursuant to this Agreement in accordance with the
31 following hierarchy:

- 32 ▪ Reuse
- 33 ▪ Disassemble for reuse or Recycling
- 34 ▪ Recycle
- 35 ▪ Compost
- 36 ▪ Disposal

- 1 b) Bulky Waste Pick up. The Company shall provide Bulky Waste Collection
2 Services to all Single Family Dwelling Units in the District whose Bulky Wastes
3 have been placed within (3) feet of the curb, swale, paved surface of the public
4 roadway, closest accessible roadway, or other such location agreed to by the
5 Company and Customer, that will provide safe and efficient accessibility to the
6 Company's collection crew and vehicle. The Customer shall be limited to three
7 (3) cubic yards or three (3) Bulky waste items per Collection; however, in no
8 event shall the aggregate of Bulky Waste exceed the equivalent of three (3) cubic
9 yards. The Bulky Waste must be contained and does not include Construction and
10 Demolition Debris unless it is bundled or packaged and meets the other
11 requirements for Bulky Waste Collection. Accordingly, the Company shall be
12 compensated for the cost of collecting Bulky Waste in excess of this limitation in
13 accordance with the "Additional Bulky Waste Collection" service rate as set forth
14 in Exhibit 1. Each Single Family Dwelling Unit with garbage pickup service
15 from the Company in the District shall be entitled to receive Bulky Waste
16 Collection Service up to four (4) times/year at no extra charge. Bulky waste
17 pickup shall be scheduled within seventy-two (72) hours of the Customer request
18 excluding Weekends and holidays.
- 19 c) Bulky Waste Items Containing Freon. Service Recipients may also make an
20 appointment with the Company for the Collection of used appliances (*i.e.*
21 *washers, dryers, stoves, refrigerators, freezers, etc.*). In the event the Company
22 collects Bulky Waste that contain Freon, the Company shall handle such Bulky
23 Waste in a manner such that the Large Items are not subject to regulation as
24 Hazardous Waste under applicable state and federal laws or regulations. The
25 Company may charge for collecting Large Items containing Freon in accordance
26 with the rates in Bulky Waste Collection Rates set forth in Exhibit 1.
- 27 d) Records. The Company shall record by class and weight the Garbage, Recyclable
28 Materials, Organic Waste, E-Waste, U-Waste, used appliances, etc., collected
29 during the cleanup events. The Company shall record the kinds and weights of
30 materials diverted during these cleanups from the landfill through recycling,
31 reuse, composting, transformation, or other means of diversion.

32 4.3 Commercial Collection Service

33 These services will be governed by the following terms and conditions:

34 **4.3.1 General Conditions of Service.** The Company shall provide Commercial
35 Garbage Collection Service, Commercial Recycling Collection Service,
36 Commercial Organic Waste Collection Service, and Debris Box Collection
37 Service to all Commercial Service Units in the Service Area whose Garbage,
38 Recyclable Materials, and Organic Waste are properly containerized in Bins,
39 Carts, or Debris Boxes as appropriate where the Bins, Carts are accessible as set
40 forth in Sections 4.03.3 and 4.03.4. The size of the Container and the frequency
41 (above the minimum) of Collection shall be determined between the Service
42 Recipient and the Company. However, the size and frequency shall be sufficient

1 to provide that no Garbage, Recyclable Materials, or Organic Waste Materials
2 need be placed outside the Bin, Cart or Debris Box.

3 a) Required Capacity. The Company shall provide Commercial and MFD Recycling
4 Collection Service and Organic Waste Collection Service to all Commercial
5 Service and MFD Units in the Service Area. For each Service Unit, the Company
6 shall offer a minimum capacity of Commercial and MFD Recycling Collection
7 and Commercial and MFD Organic Waste Collection Service appropriate to the
8 capacity measured as the total cubic yards collected weekly for Commercial and
9 MFD Garbage Collection Service.

10 b) Accessibility. The Company shall collect all Garbage, Recycling, or Organic
11 Waste Bins or Carts that are readily accessible to the Company's crew and
12 vehicles and not blocked.

13 c) Manner of Collection. The Company shall provide Commercial Collection
14 Service with as little disturbance as possible and shall leave any Bin or Cart at the
15 same point it was originally located without obstructing alleys, roadways,
16 driveways, sidewalks or mail boxes. The Company shall provide containers and
17 shall collect contents of the containers not less than once per week. The
18 designated pick-up area, if disputed by the Customer or the Company, shall be
19 determined by the District Manager-Engineer. Additionally, if in his/her opinion
20 the location of an existing pick up area is inappropriate, he/she shall cause the
21 Customer or the Company to relocate the pick up area.

22 **4.3.2 Commercial Garbage Collection Service.**

23 a) Conditions of Service. The Company shall provide Commercial Garbage
24 Collection Service to all Commercial Service Units in the Service Area whose
25 Commercial Garbage is properly containerized in Garbage Bins or Carts, where
26 the Garbage Bins or Carts are accessible.

27 b) Disposal Facility. All Commercial Garbage collected as a result of performing
28 Commercial Garbage Collection Service shall be transported to, and disposed of,
29 at the Disposal Facility meeting the requirements of Section 4.11. Failure to
30 comply with this provision shall result in the levy of an administrative charge as
31 specified in this Agreement and may result in the Company being in default under
32 this Agreement.

33 c) Size and Frequency of Service. This service shall be provided as deemed
34 necessary and as determined between the Company and the Customer, but such
35 service shall be received no less than one (1) time per week with no exception for
36 holiday(s) as set forth herein, except that Collection Service scheduled to fall on a
37 holiday may be rescheduled as determined between the Customer and the
38 Company as long as the minimum frequency requirement is met. Service may be
39 provided by Bin or Cart at the option of the Customer. The size of the Container
40 and the frequency (above the minimum) of Collection shall be determined

1 between the Customer and the Company. However, size and frequency shall be
2 sufficient to provide that no Commercial Garbage need be placed outside the Bin
3 or Cart. The Company shall provide containers as part of the Commercial
4 Collection Service Rates and the MFD Collection Service Rates in Exhibit 1,
5 however, Customers may own their compactor provided that the Customer is
6 completely responsible for its proper maintenance and that such compactor shall
7 be of a type that can be serviced by the Company's equipment.

8 d) Commercial Garbage Overflow. In the case of repeated overflows of Commercial
9 Garbage, the Company shall contact the Commercial Service Unit management to
10 arrange for an appropriate change in Garbage Bin or Cart size, Collection
11 frequency or both. In the event, the Company cannot successfully contact the
12 Commercial Service Unit management after three attempts, or cannot reach an
13 agreement with such management regarding the change in service, the Company
14 shall advise the District Manager-Engineer, either by Fax or e-mail, of the details
15 of the Commercial Garbage overages, and the attempts at communication with the
16 Commercial Service Unit management. The District Manager-Engineer shall
17 respond to the Company's report and make a final written determination. Within
18 five (5) Work Days of receipt of the District Manager-Engineer's written
19 determination, the Company shall change the Collection Service in accordance
20 with such written determination.

21 e) Non-Collection. The Company shall not be required to collect any Commercial
22 Garbage that is not placed in a Garbage Bin or Cart unless such Commercial
23 Garbage is outside the Garbage Bin or Cart as a result of overflow. In the event
24 of Non-Collection, the Company shall affix to the Garbage Bin or Cart a Non-
25 Collection Notice explaining why Collection was not made, or alternatively the
26 Company shall telephone the Customer with an explanation on the same day as
27 the intended Collection.

28 **4.3.3 Commercial Recycling Collection Service.** This service will be governed by the
29 following terms and conditions:

30 a) Free Service. The Company may not charge for the Collection of Recyclable
31 Materials, for Commercial and MFD Customers receiving Garbage Collection
32 Service. Commercial and MFD Recycling Collection Service shall be unlimited
33 provided that Recyclable Materials are placed in Carts or Bins.

34 b) Conditions of Service. The Company shall provide Commercial Recycling
35 Collection Service to all Commercial and MFD Service Units in the Service Area
36 whose Recyclable Materials are properly containerized in Recycling Bins, Carts
37 or Debris Boxes, except as set forth below, where the Recycling Bins, Carts, or
38 Debris Boxes are accessible. Any dispute between the Company and Customer
39 concerning the availability and use of automated containers shall be determined
40 by the District Manager-Engineer. Materials collected shall be those specified by
41 the Company consistent with direction of the District, the District's Zero Waste
42 Goals, AB 32, and the HHW and SRRE Element Plans approved by the City and

1 the County. Commercial Recycling Collection will occur Monday through
2 Friday, and on Saturdays upon request.

3 c) Materials Recovery Facility. All Recyclable Materials collected as a result of
4 performing Commercial and MFD Recycling Services shall be delivered to the
5 Material Recovery Facility. Failure to comply with this provision shall result in
6 the levy of liquidated damages as specified in this Agreement. All expenses
7 related to Recyclable Materials processing and marketing will be the sole
8 responsibility of the Company.

9 d) Size and Frequency of Service. Commercial and MFD Recycling Service shall be
10 provided as deemed necessary and as determined between the Company and the
11 Customer, but such service shall be received no less than one (1) time per week
12 with no exception for holiday(s) as set forth herein, except that Collection Service
13 scheduled to fall on a holiday may be rescheduled as determined between the
14 Customer and the Company as long as the minimum frequency requirement is
15 met. Service may be provided by Bin, Cart or Debris Box at the option of the
16 Customer. The size of the Container and the frequency (above the minimum) of
17 Collection shall be determined between the Customer and the Company.
18 However, size and frequency shall be sufficient to provide that no Recyclable
19 Materials need be placed outside the Bin, Cart or Debris Box. The Company shall
20 provide containers as part of the Commercial Collection Service Rates and the
21 MFD Collection Service Rates in Exhibit 1, however, Customers may own their
22 Compactor provided that the Customer is completely responsible for its proper
23 maintenance and such Compactor shall be of a type that can be serviced by the
24 Company's equipment.

25 e) Additional Recycling Bins or Carts. The Company shall provide additional
26 Commercial and MFD Recycling Bins and Carts to Commercial Service
27 Recipients within five (5) days of request at no additional cost provided that
28 additional bins and carts are used by Commercial Service Recipients for the
29 purposes of setting out additional Recyclable Materials for regular weekly
30 Recycling Collection Service.

31 f) Recycling - Improper Procedure. If Recyclable Materials are contaminated
32 through commingling with Commercial Garbage, the Company shall, if practical,
33 separate the Commercial Garbage from the Recyclable Materials. The Recyclable
34 Materials shall then be collected and the Commercial Garbage shall be left in the
35 Recycling Bin, Cart or Debris Box along with a Non-Collection Notice of why the
36 Garbage is not considered a Recyclable Materials. However, in the event the
37 Recyclable Materials and Commercial Garbage are commingled to the extent that
38 they cannot easily be separated by the Company or the nature of the Commercial
39 Garbage renders the entire Recycling Bin, Cart or Debris Box contaminated, the
40 Company will leave the Recycling Bin, Cart or Debris Box un-emptied along with
41 a Non-Collection Notice which contains instructions on the proper procedures for
42 setting out Recyclable Materials. Upon notification from the District Manager-
43 Engineer, the Company shall collect the contaminated Recyclable Materials as

1 part of the next regularly scheduled Commercial Garbage Collection and dispose
2 of it at the Disposal Facility.

- 3 g) Recycling - Changes to Work. Should changes in law arise that necessitate any
4 additions or deletions to the work described herein including the type of items
5 included as Recyclable Materials, the parties shall negotiate any necessary cost
6 changes and shall enter into an Agreement amendment covering such
7 modifications to the work to be performed and the compensation to be paid before
8 undertaking any changes or revisions to such work.

9 **4.3.4 Commercial Organic Waste Service.** This service will be governed by the
10 following terms and conditions:

- 11 a) Service Rate. The Company agrees that the provision of Commercial and MFD
12 Organic Waste Collection Service to Commercial and MFD Service Units is
13 critical to the Company's ability to meet the Zero Waste Minimum Requirements
14 as set forth in Section 4.9 of this Agreement. The cost of providing Commercial
15 Organic Waste Collection Service is not known at the present. The Company
16 agrees to limit the cost charged for this service to the net cost of Collection, and
17 processing the material as determined through a cost audit prior to the initiation of
18 service. The Company further agrees that not all Commercial Service Units will
19 elect to receive Organic Waste Collection Service in Carts, and that the Company
20 will provide Organic Waste Collection Bins upon request and as necessary.
21 Further, the Company agrees that there are several Commercial Service Units that
22 utilize Compactors for Collection of Organic Waste, and that the Company will
23 provide a sufficient number of Carts or Bins and at a Collection frequency to
24 allow for any such Commercial Service Unit to utilize the Collection of Organic
25 Waste. Commercial Organic Waste Collection will occur Monday through
26 Friday, and on Saturdays upon request and as necessary.
- 27 b) Conditions of Service. The Company shall provide Commercial Organic Waste
28 Collection Service to all Commercial Service Units in the Service Area whose
29 Organic Waste materials are properly containerized in Organic Waste Bins, Carts,
30 Debris Boxes, or Compactors except as set forth below, where the Organic Waste
31 Bins, Carts, Debris Boxes, or Compactors are accessible. The Company shall
32 collect and remove all Organic Waste placed in Collection Containers from
33 commercial and institutional locations where property owners or resident on-site
34 managers perform their own landscaping work and do not contract for a fee for
35 such service.
- 36 c) Organic Waste Processing Facility. All Organic Waste collected as a result of
37 performing Commercial Collection Service shall be delivered to an Organic
38 Waste Processing Facility approved by the District meeting the requirements of
39 Section 4.11. Failure to comply with this provision shall result in the levy of an
40 administrative charge as specified in this Agreement and may result in the
41 Company being in default under this Agreement. All expenses related to Organic
42 Waste processing and marketing will be the sole responsibility of the Company.

- 1 d) Size and Frequency of Service. This Service shall be provided as deemed
2 necessary and as determined between the Company and the Customer, but such
3 service shall be received no less than one (1) time per week with no exception for
4 holiday(s) as set forth herein, except that Collection Service scheduled to fall on a
5 holiday may be rescheduled as determined between the Customer and the
6 Company as long as the minimum frequency requirement is met. Service may be
7 provided by Bin, Cart or Debris Box at the option of the Customer. The
8 frequency of Collection should be as required in this Article unless generation of
9 Organic Waste does not warrant such service to said commercial and institutional
10 units. The size of the Container and the frequency (above the minimum) of
11 Collection shall be determined between the Customer and the Company.
12 However, size and frequency shall be sufficient to provide that no Organic Waste
13 Materials need be placed outside the Bin, Cart or Debris Box. The Company shall
14 provide containers, however, Customers may own their Compactor provided that
15 the Customer is completely responsible for its proper maintenance and such
16 Compactor shall be of a type that can be serviced by the Company's equipment.
- 17 e) Additional Organic Waste Bins or Carts. The Company shall provide additional
18 Commercial Organic Waste Bins and Carts to Commercial Service Recipients
19 provided that additional bins and carts are used by Commercial Service
20 Recipients for the purposes of setting out additional Organic Waste materials for
21 regular weekly Organic Waste Collection Service.
- 22 f) Organic Waste - Improper Procedure. If Organic Waste is contaminated through
23 commingling with Commercial Garbage, the Company shall, if practical, separate
24 the Commercial Garbage from the Organic Waste. The Organic Waste shall then
25 be collected and the Commercial Garbage shall be left in the Organic Waste Bin,
26 Cart, or Debris Box along with a Non-collection Notice of why the Organic Waste
27 is not collected. However, in the event the Organic Waste and Commercial
28 Garbage are commingled to the extent that they cannot easily be separated by the
29 Company or the nature of the Commercial Garbage renders the entire Organic
30 Waste Bin, Cart, or Debris Box contaminated, the Company will collect and
31 dispose of the contents as Garbage and charge the Customer based on rates for
32 Commercial Garbage Collection Service. The Company will also notify the
33 Customer of the contamination and provide instructions on the proper procedures
34 for setting out Organic Waste.
- 35 g) Organic Waste - Changes to Work. Should changes in law arise that necessitate
36 any additions or deletions to the work described herein including the types of
37 items included as Organic Waste, the parties shall negotiate any necessary cost
38 changes and shall enter into an Agreement amendment covering such
39 modifications to the work to be performed and the compensation.

40 **4.4 MFD Collection Service**

41 These services will be governed by all conditions of service as specified in Section 4.3 of
42 this Agreement, with the following additional services:

1 **4.4.1 MFD Organic Waste Collection Service.** The Company shall provide Organic
2 Waste Collection Services to all MFD Service Units in a manner consistent with
3 Section 4.2.9 for those Service Units receiving Cart Collection, and Section 4.3.4
4 for those MFD Service Units receiving Bin Collection. The Company shall not
5 charge for MFD Organic Waste Collection Service.

6 **4.4.2 MFD Recycling Tote Bags.** The Company shall provide five thousand (5,000)
7 recycling tote bags at the Recycling Center for handout to MFD Service Units
8 during the roll-out of the MFD recycling program. The District shall approve the
9 specific size and labeling of the MFD recycling tote bags to be provided by the
10 Company.

11 **4.4.3 Kitchen Food Waste Pails.** The Company shall provide one kitchen food waste
12 pail per MFD Service Recipients available for pick up at the Recycling Center at
13 no additional cost for the first one year after the roll out of the MFD Food Waste
14 program. After the initial one year, kitchen food waste pails will be available at
15 costs. The Company shall advertise the availability of the food waste pails on
16 their website, newsletters, and at outreach events. The District shall approve the
17 specific size and labeling of the kitchen food waste pails to be provided by the
18 Company.

19 **4.4.4 MFD Bulky Waste Collection.** The Company shall provide Bulky Waste
20 Collection Service to all Multi-family dwelling units at the request of the MFD
21 manager in a manner agreed to between the MFD manager and the Company.

22 **4.4.5 Rates.** Charges for MFD Collection Service shall be in accordance with the MFD
23 Collection Service Rates in Exhibit 1 of this Agreement.

24 **4.5 Debris Box Collection Service**

25 Upon twenty-four (24) hours request by a Service Unit for a Debris Box, the Company
26 shall provide a Debris Box at the Service Unit. Such Debris Box Service shall be on a
27 temporary basis not to exceed seven (7) days without Collection, emptying, and
28 replacement of the Debris Box.

29 **4.5.1 Processing Required.** Debris Boxes shall be transported by the Company to an
30 approved processing facility meeting the requirements of Section 4.11 to achieve
31 maximum diversion. Debris Boxes may not be taken by the Company to a
32 landfill for disposal.

33 **4.5.2 Rates.** Charges for Debris Boxes shall be in accordance with Debris Box
34 Collection Rates in Exhibit 1 of this Agreement.

35 **4.5.3 Container Placement.** The Company shall provide Debris Box Collection
36 Service with as little disturbance as possible and shall leave any Debris Box in an
37 upright position at the same point it was collected without obstructing alleys,
38 roadways, driveways, sidewalks, or mail boxes. The Company shall only place

1 Debris Boxes in strict adherence with the appropriate right-of-way requirements
2 and Municipal Code.

3 **4.5.4 Graffiti Removal.** The Company shall remove any and all graffiti within twenty-
4 four 24 hours of being identified by the Company or the District Manager-
5 Engineer. The Company shall not deliver a Debris Box without the Company
6 information or with any graffiti visible on the Debris Box.

7 **4.6 Collection Service For Local Government Agencies Within the District's Boundaries**

8 State and federal laws require cities, counties, and other units of local government to take
9 effective measures to eliminate pollution from land, streams, creeks, rivers, lakes, and
10 bays. The National Pollutant Discharge Elimination System (NPDES) permits issued to
11 the City, the County, and the District, require that Solid Waste be removed and averted
12 from water bodies. An essential method for achieving this is the maximum collection of
13 Solid Waste in public places that, if not collected, will work its way into drainage
14 systems and water bodies. Costs for these state and federal mandated programs should
15 properly be placed with Solid Waste Customers, and this can best be done by inclusion in
16 the Collection Services costs of the Company. Accordingly, the Company shall collect,
17 and dispose of, at no charge, all Solid Waste placed in containers for the use of the general
18 public at Novato School District sports fields, City of Novato public parks and streets, and
19 County of Marin public parks and open space within the Service Area.

20 **4.6.1 Included Services.** This service shall include all Garbage and Recyclable
21 Materials that fall within the normal Collection categories of this Agreement. It
22 shall not include Construction and Demolition Debris, or toxic materials requiring
23 special handling, unless such Collections are part of a toxic collection program
24 made available to the general public. The Company shall provide On-call litter
25 pick-up to clean up locations of roadside dumping. These services shall be
26 provided at the direction of the Manager-Engineer. The Company shall respond
27 to request for roadside litter clean-up within seventy-two (72) hours of notice
28 from the Manager-Engineer. The Company shall create a monthly log of all
29 roadside clean-ups requested which include the date and time and location of the
30 response and the labor, tools and equipment used to pick-up, and transport waste
31 to the disposal or Materials Recovery Facility.

32 **4.6.2 Public Schools Collection Service.** The Company shall provide a School
33 Recycling and Food Waste Program as specified in Exhibit 5. The Company's
34 School Recycling and Food Waste Program shall include, at a minimum, on-site
35 classroom visits, worm composting, internships, written and electronic materials,
36 and sponsorship of environmental field trips.

37 **4.7 Household Hazardous Waste Programs**

38 **4.7.1 Household Hazardous Waste (HHW) Collection Facility.** The household and
39 small business hazardous waste collection facility ("HHW Facility"), as required
40 by law, is currently located at the Novato Recycling Center at 7576 Redwood
41 Boulevard, Novato, California. The Novato Recycling Center is presently leased

1 contract with a hazardous waste contractor to provide turnkey or other services.
2 The District shall be responsible for permitting and design of the HHW Facility as
3 well as improvements to the current structures as may be required by law to
4 operate the HHW Facility. The District shall assume such responsibilities as may
5 be set forth in the lease. The Company further agrees to cooperate with the
6 District and pay for any future relocation of the HHW Facility to a new site as
7 part of any relocation of the existing Drop-off Recycling Center as described in
8 Section 4.11.7.

9 **4.7.2 E-Waste Events.** The Company shall participate in the District's semi-annual E-
10 Waste events held at the Drop-Off Recycling Center. The Company agrees to
11 supply sufficient labor to collect and sort E-Waste at the events, as well as
12 providing for individuals to assist with surveys and provide for a supervisor. The
13 District shall be responsible for contracting with E-Waste recycler, scheduling
14 dates, advertising, paperwork and overall administration of the events.

15 **4.8 Drop-Off Recycling Program and Center**

16 **4.8.1** The Company will operate a drop-off program responsive to the District's
17 requirements. A convenient Novato Drop-Off Recycling Center shall be used for
18 the collection of Recyclable Materials, including glass, plastic and metal
19 containers, newspapers, cardboard, waste paper, telephone books, used latex
20 paint, used motor oil, oil filters, antifreeze, used car batteries, household batteries,
21 fluorescent tubes, compact fluorescents, and such additional Recyclable Materials
22 as may be required by the District.

23 **4.8.2** In addition to the above Drop-Off Recycling Center, the Company shall provide
24 at least two (2) beverage container buy-back centers to collect beverage
25 containers eligible for deposit redemption in accordance with the beverage
26 container deposit redemption program of the State of California. One of these
27 buy-back centers shall be located at the main Drop-Off Recycling Center. The
28 locations of the drop-off and buy-back recycling centers shall be approved by the
29 District. Upon the request of the District, the Company shall develop and
30 implement a third buy-back and/or Drop-Off Recycling Center at a location
31 determined by the District.

32 **4.8.3** Hours of operation for the main Novato drop-off and buy-back center shall be
33 10:00 a.m. to 4:00 p.m. Tuesday through Sunday. Hours of operation of the other
34 beverage container drop-off and buy-back facilities shall be 10:00 a.m. to 4:00
35 p.m., Tuesday through Saturday.

36 **4.8.4** If a release or spill occurs at the drop-off facility, the Company shall provide
37 reports as required by Marin County Division of Environmental Health and any
38 other competent authority with jurisdiction, and shall clean up the release or spill
39 using approved techniques.

1 other competent authority with jurisdiction, and shall clean up the release or spill
2 using approved techniques.

3 **4.9 Zero Waste Minimum Requirements**

4 The Company must achieve all of the following Zero Waste Minimum Requirements.

5 **4.9.1 Landfill Diversion Requirements.** In 2009 the Company reached a fifty percent
6 (50%) Diversion From Landfill Rate. The District requires the Company to
7 achieve a diversion from landfill rate with a minimum diversion rate of sixty
8 percent (60%) by December 31, 2015; seventy percent (70%) by December 31,
9 2020; and eighty percent (80%) by December 31, 2025, and each successive
10 calendar year or such other amount as may be set by the District. The Diversion
11 From Landfill Rate will be calculated as the tons of materials collected by the
12 Company from providing services as specified in this Agreement that are sold or
13 delivered to a Materials Recovery Facility or Organic Waste Processing Facility,
14 recycler or re-user, net of all residue, divided by the total tons of materials
15 collected under this Agreement by the Company in each twelve (12) month
16 calendar year (January 1st–December 31st).

17 **4.9.2 MFD and Commercial Recycling.** The Company shall fully implement the
18 MFD and Commercial Recycling Programs as set forth in Section 4.4.3 by July
19 31, 2012.

20 **4.9.3 Organic Waste Collection and Processing Requirements.** The Company shall
21 fully implement the SFD, MFD, and Commercial Organic Waste programs as set
22 forth in Sections 4.2.9 and 4.3.4 by March 31, 2013.

23 **4.9.4 Drop-Off Recycling Center.** The Company shall cooperate with the District and
24 fully fund the implementation of any future-relocation, expansion and operation of
25 a new Drop-Off Recycling Center as set forth in Section 4.11.7.

26 **4.9.5 Public School Recycling.** The Company shall fully implement the Public School
27 Recycling program as set forth in Exhibit 5 by March 31, 2012.

28 **4.9.6 Community Outreach Program.** The Company shall fully implement the
29 Community Outreach Program as set forth in Section 5.4 by December 31, 2011.

30 **4.9.7 Wet-Dry Collection.** The Company shall work with the District to determine if
31 wet-dry collection is necessary to meet the December 31, 2020 Landfill Diversion
32 Requirements. Such determination shall be made by December 31, 2018, and if it
33 is determined that wet-dry collection is necessary, and the District agrees and
34 approves of implementing wet-dry collection, than the Company shall fully
35 implement wet-dry collection by December 31, 2020.

36 **4.9.8 Conversion Technology.** The Company shall work with the District to determine
37 if utilizing conversion technology is viable and necessary to meet the December
38 31, 2025 Landfill Diversion Requirements. Such determination shall be made by

1 December 31, 2020, and if it is determined that the use of conversion technology
2 is necessary, and the District agrees and approves of implementing the use of
3 conversion technology, than the Company shall delivery collected Garbage to
4 conversion technology facilities by December 31, 2025.

5 **4.9.9 Failure to Meet Minimum Requirements.** The Company's failure to meet the
6 Minimum Zero Waste Requirements set forth in Sections 4.9.1 through 4.9.8
7 above may result in the denial of an extension to this Agreement as specified in
8 Section 2.4. In determining whether or not to hold the Company in default of this
9 Agreement, or denial of a term extension, the District will consider the good faith
10 efforts put forth by the Company in implementing the required programs to meet
11 the minimum Zero Waste Requirements and the methods and level of effort of the
12 Company to fully implement the services required in this Agreement.

13 **4.10 Future Zero Waste Services**

14 **Technology and Regulatory Changes.** The Company and the District acknowledge that
15 during the term of this Agreement new technologies may be developed to cost effectively
16 divert materials from landfill disposal that are not known at this time, and that new local,
17 state, or federal laws and regulations may be enacted that change the manner in which
18 Garbage, Recyclable Materials, and Organic Waste are managed. Accordingly, the
19 Company and the District will cooperate to develop and implement additional, or
20 replacement, programs resulting from any such future technological or regulatory
21 changes to further the goal of reaching Zero Waste.

22 **4.11 Disposal, Processing, Drop-off, and Reuse Facilities**

23 **4.11.1 Compliance with Regulations.** All materials collected under this Agreement
24 shall be delivered to facilities that comply with the Department of Resources
25 Recycling and Recovery regulations under Title 14, Chapter 3, Minimum
26 Standards for Solid Waste Handling and Disposal (Article 5.9–Sections 17380-
27 17386). The Company, and not the District, must assure that all Disposal,
28 transfer, and processing facilities are properly permitted to receive material
29 collected under this Agreement. Failure to comply with this provision may result
30 in the Company being in default under this Agreement.

31 **4.11.2 Permits and Approvals.** The Company must assure that all facilities selected by
32 the Company shall possess all existing permits and approvals by local
33 enforcement agencies so that it may be in full compliance with all laws and
34 regulatory agency requirements to conduct all operations at the approved location.
35 The Company shall, upon written request from the District, arrange for the
36 facilities selected by the Company to provide copies of facility permits, notices of
37 violations, inspection areas or concerns, or administrative action to correct
38 deficiencies related to the operation. Failure to provide facility information may
39 result in the Company being in default under this Agreement.

1 **4.11.3 Disposal Facility.** All Garbage collected as a result of performing Collection
2 Services shall be transported to, and disposed of, at the Disposal Facility. Failure
3 to comply with this provision shall result in the levy of liquidated damages as
4 specified in this Agreement and may result in the Company being in default under
5 this Agreement.

6 **4.11.4 Material Recovery Facility.** All Recyclable Materials collected as a result of
7 performing Collection Services shall be delivered to a fully licensed and
8 permitted Material Recovery Facility. Failure to comply with this provision shall
9 result in the levy of liquidated damages as specified in this Agreement. All
10 expenses related to Recyclable Materials processing and marketing will be the
11 sole responsibility of the Company.

12 **4.11.5 Organic Waste Processing Facility.** All Organic Waste collected as a result of
13 performing Collection Services shall be delivered to a fully licensed and
14 permitted Organic Waste Processing Facility. Failure to comply with this
15 provision shall result in the levy of liquidated damages as specified in this
16 Agreement and may result in the Company being in default under this Agreement.
17 All expenses related to Organic Waste processing and marketing will be the sole
18 responsibility of the Company.

19 **4.11.6 Construction and Demolition Debris Processing Facility.** All Construction and
20 Demolition Debris collected as a result of performing Collection Services shall be
21 delivered to a fully licensed and permitted Construction and Demolition Debris
22 Processing Facility. Failure to comply with this provision shall result in the levy
23 of liquidated damages as specified in this Agreement and may result in the
24 Company being in default under this Agreement. All expenses related to
25 Construction and Demolition Debris processing and marketing will be the sole
26 responsibility of the Company.

27 **4.11.7 Drop-Off Recycling Center.** The Company will cooperate with the District on
28 any future decision by the District to relocate the current Recycling Center, and to
29 expand, and operate a new Drop-Off Recycling Center at a site designated by the
30 District. The specific details of operations and timeframe for implementation will
31 be mutually agreed on between the District and the Company. The Company will
32 be responsible for the cost of building and operating of the Drop-Off Recycling
33 Center. This Agreement does not commit the District to relocate the current
34 Recycling Center or expand the current Recycling Center. Any such decision
35 shall be made by the District in a future action and be subject to compliance with
36 all applicable laws, including permitting and regulatory requirements and
37 compliance with any environmental review required under the California
38 Environmental Quality Act (“CEQA”).

39 **4.12 Operations**

40 **4.12.1 Schedules.** To minimize inconvenience to the public, Garbage Recyclable
41 Materials and Organic Waste shall be collected from residential Customers

1 between the hours of 6:00 a.m. and 4:00 p.m. Commercial and multiple
2 residential accounts that are adjacent to residential neighborhoods shall also be
3 serviced between these hours. Otherwise, commercial, governmental, and
4 institutional accounts shall be collected between the hours of 3:00 a.m. and 4:00
5 p.m., Monday through Saturday.

6 The Company shall notify the District and Customers in writing at least two (2)
7 weeks before an alternate Collection Day is scheduled, when the regularly
8 scheduled Collection Day falls on Christmas Day or New Year's Day.

9 The Company may be required to review its operations plan with the District
10 Manager-Engineer upon written request provided not less than thirty (30) days
11 prior to the review. The review may occur once annually and will focus on the
12 collection, routes, intervals of collection and collection times for all materials
13 collected under this Agreement. More frequent reviews may be required if
14 operations are not satisfactory based on documented observations, reports, or
15 complaints. If the plan is determined to be inadequate by the District Manager-
16 Engineer, the Company shall revise the plan incorporating any changes into a
17 revised plan and review the revised plan with the District Manager-Engineer
18 within thirty (30) calendar days.

19 In the case of a missed pick-up, the Company shall collect the Garbage,
20 Recyclable Materials and Organic Waste within one (1) working day (twenty-four
21 (24) hours) of being notified. The Company shall not charge a fee in cases of
22 missed pick-ups. However, where the Customer has failed to place Garbage,
23 Recyclable Materials or Organic Waste out for Collection on the Collection Day,
24 the Company may charge an extra fee for call-back Collections in accordance
25 with the District's authorized Service Rates as specified in Exhibit 1.

26 **4.12.2 Vehicles.**

- 27 a) General. The Company shall provide a fleet of collection vehicles sufficient in
28 number and capacity to efficiently perform the work required by the Agreement in
29 strict accordance with its terms. The Company shall have available on Work
30 Days sufficient back-up vehicles for each type of collection vehicle (e.g.,
31 residential, commercial, and roll-off) used to respond to complaints and
32 emergencies.
- 33 b) Vehicle Identification. The Company's name, local telephone number, and a
34 unique vehicle identification number designed by the Company for each vehicle
35 shall be prominently displayed on all vehicles, in letters and numbers no less than
36 two and one-half (2 ½") inches high.
- 37 c) Cleaning and Maintenance.

- 1 (i) The Company shall maintain all of its properties, facilities, and equipment
2 used in providing service under this Agreement in a safe, neat, clean, and
3 operable condition at all times.
- 4 (ii) Vehicles used in the Collection of Garbage, Recyclable Materials, and
5 Organic Waste shall be painted, thoroughly washed, and thoroughly steam
6 cleaned on a regular basis so as to present a clean appearance. The District
7 may inspect vehicles at any time to determine compliance with this
8 Agreement. The Company shall also make vehicles available to the Marin
9 County Division of Environmental Health for inspection, at any frequency it
10 requests.
- 11 (iii) The Company shall inspect each vehicle daily to ensure that all equipment
12 is operating properly. Vehicles that are not operating properly shall be taken
13 out of service until they are repaired and do operate properly. The Company
14 shall perform all scheduled maintenance functions in accordance with the
15 manufacturer's recommendations, specifications, and schedule.
- 16 (iv) The Company shall repair, or arrange for the repair of, all of its vehicles and
17 equipment for which repairs are needed because of accident, breakdown, or
18 any other cause so as to maintain all equipment in a safe and operable
19 condition. If an item of repair is covered by a warranty, the Company shall
20 obtain warranty performance. The Company shall maintain accurate records
21 of repair, which shall include the date/mileage, nature of repair, and the
22 signature of a maintenance supervisor affirming that the repair has been
23 properly performed.
- 24 (v) The Company shall furnish sufficient equipment to provide all service
25 required under this Agreement, including back-up collection vehicles. The
26 Company shall furnish the District, upon request, a written inventory of all
27 equipment, including collection vehicles, used in providing service, and shall,
28 upon request, update the inventory annually. The inventory shall list all
29 equipment by manufacturer, ID number, date of acquisition, type, and
30 capacity.
- 31 (vi) The Company shall arrange to store all vehicles and other equipment in safe
32 and secure location(s) in accordance with the City and County's applicable
33 zoning regulations.
- 34 d) Vehicle Operation and Specifications. Vehicles shall be operated in compliance
35 with the California Vehicle Code and all applicable safety and local ordinances.
36 The Company shall not load vehicles in excess of the manufacturer's
37 recommendations or limitations imposed by state or local weight restrictions on
38 vehicles. All vehicles shall have watertight bodies designed to prevent leakage,
39 spillage, or overflow.

1 The Company equipment used for providing Collection Services shall be
2 registered with the California Department of Motor Vehicles. Equipment shall
3 comply with U.S. Environmental Protection Agency noise emission regulations
4 and other applicable noise control regulations. The Company shall store all
5 equipment in safe and secure locations.

6 The Company shall be responsible for any extraordinary damage caused by its
7 trucks and other vehicles to City and County driving surfaces, whether or not
8 paved, and associated curbs, gutters and traffic control devices, which damages
9 shall exclude normal wear and tear resulting from proper use of such vehicles.
10 Nothing herein shall create liability for the District for damages caused to such
11 property by the Company; nor shall this Agreement create liability by the
12 Company to owners of private property (including private drives) where liability
13 would not otherwise exist at law.

14 As required by law, the Company shall convert and/or retrofit its vehicles and/or
15 fuel utilizing the most cost-effective means to reduce air pollutant emissions and
16 at all times be in full compliance with local, state, and federal clean air
17 requirements that were adopted or proposed to be adopted, including the proposed
18 California Air Resources Board Heavy Duty Engine Standards to be contained in
19 CCR Title 13, Section 2020 et seq; and the Federal EPA's Highway Diesel Fuel
20 Sulfur regulations. All of the Company's costs of compliance with such clean air
21 requirements shall be considered an ordinary cost of business. Such costs shall be
22 capitalized and depreciated and shall not constitute a basis for an interim rate
23 adjustment.

24 e) BAAQMD Grant Restrictions. Solid Waste collection vehicles retrofitted with
25 diesel emission control systems (DECS) funded in part by a grant from the Bay
26 Area Air Quality Management District (BAAQMD) shall comply with the
27 following special terms and conditions:

28 (i) Display the TFCA logo decal;

29 (ii) Use only ultra-low sulfur diesel fuel, in compliance with CARB requirements;

30 (iii) Operate only within the boundaries of the BAAQMD;

31 (iv) Maintain information as to the operational status of each vehicle and DECS
32 and provide this information to the BAAQMD within sixty (60) calendar days
33 of a request for this information;

34 (v) Provide written notification to BAAQMD of any change in operational status
35 of the vehicles or DECS. For the purposes of this agreement, a change in
36 operational status means that the DECS, or the vehicle has been removed from
37 active service in the BAAQMD, wrecked, scrapped, or sold or transferred to
38 another entity, before it has been in use for at least five (5) full years of
39 service;

1 (vi) Refund the grant funds to the District, on a pro-rated basis, if any vehicle or
2 DECS is subject to a change in operational status.

3 The Company is liable to reimburse the District for any refunds of grant
4 monies or penalties incurred for failure to comply with the conditions of the
5 grant.

6 **4.12.3 Litter Abatement.**

7 a) **Minimization of Spills.** The Company shall use due care to prevent Garbage,
8 Recyclable Materials, or Organic Waste from being spilled or scattered during the
9 Collection or transportation process. If any Garbage, Recyclable Materials, or
10 Organic Waste is spilled during Collection, the Company shall promptly clean up
11 all spilled materials. Each collection vehicle shall carry a broom and shovel at all
12 times for this purpose.

13 Without prior written approval by the District Manager-Engineer, the Company
14 shall not transfer loads from one vehicle to another on any public street, unless it
15 is necessary to do so because of mechanical failure or accidental damage to a
16 vehicle.

17 b) **Clean Up.** During the Collection or transportation process, the Company shall
18 clean up litter in the immediate vicinity of any Garbage, Recyclable Materials, or
19 Organic Waste storage area (including the areas where Carts, Bins or Debris
20 Boxes are delivered for Collection) whether or not the Company has caused the
21 litter. The Company shall discuss instances of repeated spillage not caused by it
22 directly with the waste generator responsible and will report such instances to the
23 District. The District Manager-Engineer will attempt to rectify such situations
24 with the waste generator if the Company has already attempted to do so without
25 success.

26 c) **Covering of Loads.** The Company shall cover all open Debris Boxes during
27 transport to the Disposal Facility.

28 **4.12.4 Personnel.** The Company shall furnish such qualified drivers, mechanical,
29 supervisory, clerical, management, and other personnel as may be necessary to
30 provide the services required by this Agreement in a satisfactory, safe,
31 economical, and efficient manner. All drivers shall be trained and qualified in the
32 operation of vehicles they operate and must possess a valid license, of the
33 appropriate class, issued by the California Department of Motor Vehicles.

34 The Company also agrees to establish and vigorously enforce an educational
35 program that will train Company's employees in the identification of Hazardous
36 Waste. The Company's employees shall neither knowingly place such Hazardous
37 Waste in the collection vehicles, nor knowingly dispose of such Hazardous Waste
38 at a transfer station, processing facility, or disposal facility.

39 The Company shall train its employees in customer courtesy, shall prohibit the
40 use of loud or profane language, and shall instruct collection crews to perform the

1 work quietly. The Company shall use its best efforts to assure that all employees
2 present a neat appearance and conduct themselves in a courteous manner. If any
3 employee is found to be discourteous or not to be performing services in the
4 manner required by this Agreement, the Company shall take all necessary
5 corrective measures including, but not limited to, transfer, discipline, or
6 termination. If the District has notified the Company of a complaint related to a
7 discourteous or improper behavior, the Company will consider reassigning the
8 employee to duties not entailing contact with the public while the Company is
9 pursuing its investigation and corrective action process.

10 The Company shall provide suitable operations, health, and safety training for all
11 its employees who use or operate equipment or who are otherwise directly
12 involved in collection or other related operations.

13 **4.12.5 Identification Required.** The Company shall provide its employees and
14 subcontractors with identification for all individuals who may make personal
15 contact with residents or businesses in service area. The District may require the
16 Company to notify Customers yearly of the form of said identification. The
17 Company shall provide a list of current employees, companies, and subcontractors
18 to the District upon request.

19 **4.12.6 Fees and Gratuities.** The Company shall not itself, or through any agent,
20 employee, or subcontractor employed by it request, solicit, demand, or accept,
21 either directly or indirectly, any compensation or gratuity for the Collection,
22 transportation, recycling, composting, and disposal of Garbage, Recyclable
23 Materials, or Organic Waste and Construction and Demolition Debris otherwise
24 required under this Agreement.

25 **4.12.7 Non-Discrimination.** The Company shall not discriminate in the provision of
26 service or the employment of persons engaged in performance of this Agreement
27 on account or race, color, religion, sex, age, physical handicap, or medical
28 condition in violation of any applicable federal or state law.

29 **4.12.8 Change in Collection Schedule.** The Company shall provide written notification
30 to the District not less than thirty (30) days prior to a proposed change in
31 residential collection operations that results in a change in the day of operation on
32 which Collection of Garbage Recyclable Materials, or Organic Waste occurs.
33 The District shall have the right to approve all such changes; however, the
34 District's consent will not be unreasonably withheld.

35 **4.12.9** Upon consent by the District to a change in the day of Collection Services, the
36 Customer will be given not less than ten (10) days notice and the Company will
37 not permit any Customer to go more than seven (7) days without service as a
38 result of the collection schedule change.

39 **4.12.10 Report of Accumulation of Solid Waste; Unauthorized Dumping.** The
40 Company shall direct its drivers to note the address or other location description,

1 of any premises at which they observe: (1) Solid Waste accumulating that is not
2 being delivered for Collection; (2) Solid Waste having been dumped in an
3 apparent unauthorized manner; and/or (3) Solid Waste accumulating due to
4 Customer subscribing to an inadequate service level. The Company shall deliver
5 the address or description to the District within five (5) working days of such
6 observation.

7 **4.13 Contingency Plan.**

8 The Company shall submit to the District on or before the Effective Date of the
9 Agreement, a written contingency plan demonstrating the Company's arrangements to
10 provide vehicles and personnel and to maintain uninterrupted service during breakdowns,
11 and in case of natural disaster or other emergency, including the events described in
12 Section 10.4.

1 **ARTICLE 5 OTHER SERVICES**

2 **5.1 Mandatory Company Billing Services**

3 **5.1.1 Billing.** The Company shall prepare, mail and collect bills, and issue written
4 receipts for cash payments, for Collection Services provided by the Company
5 under this Agreement. Except for the Customers receiving Bin Collection, bills
6 for SFD Collection Service shall be mailed to Customers quarterly. The
7 Company may mail bills at the beginning of the quarter, and they are due and
8 payable upon mailing, and if not paid, become delinquent thirty (30) days after
9 the end of the billing period. The Company shall add an administrative late
10 charge of ten percent (10%) per month for amounts due and remaining unpaid for
11 a period sixty (60) days after the end of the billing period. In addition, the
12 Company shall be allowed to discontinue Collection Service to any Customer
13 whose billing remains unpaid for a period of sixty (60) days after the end of the
14 billing period, provided the Company complies with Section 5.3.1.

15 Commercial and MFD Customers shall be billed monthly, for one (1) month in
16 arrears. Such bills are due and payable upon mailing and, if not paid, become
17 delinquent thirty (30) days after the end of the billing period. The service charge
18 for late payment, and service cancellation provisions shall be the same as those
19 for SFD Customers listed above.

20 The Company may also provide a payment option for voluntary advance payment
21 for one (1) year of service with the twelfth (12th) month of service provided at no
22 charge in exchange for such advance payment. The District shall have the right to
23 stipulate the billing format to itemize certain charges.

24 The Company may require full payment for Debris Boxes or other special
25 services prior to delivery of Debris Box or the provision of other special services
26 by the Company.

27 **5.1.2 Review of Billings.** The District Manager-Engineer may require that the
28 Company review its billings to Customers. The purpose of the review is to
29 determine that the amount the Company is billing each Customer is correct in
30 terms of the level of service (i.e. frequency of Collection, size of Container,
31 location of container) being provided to such Customer by the Company. The
32 Company shall review customer accounts not less than every other year, unless
33 District shall direct the Company to do so more frequently, and submit to the
34 District a written report of that review on the anniversary of the effective day of
35 this Agreement, unless otherwise directed by the District Manager-Engineer. The
36 intent of this section is for the District to have the right to receive reports that will
37 cover the entire list of Customers every other year. The scope of the review and
38 the reviewer's work plan shall be submitted to the District for approval prior to
39 submission of the first report.

1 **5.2 Customer Service**

2 **5.2.1 Company Office.** The Company’s current office location is in Santa Rosa,
3 approximately thirty miles north of the City. Office hours shall be, at a minimum,
4 from 8:00 a.m. to 4:30 p.m., Monday through Friday, exclusive of holidays. For
5 the convenience of Customers who wish to pay their bills in cash, the Company
6 shall maintain at least two (2) convenient locations in the Novato area where
7 payments may be made. Such locations shall be approved by the District.

8 A responsible and qualified representative of the Company shall be available
9 during office hours for communication with the public. Normal office hour
10 telephone numbers shall either be a local or toll free call. The local and/or toll
11 free number shall be printed on all the Company bills or invoices for service and
12 listed in the local telephone book. The Company’s telephone system shall be
13 adequate to handle the volume the calls typically experienced on the busiest days.
14 The Company shall also maintain a local or toll free telephone number for after-
15 hours. The Company shall have a representative, or answering machine/message
16 service (voice mail) available at said after-hours telephone number.

17 **5.2.2 Complaints.** All service complaints shall be directed to the Company. A
18 representative of the Company shall be available to receive complaints during
19 normal business hours. All service complaints will be handled by the Company in
20 a prompt and efficient manner. In the case of a dispute between the Company and
21 the Customer, the matter will be reviewed and a decision made by the District
22 Manager-Engineer. The Company may appeal the decision of the District
23 Manager-Engineer to the District Board within ten (10) days of the receipt of the
24 decision. Customers will be advised that any unresolved complaint can be
25 forwarded to the District in accordance with Section 5.2.3.

26 All complaints alleging that the Company personnel have mixed Recyclable
27 Materials or Organic Waste with Garbage, have missed collections, have failed to
28 pick up litter, have refused to pick up unauthorized wastes, or have engaged in
29 unsafe driving will be logged. Also, all complaints alleging the Company failure
30 to maintain vehicles, equipment, or Containers. Such log will be available for
31 review by the District upon request.

32 All customer service records and logs kept by the Company shall be available to
33 the District upon request and provided at no cost to the District. The District
34 shall, at any time during regular the Company business hours, have access to the
35 Company’s customer service department for purposes that may include
36 monitoring the quality of customer service or researching Customer complaints.

37 **5.2.3 Resolution of Customer Complaints.** The Company shall notify Customers of
38 the complaint procedure at the time Customers apply for or are provided service,
39 and subsequently in the New Customer Brochure provided for in Section 5.4.5
40 herein.

1 A Customer dissatisfied with the Company's response regarding a complaint may
2 ask the District to review the complaint. To obtain this review, the Customer
3 must submit a written request within thirty (30) days of the original complaint to
4 the Company if the Company has failed to respond to the complaint. The District
5 may extend the time to request its review for good cause. In reviewing the
6 complaint, the District Manager-Engineer shall seek a response and remedy by the
7 Company.

8 The District Manager-Engineer shall determine if the Customer's complaint is
9 justified, and if so, what remedy if any shall be provided. The District Manager-
10 Engineer may delegate these duties to a designee. The decision of the District
11 Manager-Engineer or his/her designee shall be final on any matter under Five
12 Hundred Dollars (\$500). In the event of a decision on a matter involving Five
13 Hundred Dollars (\$500) or more, the Company may seek review by the Board of
14 Directors.

15 **5.2.4 Company Liaison.** The Company shall designate in writing a "company liaison"
16 who shall be responsible for working with the District Manager-Engineer and/or
17 the District Manager-Engineer's designated representative(s) to resolve customer
18 complaints.

19 **5.3 Discontinuance of Collection Service and/or Refusal to Collect**

20 **5.3.1 Discontinuance of Service.** If the Company elects, pursuant to Section 5.1.1 to
21 discontinue Collection Services for failure to pay for said services, the Company
22 shall, prior to discontinuance: (1) provide the Customer with thirty (30) days prior
23 written notice of the intent to discontinue service and (2) provide the District with
24 fifteen (15) days prior written notice of the intent to discontinue service to said
25 Customer. The Company shall not, however, discontinue service until resolution
26 of any good faith disputes concerning amounts due the Company.

27 **5.3.2 Refusal to Collect.** The Company may, at its discretion, refuse to collect
28 Garbage, Recyclable Materials, and/ or Organic Waste from any Customer who
29 uses a non-standard sized container for Collection of Garbage, Recyclable
30 Materials, and/or Organic Waste.

31 The Company may refuse to collect any waste containing Hazardous Waste,
32 medical wastes, or any other such unauthorized wastes. The Company shall
33 immediately notify the District and the Marin County Division of Environmental
34 Health of any Hazardous Waste left for Collection by said Customer, to the extent
35 said wastes pose a significant threat to human health or the environment.

36 The Company may, at its discretion, refuse to collect any Recyclable Materials
37 carts or bins that contain significant amounts of Garbage that is commingled with
38 Recyclable Materials.

1 If, for any reason, the Company refuses to collect Garbage, Materials, and/or
2 Organic Waste containers from a Customer, the Company shall promptly provide
3 said Customer with a written explanation or alternatively, the Company shall
4 telephone the Customer with an explanation on the same day as the intended pick
5 up. The Company shall maintain a log of such events.

6 **5.4 Community Outreach Services**

7 The Company agrees to work diligently to promote and expand Zero Waste programs and
8 to meet the goals established to meet the requirements of the City of Novato's and the
9 District's Zero Waste Goals. The Company shall develop and distribute promotional
10 materials describing recycling programs and encouraging recycling to all residential,
11 commercial, and industrial accounts at least two times per year, or more often if
12 requested by the District. These materials shall be submitted to the District Manager-
13 Engineer for prior approval. A schedule for preparation and approval of promotional
14 materials shall be submitted for approval of the District by November 1st of each
15 subsequent year. The Company's Community Outreach Services shall include, at a
16 minimum, the following:

17 **5.4.1 Community Involvement and School Recycling Programs.** By September 30,
18 2011, The Company shall fully develop for implementation the Zero Waste
19 Community Outreach Outline as included in Exhibit 4, and the School Recycling
20 and Food Waste Program Outline as included in Exhibit 5. The District shall
21 review and approve the plans prior to implementation by the Company. Updates
22 of the action plans must be submitted annually for the District's approval no later
23 than October 31, 2012 and no later than October 31st each Agreement Year
24 thereafter. The program must include specific steps designed to increase
25 diversion and participation, for the District residents, businesses, and Public
26 Schools. Campaigns should target certain diverted materials or "problem" areas
27 of the Company's Service Area where improvements can be maximized. Targets
28 of outreach should be based on local trends and recycling patterns based on
29 information obtained by both the District Manager-Engineer and Company staff.
30 The Company shall provide space in Company's public outreach materials, such
31 as mailers, flyers and newsletters, for the District to include announcements,
32 community information, articles, and photographs. The Public School campaigns
33 shall correspond with the school year and should target student, faculty and staff
34 participation in the diversion of Recyclable Materials and Organic Waste.

35 **5.4.2 Recycling Coordinator.** The Company will provide for the equivalent two-fifths
36 (2/5) full-time Recycling Coordinator dedicated to the District. The Company
37 may use an approved sub-contractor as approved by the District to perform some
38 or all the duties normally assigned to the Recycling Coordinator.

39 **5.4.3 Annual Collection Service Notice.** The Company shall periodically prepare and
40 distribute at least twice annually, subject to direction from the District Manager-
41 Engineer, separate notices to all SFD Service Units regarding the SFD Collection
42 Service, to all MFD Service Units regarding MFD Collect Service, and to all

1 Commercial Service Units regarding Commercial Collection Service. To the
2 extent appropriate, based on the category of Customer receiving the notice, it shall
3 contain at a minimum: definitions of the materials to be collected, procedures for
4 setting out the materials, Collection and disposal options for unacceptable
5 materials such as Hazardous Waste, maps of the Service Area indicating the day
6 of the week that Collection Service will be provided, and the Company customer
7 service phone number and website address. The notice shall also inform
8 Customers of recycling and waste diversion opportunities and goals, emphasizing
9 Zero Waste as well as AB 32, and explain use of recycling and waste diversion
10 services offered by the Company and other specific information that will assist in
11 the efficient Collection of Garbage, Recyclable Materials and Organic Waste.
12 The notice shall be provided in English, and other languages as reasonably
13 directed by the District, and shall be distributed by the Company no later than
14 November 1st each Agreement Year.

15 **5.4.4 Website.** The Company shall be responsible for updating and maintaining a
16 website for use by Customers. The website shall emphasize Zero Waste goals as
17 well as AB 32 and shall contain the same information discussed in the Zero Waste
18 Community Outreach Outline included in Exhibit 4.

19 **5.4.5 New Customer Brochure.** The Company shall also prepare and update annually
20 a brochure for all new Customers entitled to service under this Agreement. The
21 brochure shall contain a listing of the Company's Collection Service Rates,
22 annual holiday schedule and a general summary of services required to be
23 provided hereunder and optional service that may be furnished by the Company.
24 The brochure shall include the same type of information as described in
25 Section 5.4.3. This brochure shall include information appropriate to allow a new
26 Customer to participate fully in the Garbage, Recyclable Materials, and Organic
27 Waste collection programs offered by the Company. The Company shall include
28 any specific information as may be requested by the District. The brochure shall
29 be made available to the Customer either electronically or by mail at the
30 Customer's option.

31 **5.4.6 Additional Programs and Services.** The Company shall provide additional
32 services and programs as requested by the District at a price to be mutually agreed
33 upon between the Company and the District Manager-Engineer. In the event the
34 Company and the District Manager-Engineer cannot reach a mutually agreed
35 upon price for the requested service or program, the District shall have the right to
36 procure the service of other vendors or Companies to provide the requested
37 service.

38 **5.4.7 News Media Relations.** The Company shall notify the District Manager-
39 Engineer by e-mail or phone of all requests for news media interviews related to
40 the Collection Services program within twenty-four (24) hours of the Company's
41 receipt of the request. Before responding to any inquiries involving controversial
42 issues or any issues likely to affect participation or Service Recipient perception

1 of services, the Company will discuss the Company's proposed response with the
2 District Manager-Engineer.

3 **5.4.8 News Releases.** Copies of draft news releases or proposed trade journal articles
4 shall be submitted to the District for prior review and approval at least five (5)
5 Work Days in advance of release, except where the Company is required by any
6 law or regulation to submit materials to any regulatory agency in a shorter period
7 of time, in which case the Company shall submit such materials to the District
8 simultaneously with the Company's submittal to such regulatory agency. Copies
9 of articles resulting from media interviews or news releases shall be provided to
10 the City within five (5) Work Days after publication.

11 **5.4.9 Compost Delivery.** Upon request by the District Manager-Engineer, the
12 Company shall provide premium quality compost materials delivered to locations
13 and in amounts as requested by the District Manager-Engineer, provided that the
14 total amount during any single Agreement Year does not exceed three-hundred
15 sixty (360) cubic yards. Such delivery of compost shall be made within seventy-
16 two (72) hours upon request by the District Manager-Engineer. The Company
17 shall also deliver premium quality compost to individual Service Unit seventy-
18 two (72) hours upon request of the Manager-Engineer. The quantity of the
19 Company deliveries of premium compost and shall be a minimum of ten (10)
20 cubic yards.

21 **5.4.10 Community Reuse E-Network.** The Company will work with the District to
22 develop, implement, and manage a Community Reuse E-Network to promote the
23 reuse of Bulky Waste.

1 financial information in the required format by September 1st, it is agreed that the
2 Company shall be deemed to have waived the RRI adjustment for that year. The
3 Company's failure to provide the financial information shall not preclude the District
4 from applying the RRI using the prior year's financial data, or pro forma data if no prior
5 year financial data is available, if that application would result in a negative RRI.

6 **6.3.1** Annual Adjustments shall be made only in units of one cent (\$0.01). Fractions of
7 less than one cent (\$0.01) shall not be considered in making adjustments. The
8 indices shall be truncated at four (4) decimal places for the adjustment
9 calculations.

10 **6.3.2** If the Company's failure to submit the financial information required under
11 Section 6.3 is the result of extraordinary or unusual circumstances as
12 demonstrated by the Company to the satisfaction of the District Manager-
13 Engineer, the District at its sole discretion, may consider the request for the
14 annual RRI rate adjustment.

15 **6.3.3** As of November 15, 2011, and annual thereafter during the term of this
16 Agreement, the District Manager-Engineer shall notify the Company of the RRI
17 adjustment to the affected service rates to take place on the subsequent January
18 1st.

19 **6.4 Recyclable Materials Balancing Account**

20 Because of the variation of Recyclable Materials commodity prices, the District and the
21 Company agree to use the Recyclable Materials Balancing Account as described in
22 Exhibit 7.

23 **6.5 District or Company Requested Detailed Rate Review**

24 The District or the Company may request a Detailed Rate Review to be conducted
25 following the procedures as specified in Exhibit 8. However, a Detailed Rate Review
26 shall not be conducted more than once every three (3) Agreement years. A request for a
27 Detailed Rate Review shall be made in writing at least six months prior to the January 1st
28 rate adjustment period for the year in which the results for the Detailed Rate Review are
29 to be applied. The Company shall pay the cost for the Detailed Compensation Review,
30 and the cost of such a Detailed Rate Review is an allowable pass-through cost.

31

1 **ARTICLE 7 RECORDS, REPORTS, AND INFORMATION REQUIREMENTS**

2 **7.1 General**

3 The Company shall maintain such accounting, statistical, and other records related to its
4 performance under this Agreement, as shall be necessary to develop the financial
5 statements and other reports required by this Agreement. Also, the Company agrees to
6 conduct data collection, information and record keeping, and reporting activities needed
7 to comply with applicable laws and regulations and to meet the reporting and Solid Waste
8 and Zero Waste program management needs of the District. To this extent, such
9 requirements set out in this and other articles of this Agreement shall not be considered
10 limiting or necessarily complete. In particular, this Article is intended to only highlight
11 the general nature of records and reports and is not meant to define exactly what the
12 records and reports are to be and their content.

13 **7.2 Records**

14 **7.2.1 General.** The Company shall maintain records required to conduct its operations,
15 to support requests it may make to the District, and to respond to requests from
16 the District in the conduct of the District's business. Adequate record security
17 shall be maintained to preserve records from events that can be reasonably
18 anticipated such as a fire, theft, and earthquake. Electronically maintained
19 data/records shall be protected and backed up.

20 The Company agrees that upon the request of the District for records of any and
21 all companies conducting operations addressed in this Agreement, including
22 related party entities, reasonably related to the determination of compliance with
23 this Agreement or determination of the Company's compensation or rates, the
24 Company shall provide such records or make them available to the District and its
25 official representatives during normal business hours. However, for those years
26 when the compensation methodology set forth in Section 6.3.3 (Compensation for
27 Recyclable Materials) remains in use, the Company shall have no obligation to
28 provide records for affiliated recycling companies.

29 **7.2.2 Financial Records.** Financial records shall be maintained and cost and revenue
30 information for the Service Area segregated from other areas served by the
31 Company.

32 **7.2.3 Solid Waste Records.** Records shall be maintained for the Service Area relating
33 to:

- 34 a) Customer services and billing;
- 35 b) Character, weight, and volume of Solid Waste, especially as related to reducing
36 and diverting Recyclable Materials, Organic Waste, or Construction and
37 Demolition Debris from disposal. Information will be separated by kind of
38 account;

- 1 c) Routes in a format suitable for preparing reports and coordinating with other
2 agencies;
- 3 d) Facilities, equipment, and personnel used;
- 4 e) Facilities and equipment operations, maintenance, and repair;
- 5 f) Processing and disposal of Solid Waste;
- 6 g) Complaints as detailed in Section 5.2.2; and
- 7 h) Disposal Records. The Company shall maintain records of disposal facility and
8 transfer station disposal of all Garbage collected in service area for the period of
9 this Agreement and all extensions to this Agreement or successor agreements. In
10 the event the Company discontinues providing Collection Services to the District,
11 the Company shall provide all records of disposal facility and transfer station
12 disposal of all Garbage collected in service area to the District within thirty (30)
13 days of discontinuing service. Records shall be in chronological and organized
14 form and readily and easily interpreted.

15 **7.2.4 Recycling Service Records.** At direction of the District, the Company shall
16 maintain records for the Service Area that relate to:

- 17 a) Any of the records, described in Section 7.2.3 above, pertaining to Recyclable
18 Materials;
- 19 b) Recycling participation-especially as related to determining participation rates and
20 implementing programs to increase existing participation and to expand diversion;
- 21 c) Weight of each material by type;
- 22 d) Sales-kind of material, name of buyer/user, date of sales/transactions, processing
23 costs, quantity purchased (in tons) and value per ton, and net sales; and
- 24 e) Inventories.

25 **7.2.5 Other Programs Records.** Records for other programs shall be tailored to
26 specific needs. In general, the District may require records which include:

- 27 a) Plans, tasks, and milestones; and
- 28 b) Accomplishments in terms such as dates, activities conducted, quantities of
29 products used, produced or distributed, numbers of participants and responses, as
30 well as tonnages diverted, recycled or composted, etc.

1 **7.3 Reports**

2 **7.3.1 Report Formats and Schedule.** Records shall be maintained in forms and by
3 methods that facilitate flexible use of data contained in them to structure reports,
4 as needed. Reports are intended to compile recorded data into useful forms of
5 information that can be used to, among other things:

- 6 a) Determine and set rates and evaluate the financial efficacy of operations;
- 7 b) Evaluate past and expected progress towards achieving goals and objectives;
- 8 c) Determine needs for adjustment to programs; and
- 9 d) Evaluate customer service and complaints.

10 The Company may propose report formats that are responsive to the objectives
11 and audiences for each report. The format of each report shall be approved by the
12 District Manager-Engineer. All reports shall be submitted to:

13 District Manager-Engineer
14 Novato Sanitary District
15 500 Davidson Street
16 Novato, CA 94945

17 **7.3.2 Quarterly Reports.** Quarterly reports shall be submitted within forty (40)
18 calendar days after the end of the applicable quarter.

- 19 a) Garbage Collection Services. Garbage, sorted by kind of generator, collected by
20 the Company, in tons, generated by month. Tons will be separately reported for
21 SFD, MFD, and Commercial Customers.
- 22 b) Recyclable Materials Collection Service. Tonnage of Recyclable Materials
23 collected by month, by specific material type. Tons will be separately reported
24 for SFD, MFD, and Commercial Customers, and buy-back centers.
- 25 c) Organic Waste Collection Service. Tonnage of all Organic Waste collected by
26 month and final disposition of materials. Tons will be separately reported for
27 SFD, MFD, and Commercial Customers.
- 28 d) Debris Box Collection Service. Tonnage of all Organic Waste collected by month
29 and final disposition of materials.
- 30 e) Number of accounts by service category (i.e., SFD, MFD, Commercial
31 Customers) and receptacle size at the end of each quarter.
- 32 f) Bulky Waste. Report by class and weight the Garbage, Recyclable Materials,
33 Organic Waste, E-Waste, U-Waste used appliances, etc., collected as Bulky
34 Waste and the kinds and weights of Bulky Waste diverted during these cleanups

1 from the landfill through recycling, reuse, composting, transformation, or other
2 means of diversion.

3 **7.3.3 Other Reports.** The Company shall furnish the District with other reports as may
4 be reasonably required by the District in order that the District may fulfill its
5 obligations under applicable laws or regulations. Such reports may include, but
6 are not limited to, Recyclable Materials sales at or relating to the quantities and
7 sales price of Recyclable Materials including monthly tonnages and sales
8 information and inventories on hand as provided in Section 7.2.4.

9 **7.3.4 Annual Financial Report.** When requested by the District, the Company's and
10 (to the extent necessary to determine compliance with this Agreement or to
11 determine the Company's compensation or rates) related party entities' financial
12 reports/statements shall be included with the annual report. The annual report
13 shall also include a complete inventory of equipment used to provide all services.

14 The Company shall submit, annually, a financial statement to the District.
15 Financial statements shall include a supplemental schedule showing the
16 Company's results of operations, including the specific revenues and expenses in
17 connection with the operations provided for in this Agreement, as well as other
18 operations included in such financial statements. The financial statements,
19 supplemental schedule and footnotes shall be prepared in accordance with
20 Generally Accepted Accounting Principles (GAAP) and audited, in accordance
21 with Generally Accepted Auditing Standards (GAAS) by a certified public
22 accountant (CPA) licensed (in good standing) to practice public accounting in the
23 State of California as determined by the State of California Department of
24 Consumer Affairs Board of Accountancy. The CPA opinion on the Company's
25 annual financial statements and supplemental schedule shall be unqualified,
26 except as to uncertainties for which the ultimate outcome cannot be determined by
27 the date of the CPA's opinion. The cost for the annual audit shall be borne by the
28 Company as a direct cost of service. The annual report shall also include an
29 inventory of equipment used to provide all services.

30 **7.3.5** The Company shall, in its Agreement with the CPA performing its annual audit
31 referred to above, when requested by the District, have its CPA make available to
32 the District (or the District's designated representative) such CPA's working
33 papers related to the audit. The cost, if any, incurred by Company's CPA shall be
34 included in the cost of the audit.

35 **7.3.6** The Company agrees that all financial transactions with all related party entities
36 shall be subject to approval by the District. The Company agrees to provide
37 records of said financial transactions in such form and detail as requested by the
38 District. The District may request that there be an annual independent review of
39 related party transactions, by a third party selected by the District, at the
40 Company's expense. In addition, related party transactions shall be disclosed
41 annually (coinciding with the Company's annual audited financial statements
42 referred to in this Section) to the District in a separate disclosure letter to the

1 District Manager-Engineer. This letter shall include, but not be limited to, the
2 following information:

3 **7.3.7** A general description of the nature of each transaction, or each type of transaction
4 (for similar transactions). Such description shall include for each transaction (or
5 each similar type of transaction), the specific related party entity, the amount,
6 basis of amount (how charge or amount was determined), and description of the
7 allocation methodology used to allocate any costs common to this and other
8 operations. Amounts shall be reconciled to the related party entity disclosures
9 made in the Company's annual audited financial statements referred to in this
10 Section.

11 **7.3.8** At the District's request, the Company shall provide the District with copies of
12 working papers or other documentation deemed relevant by the District relating to
13 information shown in the annual disclosure letter. The annual disclosure letter
14 shall be provided to the District within ninety (90) days of the Company's fiscal
15 year end.

16 **7.4 Right to Inspect Records**

17 The District shall have the right to inspect or review the payroll tax reports, specific
18 documents, or records required, expressly or by inference, pursuant to this Agreement, or
19 any other similar records or reports of the Company that the District shall deem, in its
20 sole discretion, necessary to evaluate annual reports, compensation applications provided
21 for in this Agreement and the Company's performance provided for in this Agreement.
22 The District, or the person selected by the District to conduct the above annual
23 independent review, as described in Section 7.3.4, shall have access to the records
24 described herein annually and similar such records of the related party entities as part of
25 the independent review of related party transactions.

1 **ARTICLE 8 INDEMNIFICATION, INSURANCE, AND BOND**

2 **8.1 Indemnification**

3 The Company shall indemnify and hold harmless the District, its officers, directors,
4 employees, and agents from and against any and all loss, liability, penalty, forfeiture,
5 claim, demand, action, proceeding, or suit of any and every kind and description
6 (including, but not limited to, injury to and death of any person and damage to property,
7 payment of attorney’s fees, or for contribution or indemnity claimed by third parties)
8 arising or resulting from or in any way connected with performance or approval of this
9 Agreement, including, but not limited to, allegations of: (1) negligence or willful
10 misconduct of the Company, its officers, employees, agents and/or subcontractors in
11 performing services under this Agreement (whether or not third parties may also be
12 contributorily negligent); (2) failure of the Company, its officers, employees, agents,
13 and/or subcontractors to comply in all respects with the provisions of this Agreement,
14 applicable laws (including, without limitation, the environmental laws) and regulations,
15 and/or applicable permits and licenses; (3) acts of the Company, its officers, employees,
16 agents, and/or subcontractors in performing services under this Agreement for which
17 strict liability is imposed by law (including, without limitation, the environmental laws);
18 and (4) the District’s approval of the Agreement did not comply with the law, including,
19 but not limited to CEQA. The foregoing indemnity shall apply regardless of whether
20 such loss, liability, penalty, forfeiture, claim, demand, action, proceeding, suit, injury,
21 death, or damage is also caused in part by any of the District’s or the City’s negligence,
22 except that which was caused by the sole negligence or willful misconduct of the District,
23 the City, its officers, directors, employees, of agents. The Company further agrees to and
24 shall, upon demand of the District or the City, at the Company’s sole cost and expense,
25 defend (with attorneys acceptable to the District and the City) the District, the City, its
26 officers, directors, employees, and agents against any claims, actions, suits, or other
27 proceedings, whether judicial, quasi-judicial or administrative in nature, arising or
28 resulting from any events described in this paragraph. The Company agrees that its duty
29 to indemnify set forth here in this Article 8, including the Hazardous Waste
30 indemnification, shall apply to the lease and operation of the drop-off recycling facility at
31 7576 Redwood Boulevard, in Novato, California, by the Company or a Company
32 affiliate, and its provision of a portion of the Company’s existing facility there to the
33 District for a HHW Facility.

34 The Company’s duty to indemnify and defend shall survive the expiration or early
35 termination of this Agreement as to matters occurring during the term of the Agreement,
36 including any extension thereof.

37 **8.2 Hazardous Waste Indemnification**

38 The Company shall indemnify, defend (with attorneys acceptable to the District), protect,
39 and hold harmless the District, its officers, Directors, employees, and agents
40 (collectively) indemnitees from and against all claims, damages (including but not limited
41 to special, consequential, natural resources, and punitive damages), injuries, costs,
42 (including without limit any and all response, remediation, and removal costs), losses,
43 demands, debts, liens, liabilities, causes of action, suits, legal or administrative

1 proceedings, interest, fines, charges, penalties, and expenses (including without limit
2 attorneys' and expert witness fees and costs incurred in connection with defending against
3 any of the foregoing or in enforcing this indemnity), (collectively, "damages") of any
4 kind whatsoever paid, incurred, or suffered by, or asserted against indemnitees, arising
5 from or attributable to the acts or omissions of the Company, its officers, directors,
6 employees, companies, or agents, whether or not negligent or otherwise culpable, in
7 connection with or related to the performance of this Agreement, including, without limit,
8 damages arising from or attributable to any repair, cleanup, or detoxification, or
9 preparation and implementation of any removal, remedial, response, closure, or other
10 plan (regardless of whether undertaken due to governmental action) concerning any
11 Hazardous Waste, and/or Household Hazardous Waste in the service area at any places
12 where the Company transports, processes, stores, or disposes of Solid Waste, and/or
13 Construction and Demolition Debris, other materials. The foregoing indemnity is
14 intended to operate as an agreement pursuant to Sections 107(e) of the Comprehensive
15 Environmental Response, Compensation and Liability Act, CERCLA, 42 USC
16 Sections 9607(e) and California Health and Safety Code Sections 25364, to defend,
17 protect, hold harmless, and indemnify the District from liability. This provision is in
18 addition to all other provisions in this Agreement and is intended to survive the end of the
19 term of this Agreement.

20 The above indemnity does not apply to any Solid Waste and Hazardous Waste that the
21 Company may have disposed of at Redwood Landfill prior to the Effective Date of this
22 Agreement. If the Company elects to continue use of Redwood Landfill as a disposal
23 facility after the Effective Date of this Agreement, the Company agrees to seek an
24 indemnification agreement with Redwood Landfill, naming the District as an indemnitee.
25 Said indemnification agreement shall be substantially similar to the above provisions set
26 forth herein.

27 If the Company selects a disposal facility at any time during the Term of this Agreement
28 other than Redwood Landfill, the Company agrees to obtain an indemnity agreement
29 from said landfill indemnifying the District on terms substantially in the form as set forth
30 hereinabove. If the District, however, directs the wastestream to a different disposal
31 facility, the Company will not be required to indemnify the District as set forth herein,
32 unless the District requires that the disposal facility so selected provide a substantially
33 similar indemnity.

34 **8.3 CIWMA Indemnification**

35 Under CIWMA, the California Integrated Waste Management Act, the City and the
36 County have the direct responsibility to meet percentage diversion goals and other
37 requirements of the Act. However, many of the programs developed to comply with the
38 requirements of the CIWMA will be implemented by the Company as the provider of
39 Garbage, Recyclable Materials, and Organic Waste Collection Services in the community
40 under this Agreement with the District.

41 As of January 1, 2001, Section 41821.2 is added to the Public Resources Code which
42 applies to a sanitary district providing for Solid Waste handling services. Pursuant to this
43 Section, the District must comply with the Source Reduction and Recycling Element, and

1 the Household Hazardous Waste Element, of the City and County in which the Company
2 provides Solid Waste handling services pursuant to this Agreement. The District may be
3 subject to a portion of a penalty imposed under Public Resources Section 41850 upon the
4 City or County in proportion to the District's responsibility for failure to implement
5 within its jurisdiction a Source Reduction Recycling Element or a Household Hazardous
6 Waste Element.

7 The Company agrees to indemnify the District for any sums of money District is required
8 to pay City or County in accordance with Section 41821.2, of the Public Resources Code,
9 in the event that the District's failure to implement City or County approved elements is
10 due to the failure of the Company to meet its obligations under this Agreement. The
11 Company shall, in addition, indemnify the District for any fines and penalties assessed
12 against the City or County for delays by the Company in providing information that
13 prevents the District, the City or the County from submitting reports required by the
14 CIWMA in a timely manner.

15 **8.4 Insurance**

16 **8.4.1 General.** The Company shall take out and maintain during the life of the contract
17 such public liability and property damage insurance as shall protect the Company
18 and any subcontractor performing work covered by this Agreement from claims
19 for property damages, which may arise because of the nature of the work or from
20 operation under the contract, whether such operations be by the Company or by
21 any subcontractor or person directly or indirectly employed by either, even though
22 such damages may not be caused by the negligence of the Company or any
23 subcontractor, or person employed by either. The public liability and property
24 damage insurance shall directly protect the District, its officers, agents, employees
25 and volunteers, as well as the Company and any subcontractors, and all insurance
26 policies issues hereunder shall so state.

27 **8.4.2 Minimum Scope of Insurance.** Coverage shall be at least as broad as:

- 28 a) Insurance Services Office form number GL 0002 covering Comprehensive
29 General Liability and Insurance Services Office form number GL 0404 covering
30 Broad Form Comprehensive General Liability; or Insurance Services Office
31 Commercial General Liability coverage ("occurrence" form CG 0001).
- 32 b) Insurance Services Office form number CA 0001 covering Automobile Liability,
33 code 1 "any auto" and endorsement CA 0025.
- 34 c) Workers' Compensation insurance as required by the Labor Code of the State of
35 California and Employers Liability insurance.

36 **8.4.3 Minimum Limits of Insurance.** The Company shall maintain limits no less
37 than:

- 1 a) Comprehensive General Liability: Five Million Dollars (\$5,000,000) combined
2 single limit per occurrence for bodily injury, personal injury and property
3 damage.
- 4 b) Automobile Liability: Five Million Dollars (\$5,000,000) combined single limit
5 per accident for bodily injury and property damage.
- 6 c) Workers' Compensation and Employers Liability: Workers' compensation limits
7 as required by the Labor Code of the State of California and Employers Liability
8 limits of One Million Dollars (\$1,000,000) per accident.

9 **8.4.4 Deductibles and Self-Insured Retentions.** Any deductibles or self-insured
10 retentions must be declared to and approved by the District. At the option of the
11 District, either: the insurer shall reduce or eliminate such deductibles or self-
12 insured retentions as respects District, its member agencies, its officials and
13 employees; or the Company shall provide a financial guarantee satisfactory to the
14 District guaranteeing payment of losses and related investigations, claim
15 administration and defense expenses.

16 **8.4.5 Other Insurance Provisions.** The policies are to contain, or be endorsed to
17 contain, the following provisions:

- 18 a) General Liability and Automobile Liability Coverages:
- 19 (i) The District, its officials, employees and volunteers are to be covered as
20 additional insureds as respects: liability arising out of activities performed by
21 or on behalf of the Company; products and completed operations of the
22 Company; premises owned, leased or used by the Company; or automobiles
23 owned, leased, hired or borrowed by the Company. The coverage shall
24 contain no special limitations on the scope of protection afforded to the
25 District, its officials, employees or volunteers, unless otherwise approved by
26 the District.
- 27 (ii) The Company's insurance coverage shall be an occurrence policy and primary
28 insurance as respects the District, its officials, employees and volunteers. Any
29 insurance or self-insurance maintained by the District, its officials, employees
30 or volunteers shall be excess of the Company's insurance and shall not
31 contribute with it.
- 32 (iii) Any failure to comply with reporting provisions of the policies shall not
33 affect coverage provided to the District, its officials, employees or volunteers.
- 34 (iv) Coverage shall state that the Company's insurance shall apply separately to
35 each insured against whom claim is made or suit is brought, except with
36 respect to the limits of the insurer's liability and no right of subrogation by the
37 Company's insurer against the District shall be available.

- 1 b) Workers' Compensation and Employers Liability Coverage - The insurer shall
2 agree to waive all rights of subrogation against the District, its officials,
3 employees and volunteers for losses arising from work performed by the
4 Company for the District.
- 5 c) All Coverages - Each insurance policy required by this clause shall be endorsed to
6 state that coverage shall not be suspended, voided, canceled by either party,
7 reduced in coverage or in limits except after thirty (30) days' prior written notice
8 by certified mail, return receipt requested, has been given to the District.

9 **8.4.6 Acceptability of Insurers.** The insurance policies required by this section shall
10 be issued by an insurance company or companies approved by the District, which
11 approval shall not be unreasonably withheld.

12 **8.4.7 Verification of Coverage.** The Company shall furnish the District with
13 certificates of insurance and with original endorsements affecting coverage
14 required by this clause. The certificates and endorsements for each insurance
15 policy are to be signed by a person authorized by that insurer to bind coverage on
16 its behalf. The certificates and endorsements are to be on forms provided by or
17 acceptable to the District and are to be received and approved by the District
18 before work commences under this Agreement. The District reserves the right to
19 require complete, certified copies of all required insurance policies, at any time.

20 **8.4.8 Subcontractor.** The Company shall include all subcontractors as insureds under
21 its policies or shall furnish separate certificates and endorsements for each
22 subcontractor. All coverages for subcontractors shall be subject to all of the
23 requirements stated herein. In addition, all such policies shall meet the
24 requirements as set forth in Section 8.4.4 above.

25 **8.4.9 Required Endorsements.**

- 26 a) The Workers' Compensation policy shall contain an endorsement in substantially
27 the following form:

28 Thirty (30) days prior written notice shall be given to the District in the event of
29 cancellation, reduction in coverage, or non-renewal of this policy. Such notice
30 shall be sent to:

31 District Manager-Engineer
32 Novato Sanitary District
33 500 Davidson Street
34 Novato, California 94945"

- 35 b) The Comprehensive General Liability and Automobile Liability policies shall
36 contain endorsements in substantially the following form:

1 (i) "Thirty (30) days prior written notice shall be given to the District in the event
2 of cancellation, reduction in coverage, or non-renewal of this policy. Such
3 notice shall be sent to:

4 District Manager-Engineer
5 500 Davidson Street
6 Novato, California 94945"

7 (ii) "The District, its officers, employees, volunteers and agents are additional
8 insureds on this policy."

9 (iii) "This policy shall be considered primary insurance as respects any other
10 valid and collectible insurance maintained by the District, including any self-
11 insured retention or program of self-insurance, and any other such insurance
12 shall be considered excess insurance only."

13 (iv) "Inclusion of the District as an insured shall not affect the District's rights as
14 respects any claim, demand, suit or judgment brought or recovered against the
15 Company. This policy shall protect the Company and the District in the same
16 manner as though a separate policy had been issued to each, but this shall not
17 operate to increase the Company's liability as set forth in the policy beyond
18 the amount shown or to which the Company would have been liable if only
19 one party had been named as an insured."

20 **8.4.10 Delivery of Proof of Coverage.** Simultaneously with the execution of this
21 Agreement, the Company shall furnish the District certificates of each policy of
22 insurance required hereunder, in form and substance satisfactory to the District.
23 Such certificates shall show the type and amount of coverage, effective dates and
24 dates of expiration of policies and shall have all required endorsements. If the
25 District requests, copies of each policy, together with all endorsements, shall also
26 be promptly delivered to the District.

27 Renewal certificates will be furnished periodically to the District to demonstrate
28 maintenance of the required coverages throughout the term of the Agreement.

29 **8.4.11 Other Insurance Requirements.**

30 a) In the event any services are delegated to a subcontractor, the Company shall
31 require such subcontractor to provide statutory workers' compensation insurance
32 and employer's liability insurance for all of the subcontractor's employees
33 engaged in the work in accordance with Section 8.4. The liability insurance
34 required by Section 8.4 shall cover all subcontractors or the subcontractor must
35 furnish evidence of insurance provided by it meeting all of the requirements of
36 this Section 8.4.

37 b) The Company shall comply with all requirements of the insurers issuing policies.
38 The carrying of insurance shall not relieve the Company from any obligation

1 under this Agreement. If any claim exceeding the amount of any deductibles or
2 self-insured reserves is made by any third person against the Company or any
3 subcontractor on account of any occurrence related to this Agreement, the
4 Company shall promptly report the facts in writing to the insurance carrier and to
5 the District.

6 If the Company fails to procure and maintain any insurance required by this
7 Agreement, the District may take out and maintain, at the Company's expense,
8 such insurance as it may deem proper and deduct the cost thereof from any
9 monies due the Company.

10 **8.5 Faithful Performance Bond**

11 Simultaneously with the execution of this Agreement, the Company shall file with the
12 District a bond, payable to the District, securing the Company's faithful performance of
13 its obligations under this Agreement. The principal sum of the bond shall be One
14 Hundred Thousand Dollars (\$100,000). The bond shall be executed as surety by a
15 corporation authorized to issue surety bonds in the State of California, with a financial
16 condition and record of service satisfactory to the District. The bond shall be in the form
17 attached as Exhibit 3.

1 If the interruption or discontinuance in service is caused by any reasons other than
2 those listed in Section 10.1, the District shall pay to the Company the reasonable
3 rental value of the equipment and facilities, possession of which is taken by the
4 District, for the period of the District's possession. Additionally, the District shall
5 pay to the Company the reasonable value of any goods or services provided by the
6 Company (e.g. gas, oil, use of mechanic, etc.). Under circumstances not set forth
7 in Section 10.1, the District shall also provide some reasonable return to the
8 Company, provided there are revenues available through collection of the
9 established rates to reimburse the District for its costs and pay the Company for
10 rental and services.

11 **9.2 Temporary Possession for Service Interruption Caused by Other Events**

12 If the interruption or discontinuance of services is caused by any event listed in Section
13 10.1 (including interruptions and discontinuance due to strikes, lockout, and other labor
14 disturbances), the District may take possession of and use all of the Company's property
15 described above without paying the Company or any other person any rental or any other
16 charges or compensation whatsoever for said possession and use. However, the District
17 may, in its discretion, pay to the Company the reasonable rental value of equipment and
18 facilities, possession of which is taken by the District, along with the reasonable value of
19 goods and services provided by the Company during temporary possession; provided
20 however, no payment to the Company may occur unless the revenues provided through
21 the collection of rates are sufficient to make such payments once all reasonable costs
22 incurred by the District due to the temporary takeover are paid.

23 **9.3 Billing and Compensation to the District During the District's Possession**

24 During such time that the District is providing Solid Waste services, as above provided,
25 the Company shall bill and collect payment from all users of the above-mentioned
26 services. The Company further agrees that, in such event, it shall reimburse the District
27 for any and all costs and expenses incurred by the District in taking over possession of
28 the above-mentioned property for Solid Waste service in such manner and to an extent as
29 would otherwise be required of the Company under the terms of this Agreement. Such
30 reimbursement shall be made from time to time after submission by the District to the
31 Company of each statement listing such costs and expenses, but in no event later than
32 five (5) working days from and after each such submission.

33 **9.4 District's Right to Relinquish Possession**

34 It is further mutually agreed that the District may at any time at its discretion relinquish
35 possession of any or all of the above-mentioned property to the Company and thereupon
36 demand that the Company resume the Solid Waste services as provided in this
37 Agreement, whereupon the Company shall be bound to resume the same.

38 **9.5 District's Possession Not A Taking**

39 The District's exercise of its rights under this Article (1) does not constitute a taking of
40 private property for which compensation must be paid, (2) will not create any liability on
41 the part of the District to the Company, and (3) does not exempt the Company from any
42 of the indemnity provisions of this Agreement, which are meant to extend to
43 circumstances arising under this Article, provided that the Company is not required to

1 indemnify the District against claims and damages arising from the active negligence of
2 the District officers, employees, and agents in the operation of such equipment and
3 facilities during the period of the District's possession.

4 **9.6 Duration of District's Possession**

5 The District's right pursuant to this Article to retain temporary possession of the
6 Company's facilities and equipment, and to render Collection Services, shall terminate
7 when the District determines that such services can be resumed by the Company, or when
8 the District no longer reasonably requires such facilities or equipment. In any case, the
9 District has no obligation to maintain possession of the Company's property and/or
10 continue its use for any period of time and may at any time, in its sole discretion,
11 relinquish possession to the Company.

12 **9.7 Possession in Event of Termination**

13 In the event of termination as provided in Article 10, the District shall have the right to
14 take possession of any and all of the Company's land, equipment, and other property used
15 or useful in the collection, composting, and/or transportation of Solid Waste and to use
16 such property to collect, recycle, compost, and transport any Solid Waste generated
17 within the District. The District shall have the right to retain the possession of such
18 property until other suitable arrangements can be made for the provision of Collection
19 Services, which may include the grant of a franchise to another waste hauling company.
20 In the event of termination, the Company shall only be entitled to the payments, if at all,
21 as set forth in Section 9.2 above, which payments shall be offset against any damages due
22 the District for the Company's default. The Company shall furnish the District with
23 immediate access to all of its business records related to billing of accounts for service
24 and other records necessary for maintaining ongoing service during the period of
25 possession.

1 **ARTICLE 10 DEFAULT, REMEDIES, AND LIQUIDATED DAMAGES**

2 **10.1 Events of Default**

3 All provisions of the franchise and this Agreement to be performed by the Company are
4 considered material. Each of the following shall constitute an event of default:

5 **10.1.1 Fraud or Deceit.** If the Company practices, or attempts to practice, any fraud or
6 deceit upon the District.

7 **10.1.2 Insolvency or Bankruptcy.** If the Company becomes insolvent, unable, or
8 unwilling to pay its debts, or upon listing of an order for relief in favor of the
9 Company in a bankruptcy proceeding.

10 **10.1.3 Failure to Maintain Coverage/Indemnification.** If the Company fails to
11 provide or maintain in full force and effect the Workers' Compensation and
12 liability coverage, or fails to provide indemnification as required by this
13 Agreement.

14 **10.1.4 Violations of Regulation.** If the Company violates any orders or filings of any
15 regulatory body having jurisdiction over the Company relative to this Agreement,
16 which violation adversely affects the Company's ability to provide service,
17 provided that the Company may contest any such orders or filings by appropriate
18 proceedings conducted in good faith, in which case no breach of the franchise
19 shall be deemed to have occurred.

20 **10.1.5 Failure to Perform.** If the Company ceases to provide Collection Services as
21 required under this Agreement for a period of forty-eight (48) hours (on Working
22 Days) or more, for any reason within the control of the Company.

23 **10.1.6 Failure to Pay.** If the Company fails to make any payments required under this
24 Agreement and/or refuses to provide the District with required information,
25 reports, and/or records in a timely manner as provided for in the Agreement.

26 **10.1.7 Acts or Omissions.** Any other act or omission by the Company that violates the
27 terms, conditions, or requirements of this Agreement, the California Integrated
28 Waste Management Act of 1989, as it may be amended from time to time, or any
29 order, directive, rule, or regulation issued thereunder and that is not corrected or
30 remedied within the time set in the written notice of the violation, or, if the
31 Company cannot reasonably correct or remedy the breach within the time set forth
32 in such notice, or if the Company should fail to commence to correct or remedy
33 such violation within the time set forth in such notice and diligently effect such
34 correction or remedy thereafter.

35 **10.1.8 Attachment.** There is a seizure of attachment of, or levy on, the operating
36 equipment of the Company, including without limits its equipment, maintenance,
37 or office facilities, or any part thereof, to the extent the partial attachment or levy

1 materially affects the operations of the Company with regard to its obligations
2 under this Agreement.

3 **10.1.9 Suspension or Termination of Service.** There is any unexcused termination of
4 service or suspension of the transaction of business by the Company.

5 **10.1.10 Failure to Provide Assurance of Performance.** If the Company fails to
6 provide reasonable assurances of performance as required under Section 10.6.

7 **10.2 Right to Terminate Upon Default**

8 Upon a default by the Company, the District shall have the right to terminate this
9 franchise and this Agreement upon ten (10) days' notice, but without the need for any
10 hearing, suit, or legal action. This right of termination is in addition to any other rights of
11 the District upon a failure of the Company to perform its obligations under this
12 Agreement. If the Company is in default as set forth above, the District, in using its
13 discretion as to whether to exercise its right to declare default and terminate the
14 Agreement, shall consider issues such as the Company's ability to perform the
15 Agreement and cure the default, and whether a cure of said default is possible within a
16 reasonable time. The District's right to terminate this Agreement and to take possession
17 of the Company's properties are not exclusive, and the District's termination of this
18 Agreement shall not constitute an election of remedies. Instead, they shall be in addition
19 to any and all other legal and equitable rights and remedies that the District may have.

20 By virtue of the nature of this Agreement, the urgency of timely continuous and high-
21 quality service, the lead time required to effect alternative service, and the rights granted
22 by the District to the Company, the remedy of damages for a breach hereof by the
23 Company is inadequate and the District shall be entitled to injunctive relief.

24 **10.3 Liquidated Damages**

25 **10.3.1 General.** The District finds, and the Company agrees, that as of the time of the
26 execution of this Agreement, it is impractical, if not impossible, to reasonably
27 ascertain the extent of damages that shall be incurred by the District as a result of
28 a breach by the Company of its obligations under this Agreement. The factors
29 relating to the impracticability of ascertaining damages include, but are not
30 limited to, the fact that: (i) substantial damage results to members of the public
31 who are denied services or denied quality or reliable service; (ii) such breaches
32 cause inconvenience, anxiety, frustration, and deprivation of the benefits of the
33 Agreement to individual members of the general public for whose benefit this
34 Agreement exists, in subjective ways and in varying degrees of intensity that are
35 incapable of measurement in precise monetary terms; (iii) that services might be
36 available at substantially lower costs than alternative services and the monetary
37 loss resulting from denial of services or denial of quality or reliable services is
38 impossible to calculate in precise monetary terms; and (iv) the termination of this
39 Agreement for such breaches, and other remedies are, at best, a means of future
40 correction and not remedies that make the public whole for past breaches.

1 **10.3.2 Service Performance Standards; Liquidated Damages for Failure to Meet**

2 **Standards.** The parties acknowledge that consistent and reliable Collection
3 Service is of utmost importance to the District and that the District has considered
4 and relied on the Company's representations as to its quality of service
5 commitment in awarding the franchise to it. The parties further recognize that if
6 the Company fails to achieve the performance standards, or fails to submit
7 required documents in a timely manner, the District and its residents will suffer
8 damages and that it is and will be impractical and extremely difficult to ascertain
9 and determine the exact amount of damages that the District will suffer.
10 Therefore, without prejudice to the District's right to treat such non-performance
11 as an event of default under this Article 10, the parties agree that the following
12 liquidated damage amounts represent a reasonable estimate of the amount of such
13 damages considering all of the circumstances existing on the date of this
14 Agreement, including the relationship of the sum to the range of harm to the
15 District that reasonably could be anticipated and the anticipation that proof of
16 actual damages would be costly or inconvenient. In placing their initials at the
17 places provided, each party specifically confirms the accuracy of the statements
18 made above and the fact that each party has had ample opportunity to consult with
19 legal counsel and obtain an explanation of the liquidated damage provisions at the
20 time that the Agreement was made.

21 Company JR
22 Initial here: _____

District LCS
Initial here: DR

23 Accordingly, the District may, in its discretion, but after complying with notice
24 and hearing procedures set forth below, assess liquidated damages not to exceed
25 Five Hundred Dollars (\$500.00) per day, for each calendar day that Collection
26 Service is not provided by the Company in accordance with this Agreement.
27 Failure by the Company to provide Collection Service that may give rise to the
28 imposition of liquidated damages include, but are not limited to, failures to
29 comply fully with the terms of this Agreement with regard to collection
30 reliability, collection quality, customer responsiveness, timeliness of submission
31 of reports, and/or violations of federal, state and local law.

32 The Company agrees to pay (as liquidated damages and not as a penalty) the
33 amount of Five Hundred Dollars (\$500.00) per day as set forth above. The
34 amount of the liquidated damages shall be subject to an annual CPI adjustment
35 based on the "San Francisco /Oakland/San Jose All Urban Consumer Price
36 Index."

37 The District may determine the occurrence of events giving rise to liquidated
38 damages through the observance of its own employees or representatives or
39 through investigation of customer complaints.

40 Prior to assessing liquidated damages, the District shall give the Company notice
41 of its intention to do so. The notice will include a brief description of the
42 incident(s)/non-performance. The Company may review (and make copies at its

1 own expense) all information in the possession of the District relating to
2 incident(s)/non-performance. The Company may, within ten (10) days after
3 receiving the notice, request a meeting with the District. If a meeting is
4 requested, it shall be held by the District Manager-Engineer or his/her designee.
5 The Company may present evidence in writing and through testimony of its
6 employees and others relevant to the incident(s)/non-performance. The District
7 Manager-Engineer or designee will provide the Company with a written
8 explanation of his or her determination assessing liquidated damages. The
9 Company may appeal a determination to assess liquidated damages to the District
10 Board within ten (10) days of receipt of the determination.

11 **10.3.3 Timing of Payment.** The Company shall pay any liquidated damages assessed
12 by the District within ten (10) days after they are assessed. If they are not paid
13 within the ten (10) day period, the District may proceed against the performance
14 bond required by the Agreement or order the termination of the franchise granted
15 by this Agreement, or both.

16 **10.4 Excuse from Performance**

17 The parties shall be excused from performing their respective obligations hereunder in
18 the event they are prevented from so performing by reason of floods, earthquakes, other
19 "acts of God," war, civil insurrection, riots, labor unrest, acts of any government
20 (including judicial action), and other similar catastrophic events that are beyond the
21 control of and not the fault of the party claiming excuse from performance hereunder.
22 Labor unrest, including but not limited to strike, work stoppage or slowdown, sick-out,
23 picketing, or other concerted job action conducted by the Company's employees is not an
24 excuse from performance and the Company shall be obligated to continue to provide
25 service notwithstanding the occurrence of any or all of such events.

26 The party claiming excuse from performance shall, within forty-eight (48) hours (two (2)
27 business days) after such party has notice of such cause, give the other party notice of the
28 facts constituting such cause and asserting its claim to excuse under this Section.

29 The interruption or discontinuance of the Company's services caused by one or more of
30 the events excused shall not constitute a default by the Company under Section 10.1 of
31 this Agreement. In the event the Company is prevented from providing service, either
32 due to attachment or any other factor set forth above, including judicial action, for a
33 period of thirty (30) days or more, it is understood and agreed that the District will have
34 the right to provide service pursuant to Article 9, either directly or by subcontracting with
35 a third party. Under circumstances where the Company has failed to provide service and
36 the default is excused, as set forth above, the District has the right to perform such
37 services or to subcontract for the same, for up to one (1) year. In the case of excused
38 labor unrest set forth above, however, the District has the right to perform said services or
39 to subcontract for the same, for a period of up to six (6) months. The Company agrees to
40 pay the District's cost of providing the service. If, after the time specified herein, the
41 Company cannot thereafter provide service as agreed, the District can declare default and
42 terminate the Agreement.

1 **10.5 Notice, Hearing and Appeal of District Breach**

2 Should the Company contend that the District is in breach of this Agreement, it shall file
3 a written request with the District Manager-Engineer for an administrative hearing on the
4 allegation. The District Manager-Engineer shall notify the Company of the time and date
5 said hearing shall be held within thirty (30) days of receipt of the Company's request.
6 The Company shall present its position and all relevant facts after District staff has made
7 its presentation. The Company shall be notified of the District Manager-Engineer's ruling
8 in writing within fourteen (14) days of the administrative hearing.

9 If the Company is not in agreement with the ruling issued by the District Manager-
10 Engineer at the administrative hearing, it shall have the right to appeal this ruling to the
11 District Board members. This appeal shall be made in writing to the District Manager-
12 Engineer no later than fourteen (14) days after receipt of the administrative hearing
13 ruling. The District Manager-Engineer shall notify the Company of the time and date of
14 the hearing before the District Board, which hearing will be within forty-five (45) days of
15 receipt of the request for appeal. The Company shall present its position and all relevant
16 facts after staff has made its presentation. The Company shall be notified in writing
17 within thirty (30) days of the District Board members' ruling, the District Board
18 members' ruling shall be final, and the Company shall have no further rights of appeal.

19 **10.6 Assurance of Performance**

20 The District may, at its option and in addition to all other remedies, in the event of the
21 Company's default, demand from the Company's reasonable assurances of future timely
22 and proper performance of this Agreement, in such form and substance as the District
23 may deem required. If the Company fails or refuses to provide satisfactory assurances of
24 timely and proper performance in the form and by the date required by the District, such
25 failure or refusal shall itself constitute an event of default.

1 **ARTICLE 11 OTHER AGREEMENTS OF THE PARTIES**

2 **11.1 Relationship of Parties**

3 The parties intend that the Company shall perform the services required by this
4 Agreement as an independent the Company engaged by the District and not as an officer
5 or employee of the District nor as a partner of or joint venture with the District. No
6 employee or agent of the Company shall be or shall be deemed to be an employee or
7 agent of the District. Except as expressly provided herein, the Company shall have the
8 exclusive control over the manner and means of conducting the Collection Services
9 performed under this Agreement, and all persons performing such services. The
10 Company shall be solely responsible for the acts and omissions of its officers, employees,
11 subcontractors, and agents. Neither the Company nor its officers, employees,
12 subcontractors, and agents shall obtain any rights to retirement benefits, workers'
13 compensation benefits, or any other benefits that accrue to District employees.

14 **11.2 Compliance with Law**

15 In providing the services required under this Agreement, the Company shall at all times,
16 at its sole cost, comply with all applicable statutes, ordinances and laws of the United
17 States, the State of California, applicable local public agencies (including the District);
18 and with all applicable regulations promulgated by federal, state, regional, or local
19 administrative and regulatory agencies, now in force and as they may be enacted, issued,
20 or amended during the term.

21 **11.3 Governing Law**

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

24 **11.4 Jurisdiction**

25 Any lawsuits between the parties arising out of this Agreement shall be brought and
26 concluded in the courts of the State of California, County of Marin, or within the U.S.
27 District Court, Northern District of California.

28 With respect to venue, the parties agree that this Agreement is made in and will be
29 performed in Marin County.

30 **11.5 Mediation**

31 The parties agree to consider mediation prior to filing suit, provided, however, that there
32 is no concern as to a statute of limitations issue. If either party files suit with respect to
33 performance of this Agreement, the parties agree to seek mediation services during the
34 first ninety (90) days of the lawsuit.

35 **11.6 Assignment**

36 Except as may be provided for in Article 9 (District's Right to Perform Service), neither
37 party shall assign its rights nor delegate, subcontract, or otherwise transfer its obligations
38 under this Agreement to any other person without the prior written consent of the other
39 party, except as provided for a joint powers authority described below. Any such

1 assignment made without the consent of the other party shall be void and the attempted
2 assignment shall constitute a material breach of this Agreement.

3 For purposes of this Section, when used in reference to the Company, "assignment" shall
4 include, but not be limited to (i) a sale, exchange, or other transfer of substantially all of
5 the Company's assets dedicated to service under this Agreement to a third party; (ii) a
6 sale, exchange, or other transfer of the outstanding common stock of the Company to a
7 third party, provided said sale, exchange, or transfer may result in a change of control of
8 the Company; (iii) any dissolution, reorganization, consolidation, merger, re-
9 capitalization, stock issuance or re-issuance, voting trust, pooling agreement, escrow
10 arrangement, liquidation, or other transaction to the Company, any of its shareholders,
11 subsidiary, or parent company is a party which results in a change of ownership or
12 control of the Company; (iv) any assignment by operation of law, including insolvency or
13 bankruptcy, assignment for the benefit of creditors, writ of attachment for an execution
14 being levied against this Agreement, appointment of a receiver taking possession of the
15 Company's property, or transfer occurring in the event of a probate proceeding; (v)
16 transfer of responsible management control of the Company from the current Chairman
17 of the Board (James Ratto); and (vi) any combination of the foregoing (whether or not in
18 related or contemporaneous transactions) that has the effect of any such transfer or
19 change of ownership, or change in control of the Company. Nothing herein shall be
20 deemed to prevent the current Chairman of the Board of the Company (James Ratto)
21 from buying out other shareholders of the Company.

22 The Company acknowledges that this Agreement involves rendering a vital service to the
23 District's residents and businesses, and that the District has selected the Company to
24 perform the services specified herein based on (1) the Company's experience, skill, and
25 reputation (and that of James Ratto as the responsible managing officer of the Company)
26 for conducting its solid waste management operations in a safe, effective, and responsible
27 fashion, at all times in keeping with applicable waste management laws, regulations and
28 good waste management practices, and (2) the Company's financial resources to maintain
29 the required equipment and to support its indemnity obligations to the District under this
30 Agreement. The District has relied on each of these factors, among others, in choosing
31 the Company to perform the services to be rendered by the Company under this
32 Agreement.

33 If the Company requests the District's consideration of, and consent to, an assignment,
34 the District may deny or approve such request in its complete discretion. Approval by the
35 District, however, of such requested assignment, shall not be unreasonably withheld. It
36 shall be the responsibility of the Company, in requesting an assignment, to comply with
37 the following requirements:

38 **11.6.1** The Company shall undertake to pay the District its reasonable expenses for
39 attorney's fees and investigation costs necessary to investigate the suitability of
40 any proposed assignee, and to review and finalize any documentation required as
41 a condition for approving any such assignment;

1 **11.6.2** The Company shall furnish the District with audited financial statements of the
2 proposed assignee's operations for the immediately preceding three (3) operating
3 years;

4 **11.6.3** The Company shall furnish the District with satisfactory proof: (i) that the
5 proposed assignee has at least ten (10) years of solid waste management
6 experience on a scale equal or to exceeding the sale of operations conducted by
7 the Company under this Agreement; (ii) that in the last five (5) years, the
8 proposed assignee has not suffered any significant citations or other censure from
9 any federal, state, or local agency having jurisdiction over its waste management
10 operations due to any significant failure to comply with state, federal, or local
11 waste management laws and that the assignee has provided the District with a
12 complete list of such citations and censures; (iii) that the proposed assignee has at
13 all times conducted its operations in an environmentally safe and conscientious
14 fashion; (iv) that the proposed assignee conducts its solid waste management
15 practices in accordance with sound waste management practices in full
16 compliance with all federal, state, and local laws regulating the collection and
17 disposal of waste, including hazardous waste; (v) that the proposed assignee has a
18 net worth, liquidity, and debt structure at least as favorable as the Company's; (vi)
19 that the proposed managing official of assignee is qualified to supervise assignee's
20 operations in performing the Agreement; (vii) of any other information required
21 by the District to ensure the proposed assignee can fulfill the terms of this
22 Agreement in a timely, safe, and effective manner.

23 The Company shall have a reasonable period of time in which to seek approval of
24 any assignment occasioned by operation of law.

25 Under no circumstances shall the District be obliged to consider any proposed
26 assignment by the District if the Company is in default at any time during the
27 period of consideration.

28 **11.6.4** Acquisition costs incurred by assignee in purchasing the Company, or otherwise
29 securing assignment of the Agreement, shall be excluded from allowable costs in
30 the rate base.

31 Nothing in this Agreement is intended to prevent the District from assigning its
32 rights and obligations under this Agreement to a joint powers authority organized
33 for the purpose of dealing with solid waste management matters on a countywide
34 or regional basis. Such an assignment to a joint powers authority, where the
35 District is a member agency, may occur without prior written consent of the
36 Company.

37 If the District requests consideration of and consent to an assignment (other than
38 to a joint powers authority which the District is a member), the Company may
39 deny or approve such request in its complete discretion. The Company may
40 request that the proposed assignee of the District provide such documents,

1 resolutions, and ordinances that may be necessary for the Company to properly
2 evaluate assignment to proposed assignee.

3 For purposes of this section, the term "proposed assignee" shall refer to the
4 proposed transferee(s) or other successor(s) in interest pursuant to the assignment.

5 **11.7 Other Agreements**

6 The Company shall not enter into any agreements subsequent to the within Agreement
7 that materially interferes with the Company's ability to perform its obligations contained
8 herein.

9 Any agreements that the Company proposes to enter into with entities other than the
10 District, providing for disposal of Garbage, or for long-term (i.e., over three (3) years)
11 commitment of wastestream, including Recyclable Materials and Organic Waste, shall be
12 submitted by the Company to the District for review prior to said agreements becoming
13 effective. The District may, at its sole discretion, approve or disapprove said agreements,
14 or approve of said agreements subject to conditions or limitations set by the District.

15 **11.8 Related Party Entities**

16 The Company's accounting records shall be maintained on a basis showing the results of
17 the Company's operations under this Agreement separately from operations in other
18 locations, as if the Company were an independent entity providing service only to the
19 District. The costs and revenues associated with providing service to the District shall
20 not be combined, consolidated or in any other way incorporated with those of other
21 operations conducted by the Company in other locations, or with those of related party
22 entities.

23 If the Company is owned or controlled by another corporation, then the financial reports
24 and auditor's opinions required of the Company shall also be required of such "parent
25 company."

26 **11.9 Subcontracting**

27 The Company shall not engage any subcontractors for Collection or disposal of Garbage
28 without the prior written consent of the District. In the event of an emergency or other
29 urgent circumstances (e.g. labor unrest), the District's consent to subcontracting shall not
30 be unreasonably withheld.

31 **11.10 Binding on Assigns**

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

34 **11.11 Transition to Next Company**

35 If transition of services to another company occurs through expiration of term, default,
36 termination, or otherwise, the Company will cooperate with the District and subsequent
37 company(ies) to assist in an orderly transition, which will include Company providing
38 route lists and billing information. The Company will not be obliged to sell collection
39 vehicles and Containers to the next company or the District. Depending on the
40 Company's circumstances at the point of transition, the Company at its option may enter

1 into negotiations with the District or the next company to sell (in part or all) collection
2 vehicles and Containers.

3 **11.12 Parties in Interest**

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

6 **11.13 Waiver**

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

13 **11.14 Company's Investigation**

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

16 **11.15 Notice**

17 All notices, demands, requests, proposals, approvals, consents, and other communications
18 that this Agreement requires, authorizes, or contemplates shall be in writing and shall be
19 personally delivered to a representative of the parties at the address below; be sent by
20 facsimile to the number below; or be deposited in the United States mail, first class
21 postage prepaid, addressed as follows:

22 If to District: District Manager-Engineer
23 Novato Sanitary District
24 500 Davidson Street
25 Novato, CA 94945
26 Fax: 415-898-2279

27
28 If to Company: James Ratto, President
29 Novato Disposal Service, Inc.
30 P.O. Box 3849
31 Santa Rosa, CA 95402-3849
32 Fax: 707-586-2285

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

35 Notice shall be deemed given on the day it is personally delivered or sent by facsimile. If
36 mailed, notice shall be deemed given three (3) days from the date it is deposited in the
37 mail. Sender shall retain proof of service by facsimile and proof of service by courier, if
38 courier service is utilized.

1 **11.16 Representatives of the Parties**

2 References in this Agreement to the “District” shall mean the Board of Directors and all
3 actions to be taken by the District shall be taken by the Board of Directors except as
4 provided below. The Board of Directors may delegate, in writing, authority to the
5 District Manager-Engineer, and/or to other District officials or employees and may
6 permit such officials or employees, in turn, to delegate in writing some or all of such
7 authority to subordinate officers. The Company may rely upon actions taken by such
8 delegates if they are within the scope of the authority properly delegated to them.

9 The Company shall, by the Effective Date, designate in writing a responsible officer who
10 shall serve as the representative of the Company in all matters related to the Agreement
11 and shall inform the District in writing of such designation and of any limitations upon
12 his or her authority to bind the Company. The District may rely upon action taken by
13 such designated representatives as actions of the Company unless they are outside the
14 scope of the authority delegated to him/her by the Company as communicated to the
15 District.

16 **11.17 District Free to Negotiate with Third Parties**

17 The District may investigate all options for the collection, processing and disposal of
18 Solid Waste after the expiration of the Term. Without limiting the generality of the
19 foregoing, the District may solicit proposals from the Company and from third parties for
20 the provision of collection services, disposal services, recycling services, organic waste
21 collection and composting, and any combination thereof, and may negotiate and execute
22 agreements for such services that will take effect upon the expiration or earlier
23 termination under Section 10.1 of this Agreement. Nothing in this Agreement is intended
24 to give rise to demobilization costs or damages, or other costs or damages associated with
25 winding up the business operations of the Company upon expiration or termination.

26 **11.18 Lease of Equipment and Facilities**

27 The Company agrees not to enter into leases or the purchase of equipment and facilities
28 without the advance, written approval of the District. Prior approval of the District shall
29 be required only for transactions exceeding Three Hundred Thousand Dollars (\$300,000)
30 in value.

31 **11.19 Loans**

32 The Company agrees to eliminate use of all related party entity loans and only enter into
33 such future loans upon approval by the District.

34 **11.20 Fair Market Value**

35 The Company acknowledges the obligation to receive fair market value for all Recyclable
36 Materials sold to any related party.

37 **11.21 Privacy**

38 The Company shall strictly observe and protect the rights of privacy of customers.
39 Information identifying individual customers or the composition or contents of a
40 Customer’s wastestream shall not be revealed to any person, governmental unit, private
41 agency, or the Company, unless upon the authority of a court of law, by statute, or upon

1 valid authorization of the Customer. This provision shall not be construed to preclude the
2 Company from preparing, participating in, or assisting in the preparation of waste
3 characterization studies or waste stream analyses that may be required by CIWMA. The
4 District agrees to protect any information supplied by the Company, which the Company
5 designates as "Proprietary" and "Confidential", from disclosure to the extent allowed by
6 law. If any person files suit or seeks or other legal recourse challenging the District's
7 refusal to disclose proprietary and confidential information, the Company agrees to pay
8 all costs incurred with respect to such suit or other legal challenge.

9 **11.22 Savings Clause**

10 If this Agreement is terminated prior to the termination date of the existing franchise
11 Agreement as a result of a challenge of the District's authority to enter into this
12 Agreement or as a result of a challenge based on failure to comply with the relevant
13 provisions of the CEQA, or other relevant procedural requirements under California law,
14 then the franchise agreement between the District and the Company currently in existence
15 at the date of this Agreement shall be reinstated and shall remain in full force and effect
16 during the remaining term expiring on June 30, 2015.

1 **ARTICLE 12 MISCELLANEOUS AGREEMENTS**

2 **12.1 Entire Agreement**

3 This Agreement, including the exhibits, represents the full and entire agreement between
4 the parties with respect to the matters covered herein.

5 **12.2 Section Headings**

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

9 **12.3 References to Laws**

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

12 **12.4 Interpretation**

13 This Agreement shall be interpreted and construed reasonably and neither for nor against
14 either party, regardless of the degree to which either party participated in its drafting.

15 **12.5 Agreement**

16 This Agreement may not be modified or amended in any respect except by a writing
17 signed by the parties.

18 **12.6 Severability**

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

23 **12.7 Agreement Supersedes Prior Agreements**

24 This Agreement shall supersede any and all agreements heretofore entered into by the
25 parties.

26 **12.8 Exhibits**

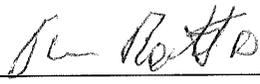
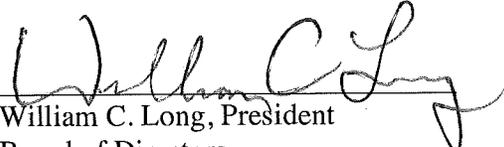
27 Each of Exhibits identified as Exhibits 1 through 8 is attached hereto and incorporated
28 herein and made a part hereof by this reference.
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IN WITNESS WHEREOF, the District and the Company have executed this Agreement as of the day and year first above written.

NOVATO DISPOSAL SERVICE, INC. NOVATO SANITARY DISTRICT

By:  By: 
Deana Ratto, Secretary Beverly James,
District Manager-Engineer

By:  By: 
James Ratto, President William C. Long, President
Board of Directors

By: _____ By: _____
(SEAL) (SEAL)

APPROVED AS TO FORM:

By: 
Kenton L. Alm
Attorney for District

EXHIBIT 1
Service Rates Effective January 1, 2011

A. SINGLE FAMILY RESIDENTIAL CURBSIDE COLLECTION SERVICE
SFD Garbage, Recycling and Organic Waste Collection Service

Garbage Cart Sizes (gallons)		20	32	68	95
1	MONTHLY CURBSIDE RATE	\$11.12	\$17.79	\$35.57	\$53.36
2	Additional Curbside Garbage Cart (added to line A1)	\$5.46	\$5.46	\$5.46	\$5.46
3	Monthly On-Premise Rate (added to line A1)	\$11.09	\$11.09	\$11.09	\$11.09
4	Additional Walk-in Distance –Each 50 feet (added to line A1)	\$5.13	\$5.13	\$5.13	\$5.13
5	Additional 95 gallon Green Waste Carts (after 2) (added to line A1)				\$16.93
ADDITIONAL BULKY WASTE COLLECTION					
6	Excess Bulky Waste (over 3 CY/pickup)	To be provided prior to program startup			
7	Excess Bulky Waste Items (over 3 large items /pickup)	To be provided prior to program startup			
8	Additional Bulky Waste Collection (Over 4/ yr)	To be provided prior to program startup			

B. MULTI-FAMILY AND MOBILE HOME PARKS
MFD Garbage, Recycling and Organic Waste Collection Service

Container Size	Collection Frequency						Extra Pickups
	1X Week	2X Week	3X Week	4X Week	5X Week	6X Week	
32 Gallon	\$19.27	\$41.10	\$62.86			\$128.24	\$5.46
68 Gallon	\$36.98	\$78.84	\$120.57			\$245.98	\$5.46
95 Gallon	\$55.47	\$118.26	\$180.85			\$368.98	\$5.46
2 CY BIN¹	\$183.78	\$322.57	\$461.32	\$600.01	\$738.73	\$877.43	\$50.18
3 CY BIN²	\$231.82	\$403.40	\$575.20	\$746.77	\$918.53	\$1,090.17	\$50.18
4 CY BIN²	\$301.83	\$529.52	\$757.35	\$985.03	\$1,212.83	\$1,440.56	\$60.18
6 CY BIN²	\$441.83	\$781.76	\$1,121.65	\$1,461.52	\$1,801.44	\$2,141.34	\$100.35
15 CY BIN²	\$1,937.8	\$3,880.2	\$5,818.0				\$447.54

EXHIBIT 1
Service Rates Effective January 1, 2011

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¹ The above Debris Box rates for 2-CY containers include an allowance of \$45.08 for container rental.
² The above Debris Box rates for 3-, 4-, 6-, and 15-CY containers include an allowance of \$60.18 for container rental.

C. COMMERCIAL/INDUSTRIAL
Commercial Garbage and Recycling Collection Service

Container Size	Collection Frequency						Extra Pickups
	1X Week	2X Week	3X Week	4X Week	5X Week	6X Week	
32 Gallon	\$19.27	\$41.10	\$62.86			\$128.24	\$5.46
68 Gallon	\$36.98	\$78.84	\$120.57			\$245.98	\$5.46
95 Gallon	\$55.47	\$118.26	\$180.85			\$368.98	\$5.46
2 CY BIN ¹	\$183.78	\$322.57	\$461.32	\$600.01	\$738.73	\$877.43	\$50.18
3 CY BIN ²	\$231.82	\$403.40	\$575.20	\$746.77	\$918.53	\$1,090.17	\$50.18
4 CY BIN ²	\$301.83	\$529.52	\$757.35	\$985.03	\$1,212.83	\$1,440.56	\$60.18
6 CY BIN ²	\$441.83	\$781.76	\$1,121.65	\$1,461.52	\$1,801.44	\$2,141.34	\$100.35
15 CY BIN ²	\$1,937.87	\$3,880.21	\$5,818.08				\$447.54

Commercial Organic Waste Collection Service

Container Size	Collection Frequency						Extra Pickups
	1X Week	2X Week	3X Week	4X Week	5X Week	6X Week	
32 Gallon							
68 Gallon							
95 Gallon							
2 CY BIN ¹							
3 CY BIN ²							
4 CY BIN ²							

Organic Waste Collection
Service Rates to be updated
as service becomes available

**EXHIBIT 1
Service Rates Effective January 1, 2011**

6 CY BIN²							
15 CY BIN²							

¹ The above Debris Box rates for 2-CY containers include an allowance of \$45.08 for container rental.

² The above Debris Box rates for 3-, 4-, 6-, and 15-CY containers include an allowance of \$60.18 for container rental.

D. TEMPORARY CLEANUP BINS/DEBRIS BOXES

Container Size	2-Day Rental Rate		Weekend Rental Rate
3 CY Bin	\$161.99		\$161.99
6 CY Bin	\$273.11		\$273.11
Container Size	Weekly Rental Rate		
15 CY Box	\$447.54	Includes up to 3 Tons	
20 CY Box	\$502.23	Includes up to 3 Tons	
30 CY Box	\$838.04	Includes up to 4 Tons	
Additional Tons for Cleanup Bins/Debris Boxes	\$54.23 Per Ton		
Occasional or irregular collections per 5 cubic feet	\$5.46	Special collections other than debris box (plus regular rate)	\$23.11
Monthly charge for special collection conditions	\$10.89	Special collections for debris boxes (plus regular rate)	\$50.21

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EXHIBIT 2
Refuse Rate Index

The "Refuse Rate Index" adjustment shall be calculated in the following manner:

1. The expenses of providing Collection Services in the Service Area for the designated fiscal period (July to June) shall be prepared in the format set forth in the Operating Cost Statement - Description on the following page of this Exhibit.
2. The expenses of providing Collection Services in the Service Area shall be broken down into one of the following seven cost categories: Labor; Fuel; Vehicle Replacement; Maintenance, Disposal Fee, Organic Waste Processing fee, and All Other. Each cost category is assigned a weighted percentage factor on that cost category's proportionate share of the total of the costs shown for all cost categories.
3. The following indices are used to calculate the adjustment for each cost category of the Service Rates. The change in each index is calculated on a twelve-month fiscal period (July to June). The twelve-month average index from July 2010 to June 2011 will serve as the "First Year Index".

<u>Cost Category</u>	<u>Index</u>
Labor	Series ID: ceu6056210008 Production Workers-Waste Collection
Fuel	California No 2 Diesel Ultra Low Sulfur (0-15 ppm) http://tonto.eia.doe.gov/oog/info/wohdp/diesel.asp
Vehicle Replacement	Series ID: pcu336211336211 Truck, bus, car and other vehicles bodies, for sale separately.
Vehicle Maintenance	Series ID: pcu333924333924 Parts and attachments for Industrial work trucks.
Disposal Fee	The per ton tip fee charged at the Disposal Facility.
Organic Waste Processing Fee	The per ton tip fee charged at the approved Organic Waste Processing Facility.
All Other	Consumer Price Index, Series ID: CUURA422SA0 CPI-All Urban Consumers, All Items, San Francisco,

4. The percentage weight for each cost category is multiplied by the change in each appropriate index to calculate a weighted percentage for each cost category. The weighted percentage changes for each cost category are added together to calculate the Refuse Rate Index for the Service Rates in Exhibit 1.

EXHIBIT 2
Refuse Rate Index

Operating Cost Statement - Description	
Operating Costs	
Labor:	List all administrative, officer, operation and maintenance salary accounts. List payroll tax accounts directly related to the above salary accounts.
Fuel:	List all fuel and oil accounts.
Vehicle	
Replacement:	List all Collection and Collection related vehicle depreciation accounts. List all vehicle lease or rental accounts related to Collection or Collection related vehicles.
Vehicle	
Maintenance:	List all Collection or Collection related vehicle parts accounts.
Disposal Fee:	List all Landfill Disposal related accounts.
Organic Waste Processing Fee:	List all Organic Waste Processing related accounts.
All Other:	List all other expense accounts related to the services provided under this Contract. This category includes all insurance including general liability, fire, truck damage, extended coverage and employee group medical and life; rent on property, truck licenses and permits; real and personal property taxes; telephone and other utilities; employee uniforms; safety equipment; general yard repairs and maintenance; office supplies; postage; trade association dues and subscription; advertising; employee retirement or profit sharing contributions; and miscellaneous other expenses.

EXHIBIT 3
Faithful Performance Bond

KNOW ALL MEN BY THESE PRESENTS:

That _____, a California _____ as PRINCIPAL, and _____, a Corporation organized and doing business by virtue of the laws of the State of California, and duly licensed for the purpose of making, guaranteeing, or becoming sole surety upon bonds or undertakings required or authorized by the laws of the State of California, as SURETY, are held and firmly bound to the District, hereinafter called OBLIGEE, in the penal sum of One Hundred Thousand Dollars (\$100,000) lawful money of the United States, for the payment of which, well and truly to be made, we and each of us hereby bind ourselves, and our and each of our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the above bounden PRINCIPAL has entered into a contract, entitled "COLLECTION AND DISPOSAL OF SOLID WASTE" with the District, to do and perform the following work, to wit: collect Solid Waste generated within the Service Area, in accordance with the contract.

NOW, THEREFORE, if the above bounden PRINCIPAL shall well and truly perform, or cause to be performed each and all of the requirements and obligations of said contract to be performed by said PRINCIPAL, as in said contract set forth, then this BOND shall be null and void; otherwise it will remain in full force and effect.

And the said Surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall in any wise affect its obligations on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications.

IN WITNESS WHEREOF, said PRINCIPAL and said SURETY have caused these presents to be duly signed and sealed this _____ day of _____, 2011.

a California Corporation

SURETY

By: _____
(PRINCIPAL)
(SEAL)

By: _____
(ATTORNEY IN FACT)
(SEAL)

Exhibit 4
Zero Waste Community Outreach Outline

- Two newsletters annually
- Newsletter will contain a minimum of one Zero Waste feature (i.e. reuse/repair, EPR, backyard composting, environmentally preferable purchasing, etc.)
- Promote waste reduction and recycling
- Promote small (20 gal) garbage carts
- Offer backyard composting bins at cost
- Two additional outreach campaigns promoting waste reduction, Zero Waste, and/or diversion concepts
- Promote commercial audits to all businesses of 4 cubic yards of garbage service or larger
- New Customer packets will include Zero Waste concept promotions
- Visit all commercial businesses of 4 cubic yards of garbage service or more annually
- Visit all Multi-family complexes of 5 units or more annually
- Participate in 10 events annually (Chamber of Commerce, Earth Day, etc.) promoting Zero Waste, recycling, diversion, and resource conservation
- Conduct annual retraining at NSD schools on recycling and Zero Waste
- Participate in developing Zero Waste curriculum for NSD schools
- Offer Zero Waste and recycling for school assemblies
- Work closely with the City of Novato developing and implementing the City's Zero Waste goals
- Annual waste audits of all City facilities
- Bilingual Zero Waste recycling and diversion guides (Spanish/English)
- Paperless billing
- Interactive website with links to Zero Waste reuse opportunities
- Billing inserts and blurbs on program updates as needed
- Annual selective route audits of residential routes to gauge programs success
- Corrective action cart hangers informing Customers of concerns and how to properly participate in recycling and organics programs
- Work with regional Reuse E-network Plan

Exhibit 5
School Recycling And Food Waste Program Outline

1. Stakeholders Meeting:

Invite stakeholders (administrators, school board, staff, teachers, and custodians) to a joint meeting to assess waste, recycling, and compost options and develop overall strategy. Determine where the plan should be centralized (i.e. purchasing, kitchens) and decentralized (individual campus recycling and composting efforts).

- a. **Review purchasing policies** to promote Zero Waste goals by minimizing waste at the front end. Shift purchasing to environmentally preferable products: reusable, compostable or Recyclable Materials instead of disposables.
- b. **Policy Decision** promoting Zero Waste goals by address recycling, composting, and waste reduction at a policy level i.e. School Board resolution or mandate from administration. <http://www.greenschools.net/sampleresolution.html>

2. Identify current service levels:

Assess current Solid Waste, recycling, and composting service levels and identify locations where service levels can be immediately reduced. This evaluation will provide the basis for selecting and prioritizing specific target areas for waste reduction and recycling efforts. Evaluate if “locking bins” are needed to address illegal dumping of Solid Waste.

3. Organize a Green Team on each Campus:

Conduct on-campus meetings at each school with campus stakeholders (principal, secretary, staff, teachers, custodians, parent volunteers and students) to promote Zero Waste goals by developing waste reduction, recycling, and food waste and green waste composting strategy for each campus. Explore ways of tying curriculum goals into the program.

- a. **Recycling Advocate(s):** Preferably an employee with a commitment to recycling and food scrap composting who can carry the Zero Waste torch from year to year. This person will be the point of contact for communication with Zero Waste Coordinators and other team members.
 - i. Report problems with participation, contamination, missed pickups, need for additional education or recycling infrastructure.
 - ii. Coordinate with Zero Waste Coordinators to conduct student assemblies or classroom presentations.
 - iii. Work with Zero Waste Coordinators to conduct trainings, waste audits.
 - iv. Coordinate the promotion of the recycling and food scrap composting programs.
- b. **Recycling Team:** Identify system and individuals responsible for transporting Recyclable Materials to collections bins. This may be custodians and/or older students. Depending on the level of participation at each school, there may be collection of recycling in classrooms, administrative offices and lunch areas.

Exhibit 5
School Recycling And Food Waste Program Outline

- c. Promotion Team:** Students and others interested in promoting the school recycling program. Design and produce posters for campus, fliers to take home to parents, painting projects on campus to identify recycling areas, organizing recycling pep rallies, events or other activities to keep kids energized about waste reduction and recycling.
- d. Recycling Monitors:** Older students and teachers/ parents, helping out during lunchtime to educate younger students about proper recycling including which materials are placed where and helping student's empty containers before recycling. This group can be rewarded in some way for working during their lunchtime.
- e. Zero Waste Coordinators:** Zero Waste Coordinators from the Solid Waste, recycling, and composting company are available to attend meetings, conducts presentations or staff trainings, to assist with waste audits and for general support and questions. Zero Waste Coordinators can facilitate identifying programmatic resources.

4. Conduct School Waste Audit:

Work with hauler to identify what materials are generated and disposed on campus. This information is useful in deciding where to start and what systems to implement. See http://www.recycleworks.org/schools/s_audits.html for waste audit options.

Annually in the Spring, Novato Disposal will conduct waste audits to determine the success of the diversion programs for each site. A report will be supplied by Novato Disposal for each site on the success of each programs and recommendations to increase diversion.

5. Getting Started. Areas identified to target may include:

- a. Classroom Recycling:** Zero Waste Coordinators can provide internal recycling crates for the collection of paper. These crates will need to be emptied into central collection bin for collection by NDS.
- b. Lunch Area Recycling:** Zero Waste Coordinators have a resource sheet with recommended lunch area collection containers. Food waste composting will be provided as an option at each site as the program is expanded.
- c. Administration & Office Recycling:** Zero Waste Coordinators can provide internal recycling crates for the collection of paper. These crates will need to be emptied into central collection bin for pickup.
- d. Compost Program:** Zero Waste Coordinators can provide resource information and training for the food waste collection and composting program.

6. Ongoing:

Exhibit 5
School Recycling And Food Waste Program Outline

- a. Education:** Zero Waste Coordinators will work with Green Team to develop a training program for students and staff about the recycle program.

In addition, Zero Waste Coordinators can provide educational presentations or assemblies about the importance of waste reduction, recycling, and composting in relation to resource conservation.

Newsletters will be supplied to the schools for additional Zero Waste outreach.

Novato Disposal will coordinate with a local community-based organization (i.e., North Bay Conservation Corp) to provide additional resources for promoting Zero Waste goals.

- b. Promotion:** Work with Green Team to promote recycling program. Zero Waste Coordinators can provide many resources, help locate additional on-line resources or students can develop their own materials. Send home a letter with students letting parents know about the expanded program for additional reinforcement.

Identify locations for recycle stations with painted recycling symbols, logos or messages.

Conduct a kick-off campaign. Get the whole school involved. Contact the local media. Identify local businesses who will contribute recognition awards to student team leaders. Have campaign promotion contest and award students, classrooms or schools for efforts.

- c. Monitor:** Train Monitors regarding Recyclable Materials, Organic Waste and Garbage. Train monitors to effectively communicate with students in a friendly manner.

- d. Evaluation & Expansion:** Conduct Green Team meetings each quarter to identify barriers and obstacles and develop strategies to address them. Maintain close contact with custodial staff and collection drivers to evaluate successes and difficulties. Use this information to identify additional target areas for further waste reduction and recycling efforts and to improve and expand your program.

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TO PROVIDE THE PROPER INCENTIVES FOR BOTH THE SCHOOL DISTRICT AND THE COMPANY, NOVATO DISPOSAL SERVICE WILL COMMIT, AS PART OF THE AGREEMENT, SHARE EQUALLY IN THE COST OF PROVIDING THE SOLID WASTE, RECYCLING, AND COMPOSTING SERVICE WITH THE SCHOOL DISTRICT

**Exhibit 6
Zero Waste Program Implementation Schedule**

Activity	Implementation Deadline
1. Food/Green Waste Composting <ul style="list-style-type: none"> ▪ Single family residential food/green waste diversion ▪ Place food waste diversion stickers on all green carts ▪ Supermarket food waste diversion ▪ Restaurant food waste diversion ▪ Multi-family food waste diversion 	February 28, 2011 October 1, 2011 February 2012 March 2012 July 2012
2. C&D recycling, reports & enforcement <ul style="list-style-type: none"> ▪ Monitor C&D recycling reports & conduct outreach to contractors ▪ Enforce C&D recycling thru Solid Waste ordinance 	Ongoing Ongoing
3. Public Outreach/Education campaign <ul style="list-style-type: none"> ▪ Revise Novato Disposal website to include zero waste messages ▪ Include zero waste messages & programs in newsletter, ads, promotional items 	September 2011 Ongoing
4. AB32 Multi-family and Commercial mandated recycling <ul style="list-style-type: none"> ▪ Identify all multifamily & commercial sites ▪ Make site visits ▪ Develop materials for commercial & multifamily residents ▪ Participate in workshops for multifamily & commercial property managers ▪ Provide recycling containers ▪ Implement mandated multifamily & commercial recycling 	May 2011 September 2011 January 2012 March 2012 May 2012 July 2012
5. Schools campaign <ul style="list-style-type: none"> ▪ Institute food waste recycling program ▪ Monitor food waste & recycling programs; meet with teachers, students 	2010 Ongoing
6. Backyard Composting <ul style="list-style-type: none"> ▪ Promote backyard composting through compost bin promotion 	Ongoing
7. Wet/Dry Route Collections	

Exhibit 6
Zero Waste Program Implementation Schedule

Activity	Implementation Deadline
<ul style="list-style-type: none"> ▪ Discuss feasibility of instituting wet/dry collection system ▪ If feasible, institute system 	<p>2018</p> <p>2020</p>
<p>8. Conversion Technology</p> <ul style="list-style-type: none"> ▪ Discuss and determine feasibility of conversion technology systems ▪ If feasible, institute system 	<p>2020</p> <p>2025</p>
<p>9. Zero Waste Goals</p> <ul style="list-style-type: none"> ▪ 60% Diversion ▪ 70% Diversion ▪ 80% Diversion 	<p>December 31, 2015</p> <p>December 31, 2020</p> <p>December 31, 2025</p>

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Exhibit 7
Recyclable Materials Balancing Account

1. Recyclable Material Per Ton Net Revenue Amount.

Fair Market Value - For purposes of forecasting recyclable material net revenues for 2008, the Company shall use the calculated fair market value of recyclable material revenues for 2006, which shall equal the annual total of the fair market value for such material for each month times the associated monthly tonnage collected or received by the Company for calendar year 2006, times any applicable growth rate (the 2006 Projected Revenues). A similar methodology will be used for purposes of forecasting recyclable material sales revenues for subsequent years. That fair market value shall be calculated as follows:

- a. The fair market value of net revenue paid by related parties to the Company for recyclable materials net of processing costs, and any and all other costs (the Per Ton Net Revenue Amount), shall initially be set at \$44.85 per ton effective July 2005. This initial Per Ton Net Revenue Amount will be adjusted on a monthly basis, as described below.
- b. The prior month Per Ton Net Revenue Amount shall be adjusted for purposes of establishing the Per Ton Net Revenue Amount for the current month based on changes to the Official Board Markets Transacted Paper Stock Prices (OBM Index Prices) as reported for "San Francisco" as follows:
 - i. The starting point for the Per Ton Net Revenue Amount shall be \$44.85 per ton effective July 2005.
 - ii. The Per Ton Net Revenue Amount shall be adjusted monthly based on changes to the OBM Index Prices for Mixed Paper, #8 Newspaper and OCC as reported in the first weekly OBM issue of each month. The OBM Index Prices for each of these commodities shall be set at the average of the high and low prices reported each month, which are \$67.50, \$87.50 and \$87.50 respectively for July 2005.
 - iii. The weighted average percentages for Mixed Paper, #8 Newspaper and OCC for purposes of applying the OBM Index Prices shall be 46%, 46% and 8% respectively.
 - iv. Every month, one hundred percent (100%) of the weighted average O.B.M. index price adjustment (up or down) compared to the previous month shall be added or subtracted from the prior month Per Ton Revenue Amount for purposes of establishing the Per Ton Revenue Amount for each month.
- c. Example: The OBM Index Price adjustments from July 2005 to August 2005 for Mixed Paper, #8 Newspaper and OCC were -\$10/ton, -\$5/ton and -\$10/ton respectively. Applying the above referenced weighted average by material type, the price change July to August is -\$9.00/ton. The Per Ton Net Revenue Amount for July 2005 would decrease from \$44.85 to \$35.85 which is the Per Ton Net Revenue Amount for August 2005.

Exhibit 7
Recyclable Materials Balancing Account

- d. The calculated Per Ton Net Revenue Amount for each month shall be applied to all tonnages collected or received by the Company through the recycling program and delivered to related parties for processing for that month, including any and all processing residue, contaminants, non-processable or other material tonnages.
- e. Notwithstanding any provision of this Agreement to the contrary, at no time shall the Per Ton Net Revenue Amount paid by a related party be less than \$10 per ton (The Floor Price) nor more than \$80 per ton (The Ceiling Price) – The Floor Price and Ceiling Price shall be adjusted for the full impact of any change in the CRV value as provided for below.
- f. In the event of any future changes to the California Redemption Value (CRV) paid by the State of California, the Per Ton Net Revenue Amount shall be adjusted to account for that relative impact on the Per Ton Net Revenue Amount. That impact shall be determined by multiplying the total applicable CRV tons for the prior 12 months times the applicable net change in CRV per ton revenue to project the total additional annual CRV revenue. This total additional annual CRV revenue shall then be divided by the total tonnage collected or received by the Company through the recycling program for the prior 12 months to determine the net additional per ton revenue amount that shall be added to the calculated Per Ton Net Revenue Amount going forward. The parties agree that should the CRV value be adjusted on or after July 1, 2007, as provided for in the California Beverage Container Recycling and Litter Reduction Act, allowances will be made to the rates that are set for 2008 and beyond to fully account for this change, notwithstanding any provision of this Agreement to the contrary.

2. Balancing Account Calculation for Recyclable Materials.

Because of the potential volatility of recyclable material prices, the District and the Company agree to establish a Balancing Account for recyclable material sales revenue. The Balancing Account amount will be based on the difference between the projected revenues for each year (as calculated using the above methodology) and the calculated revenues for that year (i.e., the annual total of the actual monthly tonnage times the calculated Per Ton Revenue Amount for each month using the methodology described above).

- a. For purposes of tracking the Balancing Account amount, the Company shall provide the District with an annual report that includes:
 - i. A copy of the OBM Index Prices as reported in the first issue of each month;
 - ii. The total commingled recyclable tonnage delivered to any related party for processing;
 - iii. The calculated current month Per Ton Revenue Amount and the calculation used to determine that amount;
 - iv. The total monthly Calculated Revenue equal to the total tonnage collected or

Exhibit 7
Recyclable Materials Balancing Account

received by the Company through the recycling program and delivered to the related parties for processing times the calculated monthly Per Ton Revenue Amount); and

- v. All prior year to date monthly figures for the calendar year for items (ii) through (iv) above.
- b. The net cumulative Balancing Account amount for 2008 through 2011 shall be accounted for in full in setting the rates for Calendar Year 2013 as follows:
 - i. The net cumulative Balancing Account will be divided by five (to account for rates in 2013, 2014, 2015, 2016 and 2017) (the annualized Balancing Account amount);
 - ii. The Company's fiscal year 2011 audited financial statement rate revenue will be divided by the annualized Balancing Account amount to calculate the annualized Balancing Account rate adjustment; and
- c. The calculated RRI rate adjustment for 2013 will be adjusted up (if the Balancing Account amount is due to the Company) or down (if the Balancing Account amount is due to the District) by the annualized Balancing Account rate adjustment, which shall be carried forward through rate year 2016.
- d. The net cumulative Balancing Account amount for 2012 through 2016 shall be accounted for in full in setting the rates for Calendar Year 2018 by dividing that amount by five (to account for rates in 2018, 2019, 2020, 2021 and 2022) and applying the same rate adjustment methodology specified for Calendar Year 2013 in Section 6.6.6.2.2 above.
- e. The net cumulative Balancing Account amount for 2017 through 2021 shall be accounted for in full in setting the rates for Calendar Year 2023 by dividing that amount by three (to account for rates in 2023, 2024 and 2025) and applying the same rate adjustment methodology specified for Calendar Year 2013 in Section 6.6.6.2.2 above.
- f. The cumulative balancing account amount for Calendar Years 2022 through 2025 shall be paid by the applicable party to the other party in no less than equal annual payments over a period of no more than four years starting January 1, 2026, without interest.
- g. In the event that a Detailed Rate Review is conducted the impact of the Balancing Account will be factored into the associated rate adjustment for that year in the same manner specified for Calendar Year 2013 in Section 6.6.6.2.2 above.
- h. Exit Clause. -The parties agree that the proposed methodology is intended to provide a reasonable projection of the fair market value of revenues paid by third parties to the Company. Recyclable material commodity prices can, however, be extremely volatile and factors other than those accounted for in the proposed methodology may impact the fair market value of revenues. To provide a contingency for such potential

Exhibit 7
Recyclable Materials Balancing Account

events, each party shall have the right to terminate the use of the methodology for establishing the monthly Per Ton Revenue Amount described in this Section at any time during the term of this Agreement at either party's sole discretion. The notification shall be in writing and shall be effective thirty calendar days after receipt. The exercising of said option shall not remove either party's obligation to the other party for any Balancing Account balance at the time said option is exercised and becomes effective.

- i. In the event that either party exercises its option to terminate the methodology for establishing the Per Ton Revenue Amount, the parties agree to negotiate a new methodology that is acceptable to both parties. In the event that the parties cannot agree on acceptable changes to the methodology, the fair market value will be based on a review of actual related recyclable material sales revenues and related processing expenses.

Exhibit 8
Detailed Rate Review Methodology

1. Request for Detailed Rate Review

At least six (6) months prior to a normally scheduled July 1st RRI, the District or the Company may request that a Detailed Rate Review be conducted. In the event that either the District or the Company requests a Detailed Rate Review, the Detailed Rate Review shall be based on the audited financial statements for the preceding complete fiscal year.

The Company shall assemble and submit such information as necessary to support assumptions made with regard to forecasts used to develop their Service Rates. The Company shall provide all information from related party entities regarding any material transactions between the Company and those related party entities. Service Rates shall be adjusted based on the forecasted annual cost of operations, profit, and forecasted pass-through expense reviewed as set forth below.

a. Forecasted annual cost of operations. The forecasted annual cost of operations shall consist of the sum of:

- Forecasted labor-related costs
- Forecasted vehicle-related costs
- Forecasted other costs
- Forecasted depreciation expense

Each of these sums shall be reviewed based on the following:

- i. **Determination of actual costs.** The Company's financial statement will be reviewed to determine the Company's costs for each of the foregoing categories during the fiscal year involved. The District will use the audited financial statements to determine that costs have actually been incurred and have been assigned to the appropriate category.
- ii. **Adjustment of actual costs.** The District may adjust the actual costs in two ways: (1) to exclude any non-allowable costs, set out below, and (2) to exclude and/or reduce any costs that were not reasonably and necessarily incurred in the performance of the services provided in accordance with this Agreement.

Costs that may be deemed non-allowable include, but are not limited to, the following:

- (a) Payments to directors and/or owners of the Company unless paid to reasonably compensate for services actually rendered.
- (b) Promotional, entertainment, and travel expenses, unless authorized in advance by the District.
- (c) Payments to repair damage to property of the District or other parties, including the City or County for which the Company is legally liable.

Exhibit 8
Detailed Rate Review Methodology

- (d) Fines or penalties of any nature.
- (e) Liquidated damages assessed under Section 10.3 of this Agreement.
- (f) Federal or state income taxes.
- (g) Charitable or political donations.
- (h) Attorney's fees and other expenses incurred by the Company in any court proceeding in which the District and the Company are adverse parties, unless the Company is the prevailing party in said proceedings.
- (i) Attorney's fees and other expenses incurred by the Company in any court proceeding in which the Company's own negligence, violation of law or regulation, or other wrongdoing, are in issue and occasions in part the attorney's fees and expenses claimed, provided, however, such attorney's fees will be allowed to the extent the Company can demonstrate they were reasonable and necessary and a cost of doing business, and were not the result of any intentional or willful misconduct by the Company or its employees; and attorney's fees and expenses incurred by the Company in a court proceeding in which the legal theory or statute providing a basis of liability against the Company also provides for separate strict liability for the District arising from the action of its citizens or ratepayers (such as in a CERCLA lawsuit).
- (j) Payments to related party entities for products or services, in excess of the fair market value for those products or services. For purposes of this Agreement, related party expenses are those resulting from transactions between the Company and another company (companies) that has (have) common ownership or management control. Except as otherwise provided below the amount of these transactions shall be based on the actual cost to the related party and shall include no profit. To demonstrate the actual cost to the related company, the Company shall provide, at a minimum, the invoice for the good or service, the receiving document, the corresponding canceled check and the basis for the transaction. Whenever possible, materials shall be delivered directly to the Company or the related party entity, as appropriate. Because the following types of related party transactions have existed, they have been specifically addressed below:
 - 1. Management Fees: The Company pays management fees to North Bay Corporation, a related party. The management fee compensates North Bay Corporation for its management team's time spent in managing the operations and administering the Company (including the time of Mr. James Ratto). For purposes of determining the Company's compensation in accordance with

Exhibit 8
Detailed Rate Review Methodology

this Agreement, a management fee of One Hundred Thirty-Four Thousand Dollars (\$134,400) annually shall be stipulated and the North Bay Corporation management team, including Mr. James Ratto, shall not otherwise be compensated for these same services. This stipulated amount shall not be adjusted during the term of this Agreement or any extension period.

2. Site Rent Expense: The Company operates from facilities it leases from Creekwood Investments and North Bay Corporation, related parties. For purposes of determining the Company's compensation in accordance with this Agreement, a lease amount of Fifty-Four Thousand Dollars (\$54,000) annually shall be stipulated. This stipulated amount shall not be adjusted during the term of this Agreement or any extension period.
3. Equipment Rental: The Company leases equipment from North Bay Corporation, a related party, and is entitled to compensation for depreciation and interest expense related to this equipment. No compensation for the depreciation of the equipment listed in Exhibit 3 shall be provided to the Company, pursuant to this Agreement.

For purposes of this Agreement, the Company shall be entitled to compensation for equipment depreciation whether leased or purchased by the Company, based on the following useful lives:

5 Years: Computers and software, office equipment.

7 Years: Automated side load collection vehicles.

10 years: Front or rear load collection vehicles, roll-off collection vehicles, Bins, Carts, and Debris Boxes.

The Company shall be required to provide to the District (or the District's representative) documentation of the original cost of the equipment.

For purposes of this Agreement, the Company shall be entitled to compensation for interest expense on equipment leases assuming financing of one hundred percent (100%) of the original cost and based on the Prime Rate of the Bank of America NT & SA in effect at the time the equipment was first leased.

4. Employee Health Insurance: The Company purchases employee health insurance for both itself and related parties and is entitled to compensation for the Company's cost of this insurance. Because

Exhibit 8
Detailed Rate Review Methodology

the premium is allocated among several companies, the Company's compensation shall be calculated by dividing the premium by the total number of employees covered and multiplying the quotient by the number of the Company employees. If the Company provides ongoing administration of the health insurance program for itself and related parties, the full cost of such administration shall be distributed among the parties and the Company on the basis of the number of employees covered. To determine the amount of compensation due the Company, the Company shall submit to the District (or the District's designated representative) a copy of the insurance broker's invoice, the corresponding canceled check and the calculations described above, including corresponding documentation supporting the values used (e.g., total employees covered).

5. Automotive Liability Insurance: The Company purchases automotive liability insurance for both itself and related parties and is entitled to compensation for the Company's cost of this insurance. Because the premium is allocated among several companies, The Company's compensation shall be calculated by prorating the premium among related parties and the Company on the basis of the actual total liability premiums paid for vehicles of each company. To determine the amount of compensation due the Company, the Company shall submit to the District (or the District's designated representative) a copy of the insurance broker's invoice, the corresponding canceled check and the calculations described above, including corresponding documentation supporting the values used (e.g., total vehicles covered).
 6. Fuel Expense: The Company purchases fuel for both itself and related parties and is entitled to compensation for the Company's cost of fuel. Because fuel is pumped into both the Company and other trucks, the Company shall maintain a fuel log that will record actual usage by particular truck. To determine the amount of compensation due the Company, the Company shall submit to the District (or the District's designated representative) a copy of the fuel invoices, the receiving documents, the corresponding canceled checks and copies of the fuel log, and calculations supporting the amount of fuel expense claimed by the Company.
- b. Forecasts of Costs. Allowed Costs of operations for the Company's prior fiscal year will be used to evaluate the forecasted cost for upcoming year. The review will evaluate forecasted labor-related costs, vehicle-related costs, and other costs,

Exhibit 8
Detailed Rate Review Methodology

including pass-through expenses as outlined below.

- c. Depreciation Expense. Depreciation expense will be calculated by dividing the actual purchase price of the assets by the number of years in the Term of the Agreement. The result is the forecasted depreciation expense for the rate year.
- d. Profit. Profit or return to the Company shall be determined by the District applying an operating ratio so as to provide for reasonable costs of service and adequate rate of return to the Company. The rate of return or profit shall be reasonably sufficient to allow for financial soundness of the Company's operations within the Service Area of this Agreement, when operated under efficient and economical management, and to provide a return to the Company over the term of the Agreement commensurate with the level of business risk, the competitive market place and the necessity to provide the public with reasonable rates. For purposes of this Agreement, the District-determined operating ratio shall be ninety percent (90%) as of the date of the execution of this Agreement.

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