

**FRANCHISE AGREEMENT FOR
SOLID WASTE AND RECYCLABLES COLLECTION SERVICES
FOR CRESCENT CITY AND DEL NORTE COUNTY, CALIFORNIA**

**BETWEEN THE DEL NORTE
SOLID WASTE MANAGEMENT AUTHORITY**

AND

RECOLOGY DEL NORTE

August 11, 2010

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FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT is made and entered into this 11th day of August, 2010 between the DEL NORTE SOLID WASTE MANAGEMENT AUTHORITY (hereinafter "Authority") a joint powers authority of the City of Crescent City (hereinafter "City") and Del Norte County (hereinafter "County"), and RECOLOGY DEL NORTE (hereinafter "Contractor").

Unless otherwise specified in this Agreement, any action authorized or required to be taken by the Authority may be taken by the Governing Board of the Authority (hereinafter "Board") or by any official or agent designated by the Board. If the Authority is dissolved at any point during the term of this Agreement, the Agreement may be assigned in one or more parts to the City and County. Terms of the Agreement would remain the same, except as may necessarily be required to administer this Agreement as two or more franchises in separate geographical areas by separate franchisees.

RECITALS

This Agreement is entered into with reference to the following facts and circumstances:

A. The efficient and orderly Collection of Solid Waste and Recyclable Materials is an essential component of public safety and health. Balanced regional Solid Waste management and planning must be maintained and developed so as to safeguard public health, optimize the use of limited natural resources, and insure the efficient and orderly Collection and Disposal of Solid Waste and Recyclable Materials.

B. It is desirable that the public recognize its ultimate responsibility to reduce, recycle and dispose of all waste in an environmentally sound manner and that rates must be established at levels that are commensurate with the cost of carrying out that responsibility.

C. The Joint Powers Agreement between the City and County provides Authority with the ability within the City and County, to regulate the Collection of Solid Waste and Recyclable Materials, including, but not limited to, the right to license, franchise, and establish rates for Solid Waste Collection and Disposal and Recyclable Materials Collection, processing and marketing services.

D. This Agreement is entered into pursuant to clearly articulated State policy authorizing exclusive Franchise Agreements for Solid Waste Collection services.

AGREEMENT

NOW, THEREFORE, intending to be legally bound, the parties agree as follows:

ARTICLE 1. DEFINITIONS AND EXPLANATIONS

1.01 Definitions

For purposes of this Agreement, the following words or phrases have the following meanings.

Agreement

"Agreement" or "Franchise Agreement" means this Franchise Agreement For Solid Waste And Recyclables Collection Services For Crescent City And Del Norte County, California between the Authority and Recology Del Norte, including all exhibits, and any future amendments hereto.

Applicable Law

"Applicable Law" means all laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any government authority having jurisdiction over the Collection and/or disposition of Solid Waste and Recyclable Materials that are now in force and as they may be enacted, issued, or amended during the term of this Agreement.

Authority

"Authority" means the Del Norte Solid Waste Management Authority.

Basic Level of Service

"Basic Level of Service" for residential Customers or facilities means the 32 gallon Solid Waste cart Collection Service or average volume of 32 gallons of Solid Waste bin Collection Service for each tenant household at a residential facility, including all included services as described in **Exhibit B1, Section B.5** to this Agreement. For commercial, institutional, and government customers and facilities, "Basic Level of Service" means Weekly Solid Waste Collection Service of adequate volume so that discards do not visibly accumulate outside carts, bins, or debris boxes at that location, and minimum recyclables collection services as may be established by Authority to comply with State and local law.

Bid

"Bid" shall mean the Original Proposal, and all related correspondence, submittals, and representations, submitted by Contractor in response to the "Franchise for Solid Waste, Recyclables, and Organics Collection Services Request for Proposals, Fiscal Years 2011/12 – 2022/23," including Attachments, Exhibits, and Addenda as issued by the Authority.

Board

"Board" means the Governing Board of the Del Norte Solid Waste Management Authority.

Bulky Item

"Bulky Item" means discarded large household appliances, furniture, tires less than 60 inches in diameter (with or without rims), mattresses, water heaters, televisions, and similar large items that require special handling due to their size or weight, or which cannot be collected without the assistance of special loading equipment (such as forklifts or cranes), or special handling by collection crews. "Bulky Item" may also refer to any item subject to a per-item charge at the Central Transfer Station; a single box weighing not more than one hundred pounds containing consumer electronics devices and/or televisions; a single tree of not more than nine (9) feet in height (such as a Christmas tree) without metal stands, ornaments, or tinsel; or one and one-half (1.5) cubic yards of bagged material or rolls of carpet or carpet padding prepared for collection as a "Bulky Item." For the purposes of the Bulky Item Special Collection Services described in the Collection Service Standards, each refrigerator, freezer, or other appliance or item requiring certified Freon removal will count as two Bulky Items.

Central Transfer Station and Materials Recovery Facility

"Central Transfer Station and Materials Recovery Facility" means the Del Norte County Transfer Station serving Del Norte County, located at 1700 State Street, Crescent City, California.

Collection

"Collection" or "Collection Service" means the collection of Solid Waste, Recyclable Material, Organic Material, or other material specified in this Agreement from Generators, and the transportation of this Solid Waste, Recyclable Materials, Organics, or other specified material to a designated Solid Waste Management facility, permitted processing facility, or Recycling facility.

Commencement Date

"Commencement Date" means the July 1, 2011, the day that the services detailed in this Agreement are to begin.

Commercial Solid Waste

"Commercial Solid Waste" means Solid Waste originating from stores, business offices, commercial facilities, hospitals, campgrounds, hotels, educational, health care, military, and correctional institutions, non-profit organizations, government offices, and other non-residential facilities, properties, and activities.

Components of Rates

"Components of Rates" or "Rate Components" means the respective percentages of each rate allocated to (1) Collection, (2) transport, and (3) tipping for each Collection Service offered under this Agreement. The Collection component of each rate represents the percentage of that Collection rate related to costs for billing and accounting, as well as, the costs for the vehicle and container(s) necessary for that Collection Service. The transport component of each rate includes the percentage of

the rate necessary to cover variable costs to transport the collected materials to the point where they are unloaded. The tipping component of each rate includes the percentage of the rate to unload, process, market and/or dispose of the materials collected. The three percentage components of each rate will add up to 100%.

Containerized

“Containerized” means materials placed by a Generator into a container and positioned for Collection in exchange for a fee.

Contractor

“Contractor” means Recology Del Norte.

Customer

“Customer” means a resident, property owner, business or government entity that subscribes for Collection Services offered by Contractor.

Date of Execution

“Date of Execution” means the date on which all required signatures are obtained on this Agreement.

Director

"Director" means the Director of the Del Norte Solid Waste Management Authority, or his or her designee.

Disposal

"Disposal" means the final disposition of Solid Waste collected by the Contractor at a landfill or other facility approved by the Authority.

Disposal Site(s)

"Disposal Site(s)" means the Central Transfer Station and Materials Recovery Facility, or other Solid Waste Management Facility or facilities approved by the Authority for the ultimate Disposal of Solid Waste collected by the Contractor.

Effective Date

"Effective Date" means the date on which the Agreement has been signed by both parties and all conditions under Section 3.02 have been met to the satisfaction of the Authority.

Extended Producer Responsibility

“Extended Producer Responsibility,” “Product Stewardship” and “EPR” refer to policies and programs that seek to minimize environmental impacts throughout a product’s lifecycle by constructively engaging manufacturers and retailers in the financing and management of take back and end-of-product–life recovery of their products.

Franchise

"Franchise" means the rights granted to the Contractor under the terms and conditions of this Agreement.

Franchise Area

"Franchise Area" means the Primary and Secondary Franchise Areas of Del Norte County described in **Exhibit A1**, and illustrated in **Exhibit A2**.

Generator

"Generator" means the occupant or owner of property or facilities, including residents, businesses, and agencies that generate Solid Waste, Recyclable Materials, and Organic Materials.

Gross Revenues

"Gross Revenues" means all revenues collected by Contractor for providing Solid Waste Collection, Containerized Organics Collection, and Multi-Material Recycling Collection Services within the Franchise Area less the costs of Disposal at Authority facilities. Gross Revenues include revenues received from the sale of Recyclable or Organic Materials, less documented processing and transportation expenses, collected as part of one or more Franchise Collection Services. Gross Revenue will not include revenues derived from providing Collection Services to entities which are not required to utilize Franchise services, if and only if Contractor provides those non-Franchise services using containers and vehicles which are not used to provide Collection Services to any Franchise customers.

Hazardous Waste

"Hazardous Waste" has the meaning defined in California Code of Regulations, Title 14, Division 7, Chapter 3, Article 4, §17225.32 and Health and Safety Code § 25117, or successor laws and regulations as may be amended from time to time.

Holiday

"Holiday" means the following days: New Year's Day, Easter, Memorial Day, Fourth of July, Labor Day, Thanksgiving and Christmas.

Household Hazardous Waste

"Household Hazardous Waste" has the meaning defined in California Code of Regulations §18502.

Industrial Solid Waste

"Industrial Solid Waste" means Solid Waste originating from mechanized manufacturing facilities, factories, construction and demolition projects, and publicly operated treatment work, or materials placed in debris boxes at those facilities.

Materials

"Materials" means all Solid Waste, Recyclables, and Organic Materials as defined in this Agreement.

Medical and Infectious Waste

"Medical and Infectious Waste" means biomedical waste generated at hospitals, public or private medical clinics, dental offices, research laboratories, pharmaceutical industries, blood banks, mortuaries, veterinary facilities and other similar establishments.

Multi-family Residence

"Multi-family Residence" means a mobile home or trailer park, apartment complex, condominium complex, senior housing/care facilities, or other multi-unit residential complex with five (5) or more dwelling units.

Off-curb

"Off-curb" means a Residential Franchise cart Collection Service that requires the Contractor to move the cart more than 15 feet for the container to be accessible to a Collection vehicle, and such Franchise Collection Service is therefore subject to an Off-curb percentage surcharge. Commercial cart Collection Services will not be subject to Off-curb surcharges.

Off-road

"Off-road" means a Franchise Collection Service that generally includes the Contractor moving the can, cart, or bin more than 150 feet to a street accessible by a standard Collection vehicle, or a Collection Service at an address that requires a non-standard Collection Service vehicle, and the Franchise Collection Service is subject to an Off-road percentage surcharge. No single Franchise Collection Service will be subject to both an Off-road and a Roll-out surcharge. All addresses subject to Off-road surcharges are listed in **Exhibit E**, which must be approved in advance by the Board and may be amended by the Board as necessary.

Opportunity to Recycle

"Opportunity to Recycle" means the opportunity for residents, businesses, industries, institutions and agencies to recycle by using community drop-off centers, by using streetside containers, or by subscribing to services that include Recyclables Collection service(s) offered by Contractor within the Franchise Area.

Ordinance

"Ordinance" means all ordinances or resolutions passed now or in the future by Authority, City, or County relating to Solid Waste, Recyclables and Organics Collection and/or disposition for the Franchise Area.

Organic Materials

"Organic Materials" or "Organics" means all plant trimmings, untreated wood, yard debris, leaves, grass, and other materials that are readily composted, and which are indicated as acceptable on the Authority-approved label on Contractor-provided Organics carts. Grease and trap pumpings from commercial and industrial sources are not considered Organics.

Overweight

“Overweight” means one or more refuse containers prepared for Collection that exceed the following weight limits:

<u>Type of Container</u>	<u>Weight Limit</u>
Bag or 20 gallon cart	40 pounds
32 Gallon cart	60 pounds
64 gallon cart	120 pounds
96 gallon cart	180 pounds
10 cubic yard bin	3.0 tons
20 cubic yard debris box	4.25 tons
30 cubic yard debris box	5.5 tons
40 cubic yard debris box	6.25 tons

Placed for Collection

“Placed for Collection” means the preparation and placement of materials, items, bins, bags, cans or carts by a Customer in a manner and in a location specified by Contractor for Collection.

Prohibited Waste

“Prohibited waste” includes all products and materials which are banned from mixed waste disposal in California by one or more State agencies with legislative authority to make such determination, or which have been banned from disposal at the landfill receiving materials disposed at the Del Norte County Transfer Station. Prohibited wastes include, but are not limited to, hazardous wastes, untreated medical wastes, sharps, universal wastes, electronic wastes, and consumer electronic devices.

Recycling

“Recycling” means the process of collecting, sorting, processing, and remanufacturing specific material commodities into products.

Recyclable Materials

“Recyclable Materials” or “Recyclables” means specific discarded material commodities intended for Recycling, that are separated, set aside, handled, packaged or offered for Collection by a Generator in a manner apart from Solid Waste, and specifically includes, without limitation, all glass containers, newspapers, office paper, magazines, brown corrugated cardboard and kraft paper bags, plastic containers, aluminum, steel cans, and metals that have been separated from Solid Waste by Generators, and other materials determined to be Recyclable by the Authority.

Related Party

“Related Party” means any parent or subsidiary corporation or any other person or entity that owns or controls at least thirty percent (30%) of Contractor, or in any enterprise in which Contractor owns or controls at least a thirty percent (30%) interest.

Roll-out

“Roll-out” means a Franchise Collection Service that requires the Contractor to either unlock an enclosure, or to move the bin more than 15 feet for that container to be accessible to a Collection vehicle, and such Franchise Collection Service is subject to a

Roll-out percentage surcharge. If the Customer has subscribed to a Franchise Collection Service that includes a locking bin, a Roll-out surcharge will not be assessed unless the bin to be collected needs to be physically moved to be accessible to a standard Collection vehicle. Roll-out surcharges will not be assessed for cart or debris-box Collection Services, and will not be applied to the charge for a locking bin.

Single-family Residence

"Single-family Residence" means a residence comprised of four (4) or fewer dwelling units.

Solid Waste

"Solid Waste" means solid waste as defined in California Public Resources Code § 40191 and includes the following: (1) all putrescible and nonputrescible wastes, whether in solid or liquid form, except liquid-carried industrial wastes or sewage hauled as an incidental part of septic tank or cesspool-cleaning service; (2) garbage (i.e. putrescible animal, fish, food, fowl, fruit or vegetable matter, or any thereof, resulting from the preparation, storage, handling or consumption of such substances); (3) rubbish (i.e., wood waste, wood products, printed materials, paper, pasteboard, rags, straw, used and discarded clothing, packaging materials, ashes, floor sweepings, glass, and other waste materials); (4) ashes; (5) commercial and industrial wastes; (6) swill; (7) demolition and construction wastes; (8) vehicle parts and tires; (9) discarded home and industrial appliances; (10) manure; and (11) sewage sludges as defined in California Code of Regulations § 2520(d)(3) and § 2523(c). Not included in the definition of Solid Waste are Hazardous Waste, Medical and Infectious Waste, and source-separated Organics or Recyclable Materials.

Solid Waste Management Facility

"Solid Waste Management Facility" means any facility designed and permitted to manage Solid Waste or Recyclable Materials, and includes Recyclable Materials processing, material recovery, composting, waste-to-energy, landfill(s) and other facilities as described in the Del Norte Countywide Integrated Waste Management Plan, as amended from time to time.

Source-Separated

"Source-separated" means materials that have been properly placed into Organics or Recycling carts, bins, community drop-off recycling bins, or debris boxes, or properly Placed for Collection as part of a Spring Cleanup event for the purpose of Recycling those materials, or for the purpose of recovering those materials as Organics. Materials which have been placed in solid waste carts, bins, compactors, or debris boxes are not source-separated, even if the contents of such Solid Waste bins are later processed to remove and recover Recyclables and/or Organics.

Substantial Evidence

"Substantial Evidence" means evidence sufficient to convince a reasonable person as to the conclusion to be drawn from the evidence.

Term

"Term" refers to the term of this Agreement, as set forth in **Section 3.01**.

Weekly

“Weekly” means at least once every seven days, on the same day of the week, except in cases when a Holiday occurs during the prior week, in which case the Contractor may adjust the day of Weekly Collection to be up to two days after the regular day of Collection.

1.02 Explanations

- A.** All references to “section” and “article” in this Agreement refer to sections and articles of this Agreement unless otherwise specified.
- B.** Any reference to a particular state or local law or regulation shall be deemed to include all future amendments to the specific law as well as any successor laws.

ARTICLE 2. REPRESENTATIONS AND WARRANTIES OF CONTRACTOR

2.01 Contractor Status

Contractor represents that: it is duly organized, validly existing, and in good standing under the laws of the State of California; it is qualified to transact business in the State of California; and it has the power to own its property and to carry on its business as now owned and operated and as required by this Agreement.

2.02 Contractor Authorization

Contractor has the authority to enter into and perform its obligations under this Agreement. Contractor or its authorized representative has taken all actions required by law and its governing documents to authorize the execution of this Agreement. The persons signing this Agreement on behalf of Contractor warrant and represent that they have authority to do so.

2.03 Representation of Minimum Standards

A. Certified Representations. Contractor represents and warrants that it meets the minimum standards required to enter into this Agreement as specified in this Article, which was certified and made part of Contractor's Bid. Contractor must immediately notify Authority of any change in its status that would affect compliance with these minimum standards. Failure to maintain compliance with these standards at anytime throughout the Term of this Agreement will be considered an Event of Default pursuant to **Section 9.02**.

B. Minimum Experience Qualifications. Contractor must, at a minimum, demonstrate strong experience in Collections, Solid Waste, and trucking, as experience held by one or more of the Contractor's management team, or experience of Contractor's subcontractors. The following are the minimum standards for the experience expected and hereby warranted by Contractor to be held by at least one of the Contractor's management team or subcontractor(s):

- (1) Minimum five (5) years Solid Waste Collections experience including both residential and commercial accounts with service levels of at least 2,500 household and business accounts.
- (2) Contractor must have been in business for at least five (5) years and profitable for at least three (3) of those years.
- (3) Contractor must have a net worth of at least equal to three (3) months projected revenues of the project.
- (4) Contractor must have annual revenues of at least two (2) times the annual revenues of the project.
- (5) Contractor must have the ability to obtain the required performance bond as evidenced by a letter from a qualified surety company.

C. Requirement. Contractor will be required to maintain access to this level of experience, by hiring appropriately experienced personnel or subcontractor(s) for the start-up phase of the Collections Franchise and for at least the first eighteen (18) months after the Commencement Date.

ARTICLE 3. TERM OF AGREEMENT

3.01 Term of Agreement and Commencement Date

The rights, privileges and Franchise granted under this Agreement will continue in force for a period of twelve (12) years from the Commencement Date, and expire at midnight June 30, 2023. This Agreement may be terminated prior to that date under the provisions of **Article 9**.

3.02 Conditions to Effectiveness of Agreement

This Agreement may not become effective and Authority will not be obligated to permit this Agreement to become effective or to perform the undertakings provided for in this Agreement unless each and every condition set forth below (A – F) is either satisfied or waived by Authority in writing. Waiver of any of the following conditions to the effectiveness of this Agreement will not preclude Authority from pursuing any claim for breach of this Agreement.

A. Accuracy of Representations. The representations and warranties made by Contractor in its Bid are true and correct as of the date of execution of the Bid, and the representations and warranties made by Contractor in **Article 2** are true and correct as of the Effective Date and date of execution of this Agreement.

B. Absence of Litigation. There is no litigation pending on the Effective Date in any court challenging the award or execution of this Agreement or seeking to restrain or enjoin its performance.

C. Effectiveness of Board Action. A Board Resolution approving this Agreement shall be adopted.

D. Submission of Plans and Lists. Contractor must submit to Authority within sixty (60) days of the Date of Execution: a Contingency Plan pursuant to Section 5.02; a Hazardous Waste Management Plan pursuant to Section 5.11(A); a draft Inventory List pursuant to Section 5.04(B)(3)(e) of this Agreement; a draft Personnel List pursuant to Section 5.04.C of this Agreement; and a plan for the provision of the spring cleanup program pursuant to Exhibit B1, Section B.5.(c). Each of these plans and lists must meet the satisfaction of Authority.

E. Verification of Insurance Coverage and Faithful Performance Bond. Contractor must submit, to the satisfaction of Authority, endorsements of insurance coverage and a faithful performance bond pursuant to Article 8.

F. Maintaining Access to Processing Capacity for Recyclables. Contractor will own and operate facilities for processing Recyclable Materials collected under this Agreement, or maintain a fully executed Processing Agreement as described in Section 5.12. The Processing Agreement, and any amendments thereto, must be approved by the Board.

ARTICLE 4. FRANCHISE

4.01 Grant of Franchise: Scope of Franchise

A. Grant of Franchise. Subject to the conditions and reservations contained in this Agreement, Authority hereby grants to Contractor the right, privilege and franchise to:

- (1) Collect and haul over the streets and alleys of Franchise Area the Solid Waste and Organic Materials of others placed into debris boxes, bins, carts, cans and bags provided by Contractor and the right to exact a charge for those services from Customers served.
- (2) Collect and haul over the streets and alleys of Franchise Area all containers with three (3) or more materials for the purpose of Recycling those materials, and the right to exact a charge for those services from Customers served.
- (3) Provide or otherwise secure the Opportunity to Recycle for all Customers within Franchise Area.

B. Exclusive Franchise for Solid Waste Collection. To the extent allowed by law, this Franchise is exclusive for the purposes of providing Solid Waste Collection Services within the Franchise Area, and for collecting materials to be

disposed at permitted Solid Waste Disposal facilities such as transfer stations, landfills, or incinerators. This Agreement does not confer any right or benefit upon any person or entity not a party to this Agreement. Participation by Generators in Solid Waste Collection Services is voluntary until such time that the Board may enact an ordinance mandating Generator participation in Solid Waste Collection Services. If mandatory Solid Waste Collection is instituted, or the Authority makes other changes in policy or passes an ordinance that substantially changes the customer base or services to be offered under this Agreement, Contractor will participate in good faith negotiations with Authority for rate adjustment consistent with **Sections 5.14 and 5.15**. This Agreement does not guarantee a minimum participation level by Generators for Solid Waste Collection Service.

C. Nature of Franchise Collection Services, Exclusive and Non-Exclusive.

- (1) Exclusive Containerized Multi-material Recyclables Collection. To the extent allowed by law, this Franchise is exclusive for the purposes of providing Recyclables Collection Services in all circumstances in which three (3) or more Recyclable Materials are placed into a single can, cart or bin for Collection within the Franchise Area on a fee-for-service basis. Furthermore, to the extent allowed by law, this Franchise is exclusive for the purposes of providing Recyclables Collection Services to Single-family and Multi-family Residences within the Franchise Area on a fee-for-service basis. Nothing in this Agreement infringes upon the right of a resident, commercial or industrial entity, or agency to donate or sell their Recyclable Materials to any party of their choice. Participation by residents, commercial and industrial entities, and agencies is voluntary. This Agreement does not guarantee any minimum participation level in Recyclables Collection Service by residential, commercial, industrial, government, or institutional Customers.
- (2) Exclusive Containerized Organics Collection. To the extent allowed by law, this Franchise is exclusive for the purposes of providing Containerized Organics Collection Services within the Franchise Area on a fee-for-service basis. Nothing in this Franchise Agreement infringes upon the right of a resident to donate or sell any Organics Recyclable Materials from Single-family or Multi-family Residential sources to any party of their choice. Participation by residences in Single-family and Multi-family Residence Organics Collection is voluntary. This Agreement does not guarantee any minimum participation level in Organics Collection Services.
- (3) Non-Exclusive Non-Residential Single-Material Recyclables Collection. This Franchise is exclusive for fee-for-service Containerized Collection of mixed Recyclables, but is non-exclusive for the purposes of providing other single-material (e.g. corrugated

cardboard, metals, glass) Recyclables Collection Services to commercial and industrial establishments. Fee-for-service Recyclables Collections where a single container, cart, or bale is used to store and collect up to two material types is also non-exclusive under this Franchise. Separate from Solid Waste Collection, Contractor is required to offer single-material (e.g. corrugated cardboard, office paper, metals, glass containers) Recyclables Collection Services to all such establishments in the Franchise Area for not more than sixty percent (60%) of comparable Solid Waste Collection rates for a given commercial or industrial establishment. Participation by commercial and industrial establishments in Recyclables Collection is voluntary. This Agreement does not guarantee any minimum participation level in commercial and industrial Recyclables Collection Services offered by Contractor and does not limit the Authority's ability to grant rights or privileges to other persons, businesses or entities for the provision of Recyclables Collection Services to commercial and industrial establishments.

4.02 Franchise Fee

A. Amount. In consideration of the Franchise provided for in **Section 4.01**, Contractor will pay to Authority the Franchise fee of ten percent (10%) of the Gross Revenues subject to the Franchise Fee derived by Contractor from providing Solid Waste and Organics Collection Services and Multi-material Recycling Collection Services. Authority reserves the right to modify the Franchise fee by Ordinance at any time during the Term of this Agreement. Authority must, however, provide Contractor with a Collection rate increase equivalent to the increase in the Franchise Fee.

B. Time and Method of Payment.

- (1) Computation. The Franchise fee is to be computed and paid on the basis of Contractor's receipts each calendar month. Contractor shall prepare and mail remittance each month not later than twenty (20) calendar days after the end of each month. The remittance will be accompanied by a Franchise fee report in a form acceptable to Authority setting forth the basis and calculations used for computing the amount due, and such other information reasonably required by Authority. The Contractor shall also provide an annual "Franchise Fee Report" summarizing the prior fiscal year's monthly payments. The figures used will be reconciled with the general books of account of the Contractor.
- (2) Underpayment / Overpayment. If Contractor fails to pay the entire amount of compensation due Authority through error or otherwise, the difference due Authority must be paid by Contractor within thirty (30) days from discovery of the error or determination of the correct amount. In addition, the Contractor shall pay interest on any

underpayment at an annual interest rate that is equal to the Prime Rate plus 8% as of the date the Franchise Fee was due. Any overpayment to Authority through error or otherwise will be deducted from the next payment due from Contractor.

- (3) Acceptance Not a Waiver. Acceptance by Authority of any payment due under this Article may not be deemed to be a waiver by Authority of any breach of this Agreement, nor may the acceptance by Authority of any such payments preclude Authority from later establishing that a larger amount was actually due, or from collecting any balance due to Authority.
- (4) Payment Under Protest. In the case of a dispute between Authority and Contractor regarding any amounts due, Contractor shall pay the amount claimed by Authority as due and notify Authority in writing at the time of payment as to any portion that is paid under protest, specifying the basis of its claim of overpayment.

ARTICLE 5. SOLID WASTE, RECYCLABLES, & ORGANICS COLLECTION SERVICES

5.01 General

A. Duty to Furnish. Contractor shall furnish all labor, supervision, vehicles, equipment, containers, fuels, materials, supplies, and all other items necessary to perform the services required by this Agreement. The enumeration of, and specification of requirements for, particular items of labor or equipment does not relieve Contractor of the duty to furnish all others, as may be required, whether enumerated or not.

B. Quality of Service. The work to be done by Contractor pursuant to this Agreement will be accomplished in a thorough and professional manner so that the residents and businesses within the Franchise Area are provided litter free, reliable, courteous and high-quality Solid Waste Collection, Organics Collection, and Recycling Collection Services. Contractor will at all times use best industry practices for comparable operations, sound management and operations practices, and fully comply with all Applicable Laws. The enumeration of, and specification of requirements for, particular aspects of service quality does not relieve Contractor of the duty to accomplish all other aspects of service in the manner provided in this Article, regardless of whether such other aspects are enumerated elsewhere in the Agreement or not.

5.02 Contingency Plan

Contractor shall submit to Authority within 60 days of the Date of Execution a written "Contingency Plan" demonstrating Contractor's arrangements to provide vehicles and personnel and to maintain uninterrupted service during mechanical breakdowns, and in case of natural disaster, strikes or other emergency, including events described in

Section 9.06. The Contingency Plan will identify specific personnel (e.g., management, contract labor, etc.) and equipment to be used, and the manner in which it will be used (e.g., double shifts, seven days per week Collection) to provide uninterrupted service during the mechanical breakdowns, and in case of natural disaster, strikes, or other emergency, including events described in **Section 9.06**. The Contingency Plan will include descriptions of how Contractor plans to access replacement vehicles in each equipment class, demonstrating access to at least one replacement vehicle in each vehicle class described in the equipment list within forty-eight (48) hours, and demonstrating access to replacement vehicles for 40% or greater of the number of vehicles in each equipment class within ninety-six (96) hours. The final Contingency Plan must be approved by Authority prior to commencement of services under this Agreement.

5.03 Services Offered to Franchise Customers

A. Residential Solid Waste. Contractor must offer bag, can, cart and temporary bin services to all Single-family Residences in the Franchise Area, and can, cart and bin services to all Multi-family Residences or facilities in the Franchise Area as specified in **Exhibit B1:** "Solid Waste Service Specifications."

B. Residential Recycling. Contractor must offer single-family residential Recycling Services as described in **Exhibit C1:** "Residential Recyclables Service Specifications," and multi-family residential Recycling Services as described in **Exhibit C2:** "Multi-Family Recyclables Collection." For residents in multi-family facilities, Basic Residential Recycling Collection Services will consist of not less than 12.5 gallons of multi-material recycling capacity per household per week or more if needed to prevent overflow.

C. Commercial and Industrial Solid Waste. Contractor must offer cart, bin, roll-off debris box, and compactor Collection Services specified in **Exhibit B1:** "Solid Waste Service Specifications" to all commercial and industrial establishments in the Franchise Area. Any commercial or industrial Solid Waste Generator not required by law to comply with this Franchise Agreement may, at their discretion, use the Services specified in this Agreement or may negotiate a separate contract for Solid Waste, Recyclables, or Organics Collection Services with Contractor.

D. Commercial and Industrial Recycling. Contractor must offer Recycling Services to commercial and industrial Customers in the Franchise Area as Customers deem appropriate, as specified in **Exhibit C3:** "Commercial, Industrial, and Institutional Multi-Material Recyclables Collection Service Specifications", and in **Exhibit C4:** "Single Materials Commercial Recycling Collection Services," and as otherwise specified by Authority. Single-Material Recyclables Collection Services will be offered at a rate no more than sixty percent (60%) of the rate for a comparable volume of Solid Waste Collection Service.

E. Containerized Organics Collection Services. Contractor must offer Containerized Organics Collections Services as described in **Exhibit D1:**

“Residential Organics Collection” and **Exhibit D2**: “Commercial Organics Collection.”

F. Special Collection Services. Contractor must provide the Authority-directed Collection Services specified in **Exhibit B2**: “Special Collection Services.”

5.04 Service Provisions and Conditions

A. Practicality of Service / List of Address-Specific Service Modifications. Contractor has the right to petition Authority on a case-by-case basis for the denial, discontinuation, or modification of services available to a residence or business for which the Collection of Solid Waste or Recyclables or Organics is not practical due to inaccessibility by a standard Collection vehicle. **Exhibit E**: “Board-Approved List Of Address-Specific Service Modifications” lists all such Board-approved address-specific exceptions and modifications to this Agreement approved by the Authority and may only be revised upon approval by the Board.

B. Vehicles. Contractor must provide a fleet of Collection vehicles sufficient in number and capacity to efficiently perform the work required by the Agreement in strict accordance with its terms. Contractor must maintain each piece of equipment used by it in the performance of this Agreement in good order and repair. Contractor must have available on Collection days sufficient back-up vehicles and qualified operators so as to ensure that all service standards and other terms of this Agreement are maintained at all times.

- (1) Specifications. All vehicles used by Contractor in providing Collection services under this Agreement must be registered with the California Department of Motor Vehicles and meet or exceed all legal standards. Contractor will maintain all of its Collection vehicles in compliance with the provisions of the California Vehicle Code. Each vehicle used by Contractor to provide Collection Services under this Agreement will have a functioning rear-view camera, in addition to audible back-up alarms.
- (2) Vehicle Identification. Contractor's name, local telephone number, and a unique vehicle identification number designed by Contractor for each vehicle will be prominently displayed on all vehicles, in letters and numbers no less than four (4) inches high. Contractor shall not place City's, County's, or Authority's logo on its vehicles, without prior approval.
- (3) Cleaning and Maintenance.
 - (a) **General.** Contractor must maintain all of its properties, facilities, and equipment used in providing services under this Agreement in a safe, neat, clean and operable condition at all

times. All equipment will be uniformly painted, and its appearance maintained to the satisfaction of the Director.

- (b) **Cleaning.** Vehicles used in the Collection of Solid Waste must be thoroughly washed and steam cleaned on a sufficient frequency so as to present a clean appearance and to minimize odors. All vehicles are to be painted on a sufficient frequency so as to present a satisfactory appearance, as determined by the Director. Graffiti is to be removed immediately. Authority may inspect vehicles at any time to determine compliance with sanitation requirements. Contractor shall make vehicles available to the County Health Department for inspection upon request.
- (c) **Maintenance.** Contractor shall inspect each vehicle daily to ensure that all equipment is operating properly [and does not leak any fluids]. Vehicles which are not operating properly must be taken out of service until they are repaired and operating properly. Contractor must perform [or have performed] all scheduled maintenance functions in accordance with the manufacturer's specifications and schedule. Contractor must keep accurate and detailed records of all vehicle maintenance, recorded according to date and mileage and shall make those records available to Authority upon request in accordance with Sections 6.06 and 6.07. Contractor will cause each vehicle used for Collections and transport services under this Agreement to be inspected at least once every twelve (12) months by the California Highway Patrol, as indicated by a sticker on each vehicle.
- (d) **Repairs.** Contractor must repair, or arrange for the repair of, all of its vehicles and equipment, including dents or other body damage, for which repairs are needed because of an accident, breakdown or other cause, so as to maintain all equipment in a neat, safe and operable condition. If an item of repair is covered by a warranty, Contractor will obtain warranty performance. Contractor must maintain accurate records of repair, which include the date/mileage, the nature of the repair, and the signature of a maintenance supervisor that the repair has been properly performed.
- (e) **Inventory.** Contractor must furnish sufficient equipment to provide all service required under this Agreement, including backup Collection vehicles. Contractor will furnish Authority a final written inventory of all vehicles ("Vehicle Inventory List") used in providing service thirty (30) days prior to the Commencement Date of this Agreement. The inventory is to list all vehicles by manufacturer, ID number, date of manufacture, date of acquisition, type, capacity and decibel

rating. Any material changes in or to the inventory must be submitted to the Director in writing at the time of implementation.

- (f) **Storage.** Contractor must arrange to store all vehicles and other equipment in a safe and secure location(s) in accordance with the appropriate jurisdiction's applicable zoning regulations. Contractor's storage of any bins or vehicles containing Solid Waste, Sludge, Organics, or Recyclable Materials must be explicitly permitted under the land use permit for the locations at which the Contractor conducts those activities. Contractor will provide a copy of the land use permit for each storage location upon request of the Director.
- (g) **Operation.** Vehicles must be operated in compliance with the California Vehicle Code, and all applicable safety laws and local ordinances. Contractor must not load vehicles in excess of the manufacturer's recommendations or limitations imposed by State or local weight restrictions on vehicles. Contractor will use all reasonable means to minimize any backing of Collection vehicles.

C. Personnel. Contractor must furnish qualified drivers, collectors, mechanics, supervisors, clerical staff and other personnel as necessary to provide the services required by this Agreement in a safe and efficient manner. Contractor will furnish Authority a final list of all personnel and their functional titles ("Personnel List") thirty (30) days prior to the Commencement Date of this Agreement. Any material changes in or to the list must be submitted to the Director in writing at the time of their implementation.

- (1) Communication Ability. All Collection workers must be able to read, write and speak English with sufficient proficiency to enable them to successfully provide the Collection Services under this Agreement.
- (2) Driver Qualifications. All drivers must be trained and qualified in the operation of Collection vehicles and must have a valid license issued by the California Department of Motor Vehicles, for the appropriate class with appropriate endorsements.
- (3) Identification Badge. Contractor must require its drivers and helpers to wear a uniform and identification badge.
- (4) Safety Training. Contractor must provide suitable operational and safety training for all of its employees who maintain, utilize, or operate vehicles or equipment for Collection of Solid Waste or who are otherwise directly involved in such Collection. Contractor must train its employees involved in Solid Waste Collection to identify Prohibited Wastes, and instruct them to not collect them and to

leave a non-collection tag as described in Sections 5.06 .C and 5.06.D.

- (5) No Gratuities. Contractor may not permit its employees to demand, solicit, or accept, directly or indirectly, any additional compensation or gratuity from members of the public for the Collection of Solid Waste under this Agreement.
- (6) Employee Appearance and Conduct. All employees, while engaged in collecting or gathering Solid Waste within the Franchise Area, must be dressed in suitable and acceptable uniforms. Contractor will use its best efforts to ensure that all employees present a neat appearance and conduct themselves in a courteous manner. Contractor will regularly train its employees in customer courtesy, will prohibit the use of loud or profane language, and will instruct Collection crews to perform the work as quietly as possible. If any employee is found to not be courteous or to not be performing services in the manner required by this Agreement, Contractor will take all appropriate corrective measures.
- (7) Provision of Field Supervision. Contractor must designate one qualified employee as supervisor of field operations. The field supervisor will devote adequate time in the field to provide quality control monitoring on Collection Services and operations, including responding to complaints and requests for delivery of services.
- (8) Contractor Not an Agent or Employee. Nothing in this Section 5.04 will affect Contractor's status as an independent contractor or makes Contractor an agent or employee of Authority.

5.05 Customer Initiation and Termination of Subscription Service

A. Initiation. Within five (5) working days of the date of the Customer's initial request for service, Contractor will initiate the requested service. If any such requested Collection Service is within the scope of services of this Agreement, and Contractor fails or refuses to initiate services within the prescribed time period, Contractor may be assessed a penalty. The failure of Contractor to provide requested services described within this Agreement for a six-week period, without Contractor submitting a request that the Board amend Exhibit E, may be considered a contributory cause to terminate this Agreement.

B. Termination. At any time during the period for which a Customer has paid for service, the Customer may terminate service. Customer must be reimbursed the balance of the amount paid for the remaining period, less a handling fee of \$5.00.

C. Temporary Suspension of Subscription Service. Any Customer that requests a temporary suspension for any pre-paid subscription service of two (2)

weeks or longer must be credited, for no additional charge, an extension of that Collection Service equal to one-half (1/2) of the duration of the suspension. For example, if a residential Customer has pre-paid for three (3) months of Collection Service and then requests a four (4) week temporary suspension of that service, when the Collection Service resumes, that Customer is to be credited to receive that Collection Service for two (2) additional weeks for no additional charge after those initial three (3) months have expired.

5.06 Collection Standards

A. Care of Private Property. Contractor's employees will use reasonable care in handling all Collection containers and enclosures. Contractor's employees must return all Collection containers after emptying them to within five (5) feet of the location from which they were picked up, upright with lids closed and/or properly secured. Contractor's employees will use all reasonable means to ensure Collection containers are not placed so as to obstruct pedestrian or vehicle traffic. Contractor will ensure that its employees close all gates opened by them, unless otherwise directed by the Customer, and avoid crossing landscaped areas and climbing or jumping over hedges and fences. Authority will refer all complaints about damage to private property to Contractor. Contractor must repair all damage to private property caused by its employees.

B. Noise. All Solid Waste Collection operations are to be conducted as quietly as possible and must conform to applicable Federal, State, Authority, County and City noise level regulations. Authority may conduct random checks of noise levels to ensure compliance. Contractor must promptly resolve any complaints of noise to the satisfaction of the Director.

C. Record of Notice, Warning, and Non-Collection Tags. When any Contractor-provided container of Solid Waste, Organics, or Recyclables placed for Collection is not collected by Contractor, Contractor must leave a tag, with text and layout pre-approved by the Director, printed on heavy card stock and at least 4" x 6" in size and not less than 12-point font, on which Contractor has provided its phone number, a check-box indicating if the tag is a Notice, a Warning, or a Non-Collection Tag, and additional check-boxes indicating the reason(s) for tagging the cart or bin, giving reference to the section of the Ordinance or to the Section of this Agreement which has been violated, and which gives grounds for its tagging and/or refusal.

- (1) Prohibited Waste. Carts or bins containing Prohibited Wastes may be tagged for non-collection whenever such banned materials are discovered in a cart, bin, or debris box placed for Collection. If a cart, bin, or debris box is tagged for non-Collection, Contractor will clearly indicate on that tag what the customer must do (such as removing Prohibited Wastes from the cart or bin) to enable and arrange for the Collection of the acceptable materials placed in that cart or bin.
- (2) Other Contaminants. For Organics or Recyclables carts or bins that have been placed for Collection and contain contaminants, non-

organic, and/or non-recyclable materials, Contractor and its drivers may at their discretion, leave a Director-approved tag checked as a Notice for the first offense, or a Warning for the second offense on the carts as an educational tool for the customer. When issuing Notice or Warning tags, Contractor will collect all the contents of such Organics or Recyclables cart or bin, and Contractor may leave uncollected in that cart or bin the contaminating material(s). If there is no additional basis for non-Collection, Contractor will collect all acceptable materials placed for Collection in Organics or Recyclable bins or carts with more than 10% contamination by weight or volume unless such customer has already been issued a (1) Notice, (2) Warning, and (3) Non-collection tag.

D. Taggings Log. In addition, Contractor must maintain, at its place of business, a log listing all taggings ("Taggings Log"). The Taggings Log shall contain the names and addresses of service address involved, the Customer, the date of tagging, Notice category (Notice, Warning, or Non-Collection), the reason for tagging, and the disposition of each case. The Taggings Log will be kept so that it may be inspected by representatives of Authority upon request. Contractor will deliver a copy of the Taggings Log to the Authority with the "Annual Solid Waste Generation Report."

5.07 Spilled Waste Abatement

A. Minimization of Spills. Contractor must use due care to prevent Solid Waste, Organics, or Recyclables from being spilled or scattered during Collection and transport. If any Solid Waste, Organics, or Recyclables are spilled during Collection, Contractor must promptly clean up all spilled materials. Each Collection vehicle must carry a broom and shovel at all times for this purpose. Contractor may not transfer loads from one vehicle to another on any public street, unless it is necessary to do so because of mechanical failure or accidental damage to a vehicle.

B. Clean-Up. During Collection, Contractor must clean up spilled waste in the immediate vicinity of any Solid Waste or Recyclables storage area (including the areas where Collection bins are delivered for Collection) regardless of whether Contractor caused the spilled waste. Contractor will discuss instances of repeated spillage with the Customer responsible in an attempt to rectify the problem. Contractor may refer uncooperative Customers to Authority, which will attempt to address the issues leading to the spillage.

C. Covering of Loads. Contractor will utilize all practical measures to prevent Solid Waste, Recyclables, Sludge, or Organics from leaking, spilling, or blowing out of Collection vehicles. No material may be transported to the Disposal Site or any other Solid Waste Management Facility in vehicle hoppers. In compliance with State law, Contractor must clear all truck hoppers, cover all debris boxes, compactor openings, and other receptacles containing loose

materials during transport to the Disposal Site or Recyclable Materials processor(s) or markets, or whenever Contractor's vehicles are transporting Solid Waste, Recyclable Materials, or Organics at speeds in excess of forty (40) miles per hour.

D. Fuel, Oil or Other Vehicle Fluid Spills. Contractor is responsible for cleaning-up all fuel, oil, or vehicle fluid spills without delay and must notify the Fire Department or other appropriate government agency immediately following any spill with the potential to impact the environment or threaten public safety, or as otherwise required by Applicable Law. All vehicles must carry an acceptable absorbent material to use in the event of spills. Repair or remediation for damages caused by fuel, oil, or other vehicle fluid spills will be at Contractor's sole expense.

5.08 Transportation of Solid Waste

A. Designated Disposal Sites. Contractor will transport all Solid Waste collected under this Agreement, and all other Solid Waste collected by Contractor within the County under separate contract to the designated Disposal Site. Authority may designate alternate Disposal Site(s) at any time during the term of this Agreement without consultation or consent of Contractor. Contractor will not be entitled to any rate increase for transporting Solid Waste to any alternative site, so long as the distance to the alternate site from the Del Norte County Transfer Station does not exceed a distance of ten (10) miles.

B. Records. Contractor must maintain accurate records of the quantities of Solid Waste transported to the Disposal Site(s) and will cooperate with Authority in any audits or investigations of those quantities.

C. Cooperation. Contractor must cooperate with the operator of the Disposal Site(s) with regard to operations, including, but not limited to, complying with directions from the operator to unload Collection vehicles in designated areas, accommodating maintenance operations and construction at the facilities, cooperating with the operator's Hazardous Waste Exclusion Program, and conducting quarterly Disposal-based accounting surveys.

5.09 Processing of Materials

A. Right to Direct Materials. Authority reserves the right, prior to Disposal, to direct any or all Materials Collected under this Agreement to a material recovery, Recycling, composting or other Solid Waste Management Facility for the processing of Materials. If the Authority exercises its right to direct materials collected under this Franchise Agreement by Contractor to a specific facility, Contractor may charge approved rates to collect any residual contaminating material fractions removed during processing at that facility.

B. Identification of Recoverable Materials. Upon request of Authority, Contractor agrees to assist Authority in identifying loads suitable for processing at material recovery, Recycling, composting, conversion, biomass or other Solid

Waste Management Facilities, and to modify routes or storage and Collection procedures, as directed by Authority, to increase the quality or recoverability of materials generated by Customers.

5.10 Disposal of Solid Waste

Contractor must dispose of all Solid Waste collected under this Agreement at the designated Disposal Site. Unless and until Authority approves otherwise, in writing, the designated Disposal Site is the Del Norte County Transfer Station, located at 1700 State Street, Crescent City, California.

5.11 Hazardous Waste

A. Hazardous Waste Identification. Contractor is to file with Authority within sixty (60) days of the Date of Execution of this Agreement, a plan for identifying and separating or containing Hazardous, Prohibited, or Medical and Infectious Waste placed for Collection by residential and commercial or industrial Customers ("Hazardous Waste Management Plan").

B. General. If Contractor determines that waste placed in a container for Collection or delivered to any facility is Hazardous, Prohibited, Medical and Infectious Waste, or other waste that may not legally be disposed of at the Disposal Site or presents a hazard to Contractor's employees, Contractor may refuse to accept the waste. The Customer will be contacted by Contractor and asked to remove the material from the Collection container and to arrange for proper Disposal. If the Customer cannot be reached immediately, Contractor shall, prior to leaving the premises, leave a non-collection tag, in accordance with **Sections 5.06.C and 5.06.D.**

C. Undetected Prohibited Waste. If any of the waste described in **Section 5.11.B** is delivered to the Disposal Site before its presence is detected and the Customer cannot be identified or fails to remove the waste after being asked to do so, Contractor will arrange for its proper Disposal at no cost to Authority. Contractor will make a good faith effort to recover the cost of proper Disposal from the Customer, and the cost of this effort as well as the cost of Disposal, are chargeable to the Customer. If the Customer cannot be identified, Contractor will absorb the cost of proper Disposal. Contractor shall report any such Disposal cost in writing to the Authority within forty-eight (48) hours of the date it is incurred. If operations staff at the Disposal site find Prohibited Wastes which can be directly attributed to materials unloaded by Contractor, Authority staff will have the discretion to return those Prohibited Wastes to Contractor for proper storage and Disposal, or to properly store, process and dispose of those Prohibited Wastes. Authority staff may also contact Contractor and offer to return the materials to Contractor, or to properly dispose of the Prohibited Wastes or hazardous materials and charge Contractor accordingly.

D. Hazardous Waste Indemnification. Contractor must indemnify, defend with attorney(s) approved by indemnitees, protect and hold harmless City, County, and Authority and their officers, employees, agents, successors, and

assigns from and against all claims and causes of action (whether brought in judicial or administrative proceedings) for: damages, costs of suit, attorneys' fees, and interest; fines, charges, and penalties; response, remediation, and removal costs; and all other reasonably related expenses, that arise from, or are attributable to:

- (1) Any spill or release of Hazardous Waste by Contractor, or similar event, occurring during the Term of this Agreement, including, but not limited to, storage, Collection, transport, transfer, Disposal, repair, clean up, or detoxification activities; or
- (2) The preparation and implementation of any removal, remedial response, closure, or other plan, regardless of whether undertaken due to governmental action (and regardless of whether the event occurred during or after the Term of this Agreement) concerning Hazardous Waste at any location where Contractor transports, stores, or disposes of Solid Waste pursuant to this Agreement.

5.12 Processing and Marketing Services

A. Recyclable Materials Processing and Marketing Contractor will be responsible for the transport, processing, and marketing of all Recyclable Materials collected through Recycling services provided under this Agreement, except for those portions of the Solid Waste stream which the Authority has otherwise directed as allowed under **Section 5.09.A**. In accordance with, and without limiting the scope of, the indemnification provisions of **Article 8** of this Agreement, Contractor will defend, indemnify and hold harmless City, County and Authority from any damages that may be caused from the sorting, cleansing, treatment, processing or reconstitution of all marketed Recyclable Materials. If Contractor uses one or more subcontractors to process Recyclable Materials collected under this Agreement, Contractor must provide to the the Director a copy of the Agreement ("Processing Agreement") between the Contractor and the subcontractor(s) ("Processor") providing processing and marketing services for materials collected under this Franchise Agreement within sixty (60) days of the Date of Execution of this Agreement. A Processing Agreement must contain the following provisions:

- (1) Authority as Third-party Beneficiary to Processing Agreement. The executed Processing Agreement(s) between Contractor and Processor(s) must include formal acknowledgement by all signatories that the Recycling Collection Services to be provided under the Franchise Collection Agreement are inherently dependent on the processing and marketing of the Recyclable Materials collected, and that Authority, as well as Contractor and Processor, benefit from an agreement which specifies where and how Recyclable Materials collected under the Franchise Agreement are to be reliably processed and marketed.

- (2) Performance and Reliability of Recyclables Receiving Area at Processor. The executed Processing Agreement(s) between Contractor and Processor must include provisions describing the availability and capacity of areas for Contractor to unload Recyclable Materials for processing and marketing, and assuring that those areas will be available to Contractor, or alternative Recyclable Material unloading areas be identified, at all times that Recyclables are collected under the Franchise Collection Agreement.
- (3) Materials Processed and Marketed. The executed Processing Agreement(s) between Contractor and Processor must include provisions describing the Recyclable Material categories under which the separated and processed materials will be marketed. Descriptions of the Recyclable Material categories will provide descriptions of what can be included within each Recyclable Material category, unacceptable materials which are often intermingled with a Recyclable Material category which will be removed during processing, how each material will be processed, and addresses of one or more manufacturers that use the Recycled Material in subsequent manufacturing of recycled-content product. The Processing Agreement must specify that, without prior written approval of the Director, neither Contractor nor Processor may send any processed Recyclable Material collected by Contractor as part of a Franchise Recycling service to an end user who could reasonably be expected to use such material for Disposal as Solid Waste, illegal dumping on land, dumping at sea or in waterways, incineration or energy recovery, use as fill or landfill cover material, or for use in road construction.
- (4) Processing Residuals to be managed by Contractor. The executed Processing Agreement(s) between the Contractor and Processor must include provisions that Contractor will be responsible for providing containers and collecting and disposing of Solid Waste materials from carts or bins used by Processor for the disposal of contaminating items and materials removed from the Recyclable Materials delivered by Contractor at no cost to Processor.
- (5) Authority Indemnified. Parties to the executed Processing Agreement(s) between Contractor and Processor will defend, indemnify and hold harmless City, County and Authority from any damages that may be caused from the Collection, sorting, and processing of Recyclable Materials, in accordance with, and without limiting the scope of, the indemnification provisions of **Article 8.**
- (6) Term of Processing Agreement. Contractor will maintain access to Processing facilities as needed to process and market Recyclables Collected under the Franchise Agreement. Access will be

maintained through Contractors' ownership and operation of a processing facility or Executed Processing Agreement(s) between Contractor and necessary Processor(s) throughout the entire Term of the Franchise Agreement, though the Term of each Processing Agreement may be shorter than the Term of the Franchise Agreement. Contractor will provide the Authority written notice not less than ninety (90) days prior to the expiration of any such Processing Agreement, with an explanation of the Contractor's plans to maintain access to necessary processing facilities during the remaining Term of this Franchise Agreement.

- B. Organics Delivery.** Contractor is responsible for the delivery of all Organics collected through Containerized Organics Collection Services provided under this Agreement to the Del Norte County Transfer Station brush area, or to an alternative location designated by the Director.
- C. Organics Processing.** Contractor must take all necessary steps, including inspection, sorting, or processing prior to delivery, to ensure that Organics delivered to the brush unloading area of the Del Norte County Transfer Station do not contain any rocks, concrete, metal objects weighing more than two (2) pounds, or limbs of greater than six (6) inches in diameter.
- D. Separate Collection.** Contractor may not mix Solid Waste, Recyclables, or Organics during or after Collection. Each category must be collected separately and delivered to the designated site for that category.

5.13 Authority's Role as Public Advocate

- A. Local Laws and Policies.** The Authority's Board of Commissioners includes elected representatives. The Board will from time to time adopt policies, ordinances, resolutions, and use other tools of advocacy as they deem necessary regarding extended producer responsibility, waste prevention, reuse, Solid Waste, Recycling, composting, litter abatement, Prohibited or Hazardous Waste management, Recycling market development, regional cooperation and coordination, and related laws and regulations. In pursuit of those policies or advocating for them, Contractor may be asked to participate in policy analysis or to provide supplemental information which the Authority may use in advocacy or program development. By agreeing to provide the Collection Services described in this Agreement, Contractor acknowledges the Authority's rights and responsibilities to advocate for policies, laws, regulations, and ordinances that the Board determines to be in the public interest related to the Authority's responsibilities and powers.
- B. State Disposal Bans.** State agencies have banned a variety of items from mixed waste disposal, and additional disposal bans may be implemented during the Term of this Agreement. To comply with these

disposal bans, Contractor is responsible for taking reasonable steps to identify, separate, and prevent improper disposal of these products and materials or their placement in Solid Waste, Organics, or Recycling containers. Contractor agrees to cooperate in implementation of all policies and programs adopted by the Authority for managing materials and products banned from mixed waste disposal.

5.14 Authority's Right to Change Scope of Work or Schedule

Authority may require changes in existing services or schedules and Contractor must comply. If such changes result in increased costs or decreased revenues to Contractor, Contractor will have the right to apply for a special rate review and adjustment pursuant to **Section 7.03** "Special Rate Adjustment." If changes in existing services or new services result in decreased costs or increased revenues to Contractor, Authority will have the right to reduce Contractor's maximum rates accordingly.

5.15 Additional Services

A. Request for Proposal. At Authority's request, Contractor will provide any other exclusive or non-exclusive services ("New Service") not covered by this Franchise upon receiving a written request from Authority. Authority will establish an appropriate rate for the New Service and allow sufficient lead time before the Start of Service date. Contractor may also submit unsolicited written proposals to Authority for the provision of any other exclusive or non-exclusive services not granted by this Franchise. Contractor's implementation of any proposed services is contingent upon Authority approval, and subject to the establishment of an appropriate rate for the New Service pursuant to **Section 7.04** "Rates for Additional New Services." If a mutually acceptable rate for the New Service cannot be negotiated between Authority and Contractor within a reasonable time, Authority maintains the right to solicit other bids or proposals for such New Service.

B. Rate Adjustment. For New Services instituted after the Commencement Date for this Agreement, Contractor will be entitled to an annual CPI-based rate adjustment under **Section 7.02** to the same extent as rates existing on the Commencement Date. The New Services rate adjustment will be measured from the implementation date of the New Service rather than from the Commencement Date of the Agreement. The Beginning Consumer Price Index for each New Service will be the Consumer Price Index for all urban consumers published for the month nearest the date each New Service went into effect.

C. Formula. For ease of spreadsheet calculations and in order to use the same mathematical formula to calculate all annual rate adjustments, Authority may assign an artificial amount for the "Commencement Day Rate" for the New Service to reflect what the rate would have been on the Commencement Date of the Agreement if the service had been available at that time. Thereafter, Authority may use the formula as set forth in **Section 7.02** that is applicable for all rates in existence on the Commencement Date of the Franchise Agreement.

Use of these artificial amounts is for ease of calculation of future rate adjustments only and may not increase or decrease the amount of the adjusted rate from what the rate would have been applying the formula exactly as set forth in the Franchise Agreement as amended (except for the adjustment of the Beginning Index to reflect the different effective date for each new Service). The artificial amount of any New Service will be determined using the same CPI Index as provided in this Agreement. Use of the artificial "Commencement Day Rate" will avoid applying a different formula and Beginning Index for each New Service initiated after the Commencement Date of this Agreement.

5.16 Cancellation of Services

Authority retains the right to cancel any services specified in Article 5 for reasons of convenience, at any time and in its sole discretion, prior to expiration of the Term or conclusion of work provided for in this Agreement. In the event of a cancellation, Authority must notify Contractor in writing at least thirty (30) days in advance of the effective date of cancellation. Contractor may petition Authority within one-hundred-eighty (180) days of receiving notification of cancellation for recovery of reasonable costs of fixed obligations and wind-down costs as a direct result of cancelled service. If Authority and Contractor cannot agree on reasonable costs, either party may submit the dispute to binding arbitration pursuant to **Section 10.07**.

5.17 Solid Waste Collection, Recycling and Generation Reports

A. Quarterly Solid Waste and Organics Reports. Contractor will keep monthly records of the total tonnage of Solid Waste and total tonnage of Organics collected within the Franchise Area and the disposition of the materials collected, with Organics and Solid Waste separately reported according to the following service categories: (1) single family residential, (2) multi-family residential, (3) commercial cart services, (4) residential bin service, (5) commercial bin service, (6) debris box service, (7) temporary service, (8) compactor service, and (9) other services. The Organics Report will also report tonnages collected during the Spring Cleanup Week as described in **Exhibit B1, Section B.5(c)**, following quarters when this service is provided. If Contractor uses a single truck route to collect from Customers with multiple service categories, the tonnage for each truck route may be allocated based on the proportional container volumes from each service category on that route. Contractor will provide a copy of these records to Authority within fourteen (14) calendar days of the end of each quarter ("Quarterly Solid Waste and Organics Report" or "Quarterly Report"). The Quarterly Report is to include an Excel spreadsheet, (by verified e-mail transmission, on USB Flash Drive, or CD-ROM that can be read on an IBM-compatible computer) which includes the number of accounts, type of account, Customer names and contact phone number, and address of Collection locations for each service category.

B. Annual Solid Waste and Organics Reports. Contractor must also provide Authority with an annual report summarizing the four Quarterly Reports ("Annual Solid Waste Collection Report").

C. Participation in Quarterly Disposal Surveys. Contractor will participate in quarterly Disposal-based reporting surveys as necessary. During standard survey weeks as specified in California Code of Regulations § 18805 (currently, March 8 through March 14, June 8 through June 14, September 8 through September 14, and December 8 through December 14), or as otherwise scheduled by Authority or Disposal Site operator, Contractor will provide, at the time of Disposal, an estimate of the number of tons collected from each jurisdiction of the Franchise Area for each given load for the duration of each survey period. The method of estimating tons must be in accordance with requirements of California Code of Regulations § 18808(a)(2). Contractor will also provide all appropriate information required under § 18808(b) and (c). Contractor will prepare reports that comply with all applicable state Disposal-based reporting requirements.

D. Quarterly Recycling Reports. Contractor will keep monthly records of the total tonnage of Recyclables collected within the Franchise Area, separated by material type and source, according to the following service categories: (1) single-family residential, (2) multi-family residential, (3) commercial cart services, (4) residential bin service, (5) commercial bin service, (6) debris box service, (7) drop-off recycling bin service, 8) temporary recycling services, (9) single-material commercial recycling, and (10) other services. Contractor will provide a copy of these records to Authority within fourteen (14) calendar days of the end of each quarter ("Quarterly Recycling Report"). The Recyclables Report will separately report the tonnage of each Recyclable Material type collected during the previous quarter, as indicated in **Exhibit C1, Section A**. The Quarterly Recycling Report must specify the name and location of firms where each material was marketed, types and quantities of materials marketed, and unit revenue (or net processing and marketing cost, if negative) received for each material type. Quarterly Reports must include copies of all supporting receipts. The Quarterly Recycling Report is also to include an Excel spreadsheet (by verified e-mail transmission, on USB Flash Drive, or CD-ROM which can be read on an IBM-compatible computer) that includes a listing by service category, of account names and contact phone numbers, Customer addresses, and service addresses receiving Recyclables Collection Services. Participation rates for each service category are also to be reported. The Quarterly Recycling Report must include copies of the each of the Contractor's supporting monthly records for that quarter.

E. Annual Recycling Report. The Contractor must also provide the Authority with an Annual Report summarizing the four Quarterly Recycling Reports ("Annual Recycling Report"). Records of costs of, and income from, the Recycling program are to be kept separate from Solid Waste or Organics income, and made available to Authority and other interested public agencies at all reasonable times. Contractor will provide Authority with updates on elements of its Recycling public education and promotion program whenever changes are made. Contractor will also keep records on the number and type of contracts that it makes with businesses, community organizations and citizen advisory groups for the purpose of public education or advocacy, and submit a copy of these records to Authority with the "Annual Recycling Report."

F. Annual Generation Report. The Annual Solid Waste and Organics Reports and Annual Recycling Reports will be submitted as part of an "Annual Generation Report" for each Franchise Area which will provide the overall and separated tonnage of Solid Waste and Organics generated within each Franchise Area by service category, and the associated Recycling tonnages by service category and material type, and the overall Franchise Area Recycling rate. The Annual Generation Report must also include a complete list, on an Excel spreadsheet, by verified e-mail transmission, on USB Flash Drive, or CD-ROM that can be read on an IBM-compatible computer, of the routes, account names and contact information, addresses of Collection locations, and level and days of service provided by service category. In addition, Contractor will provide any other information or reports that may reasonably be required by Authority or required by Applicable Law. No annual rate increase may be approved if one or more of the Quarterly Reports due to the Authority has not been received.

5.18 Discretionary Review of Performance and Quality of Service

A. Public Hearing. Upon thirty (30) days written notice to Contractor, Authority may conduct public hearings at which Contractor may be present and may participate, to review Contractor's performance and quality of service and to provide for technological and regulatory changes. The reports required by this Agreement regarding Customer complaints may be utilized as a basis for review. In addition, any person or entity in the Franchise Area may submit comments or complaints during the public hearing, either orally or in writing. Authority will consider these comments and complaints in its performance review. Discretionary performance and service quality review hearings may be scheduled by Authority at any time throughout the Term of this Agreement, and are separate from performance review measures undertaken as part of the process outlined in **Article 6 and/or Section 7.07.**

B. Performance Report. Within sixty (60) days after the conclusion of the public hearing, Authority will issue a report with respect to the adequacy of performance and quality of service. If any noncompliance with the Franchise is found, Authority may direct Contractor to correct the inadequacies in accordance with the terms of this Agreement.

ARTICLE 6. OTHER COLLECTION RELATED SERVICES, STANDARDS AND AGREEMENTS

6.01 Billing and Rates

A. Advance Billing. Contractor may bill Customers in advance of providing service. Contractor may bill accounts on a quarterly basis for services to be rendered. Customers must be notified on each bill that they may make monthly payments. Authority, City and County, and their officers, employees, agents and representatives may not be held liable or responsible for the payment of service

rates or charges due Contractor for services under this Agreement within Franchise Area limits, except for Contractor's services requested by Authority and not otherwise compensated within the terms of this Agreement.

B. Approved Maximum Rates. Contractor may not charge any amount in excess of the maximum rates approved for any services required or permitted to be performed by the terms of this Agreement, including, but not limited to, all services described in **Section 5.03**. The approved maximum service rates are those set forth in **Exhibit F "Rates and Service Fees,"** attached hereto and incorporated by reference, or as the schedule may hereafter be amended by resolution of the Board.

C. Interim Rates. Contractor may offer Collection Services to Customers within the Franchise Area not described in this Agreement, but Contractor will inform the Director of the service requested and the proposed rate to the Customer. If time does not allow for Board approval prior to implementation of the New Service, the Director may approve an interim rate to be charged by Contractor for the New Service until a maximum rate may be approved by the Board. Director's approval must be in written form describing the service, the rate to the Customer, and the date the interim rate was approved.

6.02 Annual Financial Reports

Contractor must submit audited annual financial statements consisting of a current balance sheet and income and expense statement, and related consolidated statement of financial operations. All statements and reports must be submitted not later than four (4) months following the end of Contractor's annual accounting period. Statements must clearly show financial information for services provided under this Agreement separate from all other operations of Contractor, its affiliates or parent companies, if any.

Any expenses shared with, or payments made to, any Related Party of Contractor are to be explained in detail including documentation to justify the level of payment for shared expenses.

6.03 Annual Audit of Financial Statements and Reports

Annual financial statements and reports submitted by Contractor pursuant to **Section 6.02** must be audited and certified to by an independent certified public accounting firm. Contractor will bear the expense of these audits. Contractor will notify Authority of its choice of accounting firm no later than fifteen (15) days prior to initiation of the annual audit.

6.04 Annual Audit of Billings

If Authority determines the situation so warrants, it may make a written request to the independent certified public accountant to conduct an audit of billings in conjunction with the annual audit of Contractor's financial statements and reports. The independent

certified public accountant must comply with this request. The intent of a billings audit is to verify that each Customer is receiving the level of service for which they are billed. The audit will cover a statistically significant sample of Customers. The results of the Audit will be provided to Authority in a written report ("Audit of Billings") submitted to Authority along with Contractor's audited financial statements and reports no later than four (4) months following the end of Contractor's annual accounting period. The scope of the audit and the auditor's work plan must be submitted to the Director for approval within ninety (90) days of the end of the Contractor's annual accounting period. Contractor will bear the expense of this audit.

6.05 Contractor's Duty to Maintain Records

Contractor must maintain accounting, customer, route, and statistical records as may be necessary to develop the financial statements, Quarterly and Annual reports prescribed by Authority.

6.06 Right to Inspect Records

Authority has the right to inspect and review the income tax returns, payroll tax reports, route maps, customer lists, other specific documents or records required pursuant to this Agreement, and all other similar records or reports of Contractor that Authority may consider necessary to evaluate annual reports and Contractor's performance under this Agreement.

6.07 Inspection by Authority

The designated representatives of Authority have the right to observe and review Contractor's operations and equipment, and to enter Contractor's premises for the purposes of those observations and review at any time without prior notification. Authority has the right to review and inspect Contractor's records and to enter premises for the purposes of the review and inspection of records during regular office hours and without prior notification.

6.08 Public/Customer Service and Accessibility

A. Office and Corporation Yard Location. Contractor must maintain a business office and a corporation yard in Del Norte County for the purposes of carrying out its obligations under this Agreement. The Office is to be located within ten (10) miles of the City Hall in Crescent City as a matter of convenience to the population of the Franchise Area.

B. Office Hours. Contractor's office is to be open to the public, at a minimum from 8:00 A.M. to 5:00 P.M., Monday through Friday. The office may be closed on Saturdays and Sundays and the following holidays: January 1; Easter Sunday; Memorial Day; July 4; Labor Day; Thanksgiving Day; and Christmas Day.

C. Availability of Representatives. A representative of Contractor must be available at Contractor's local office during office hours to communicate with the public in person and by telephone.

D. Telephone. Contractor will maintain a toll-free telephone system in operation at its local office during office hours. Contractor will install telephone equipment, and have available service representatives sufficient to handle the volume of calls typically experienced on the busiest days. Contractor will also maintain an after-hours telephone number for use during times outside regular office hours. Contractor will have a representative or answering service available to answer the after-hours toll-free telephone number during all hours other than regular office hours. Any recording must provide an additional number to call in the event of an emergency. Contractor will provide Authority the means to contact Contractor directly by telephone on a 24-hour basis for an event of emergency. Customers must be able, with reasonable convenience, to reach Contractor's office by phone during office hours.

E. Website. Contractor will maintain a website address with current rate information, descriptions of the services available, services included with residential cart or bin subscriptions, and a list of acceptable materials within each bag, cart, bin, or debris box, for all services in **Article 5.03** offered to the general public. The home-page of the website will include a link to Authority's website: www.recycledelnorte.ca.gov. Contractor will include on this website the content of all current information cards and billing inserts, as described in the following section, and will update information on the website within thirty (30) days of any change in service or rates.

E. Customer Information. In addition to the requirements described in the Exhibits to this Agreement, Authority may direct Contractor to prepare information cards containing information about Recycling, Organics, and Solid Waste Collection Services which may include, but not be limited to, times for special Collection events, Collection schedules, current rates and complaint procedures. Contractor will distribute information cards to the occupants of all residential and commercial premises as part of the normal billing process. Information cards will include the phone number and website address for Contractor. Information cards will be revised and distributed at least once each year of the Term, and more often if there is any material change in the information. Information cards will also be mailed by Contractor to Franchise Area residents upon request and provided to the Chamber of Commerce in quantities requested by the Chamber. Contractor will submit proofs of the information cards to Authority prior to printing and distribution and incorporate Authority's comments in the final version distributed to the public.

G. Billing Inserts. In addition, Authority reserves the right to require Contractor to include specific bill inserts provided by Authority in up to four (4) billings per year. Authority will supply sufficient numbers of such bill inserts to Contractor in a format suitable for insertion in billing envelopes. Authority-provided bill inserts are to be incorporated into billings at no cost to Authority. If Contractor's billing system is not compatible with inserts or information cards,

Contractor will develop, and upon Director's approval, implement a program providing an equivalent level of customer information service.

6.09 Service Complaints

A. Complaint Log. Contractor will maintain a written log of all oral and written service complaints registered with Contractor from customers or the public within the Franchise Area ("Complaint Log"). Complaints and Contractor responses pertaining solely to delayed Collections associated with Holidays do not, however, need to be reported on the Complaint Log. Contractor will be responsible for giving prompt and courteous attention to, and attempting a prompt and reasonable resolution of, all Customer complaints. Customer complaints that cannot be reasonably resolved may be appealed to the Board for final resolution. Contractor will record in the Complaint Log all written and oral complaints, noting the name and address of complainant, date and time of complaint, nature of complaint, and nature and date of the resolution. The Complaint Log must be kept so that it can be conveniently inspected by representatives of Authority upon request. Contractor will deliver a legible copy of the Complaint Log, along with the quarterly reports described in **Section 5.17**, or upon request of the Director, reflecting action to that date to Authority for retention.

B. Complaint Response. Contractor must respond to all complaints from Customers within twenty-four (24) hours, Saturdays, Sundays and Authority-approved Holidays excluded. In particular, if a complaint involves a failure to collect Solid Waste from premises, as required by this Agreement, Contractor must collect the Solid Waste in question within twenty-four (24) hours so long as it has been Placed for Collection in accordance with Applicable Law.

6.10 Title to Solid Waste and Recyclables

A. Point of Collection. All Solid Waste, Organics, and Recyclables collected pursuant to this Agreement become the property of Contractor at the point of Collection, however, Authority may elect to retain ownership of all or select portions of the Solid Waste, Organics, and Recyclables collected by notifying Contractor of its decision in writing. The decision will only affect the ownership of those portions of Solid Waste, Organics, and Recyclables collected by Contractor after delivery of the notice and may not be applied retroactively. Authority retains the right, at all times, to direct Disposal or processing of all portions of the Solid Waste, Organics, and Recyclables collected under this Agreement.

B. Flow Control. At the time of granting of this Franchise, Authority has pledged the revenues derived from the gate receipts at the Del Norte County Transfer Station as security for funding the post-closure maintenance of the Crescent City Landfill. Furthermore, revenues from the Del Norte County Transfer Station are used by Authority to provide outreach and education, and to meet the requirements of the California Integrated Waste Management Act of

1989. The law may someday limit the ability of local communities to control the waste stream once in the possession of private haulers. The Authority must plan for the future needs of the community and meet its commitments. Therefore, as a material inducement to the Authority entering into this Franchise, Contractor covenants not to challenge Authority's right of flow control set forth in this Agreement in any legal or administrative proceeding (whether as an affirmative claim, a defense, or in any other manner), regardless of any later change or clarification in the law. The Authority's right to control the flow of Solid Waste, Organics, and Recyclables, as provided in this section is binding and enforceable.

6.11 Non-Discrimination

Contractor will not discriminate in the provision of services or the employment of persons engaged in the performance of this Agreement on account of race, religious creed, color, national origin, physical handicap, marital status, gender, or sexual orientation, or as otherwise prohibited by law.

6.12 Change in Collection Operations, Administration or Schedule

Contractor will notify the Director in writing of any material change in or to the Collection operation (e.g. vehicle routes, equipment type or number, crew size), administration (e.g., management and employees), or schedule, at least (14) days prior to implementation of the material change. Any changes to the Collection operation must meet the service standards and other terms of this Agreement. In the case of changes to the Collection schedule Contractor must also notify all affected Customers at least (14) days prior to any change in the day on which that Collection is to occur. Contractor may not allow any Customer to go more than seven (7) days without service as a result of a Collection schedule change.

6.13 Report Accumulation of Solid Waste: Unauthorized Dumping

Contractor will direct its drivers to note the addresses of any premises at which they observe Solid Waste that is accumulating and not being delivered for Collection. Drivers should also note any address, or other location description, at which Solid Waste has been dumped in an apparently unauthorized or unlawful manner. Contractor will deliver the address or description to Authority within three (3) working days of the observation.

6.14 Additional Programs and Services.

Contractor will provide the following programs and services at no additional cost: Diversion Blitz, Internship Program, Coats for Kids Program, School Recycling Redemption Program, Winter Clean-Up – Holiday Trees, and Carbon Footprint Measurement. These services and programs are further detailed in Exhibit I.

6.15 Delinquent Account Collections

A. Delinquent Accounts. Contractor may submit to Authority a list of delinquent accounts along with such other information as may be required by Authority. Following receipt of all necessary information from Contractor, Authority will assist Contractor in collecting the delinquent accounts by placing liens against the delinquent parcels, subject to the terms of Authority ordinances. Upon collection of any such delinquent accounts by Authority, all amounts so collected will be accounted for and remitted to Contractor, except Authority will retain any penalties or administrative fees collected.

B. Authority-Ordered Franchise Subscription. If Authority orders a Responsible Party (defined in Ordinance No. 2008-01, Section 2.43) to subscribe to Solid Waste Collection Services, Contractor will not terminate Collection Services for failure to pay. Contractor may instead include the accounts with the list of all other delinquent accounts submitted to Authority under Section 6.14(A). These accounts will be collected in the same manner as all other delinquent accounts. Authority will notify Contractor of accounts that are under Authority-ordered subscription, including the length and/or termination of the order.

ARTICLE 7. SERVICE RATES AND REVIEWS

7.01 Contractor's Rates

Contractor will perform the responsibilities and duties described in this Agreement and its Exhibits in accordance with the maximum rates set forth in **Exhibit F** ("Rates and Service Fees"). The maximum rates set forth in **Exhibit F** will remain in effect until adjusted by Authority by resolution or ordinance of the Board. Authority will not pay for any services received under this Agreement, except for services provided under **Exhibit B2, Section B**, and other specific additional services requested by the Director.

7.02 Annual CPI-Based Maximum Rate Adjustment

A. Annual Application. Subject to the terms contained in this section, Contractor will be entitled to one maximum rate adjustment per year on the anniversary date of the Commencement Date of this Agreement, or as soon thereafter as Authority and Contractor may agree, beginning on July 1, 2012. Contractor must submit a written application for the adjustment at least one hundred twenty (120) days prior to the effective date of the adjustment sought by Contractor, including a statement that all due Quarterly Reports have been provided to the Authority as required under **Section 5.17**. This application must include the Extension Index described below. After Contractor has submitted its request for adjustment as provided in this section, the parties must act with all diligence to adjust the maximum rates as set forth hereunder.

B. Formula. The basis for computing the adjustment is the Consumer Price Index (CPI) for the U.S. City Average for All Urban Consumers, published by the United States Department of Labor, Bureau of Labor Statistics ("Index"), published for the month nearest the Commencement Date of this Agreement

("Beginning Index"). If the Index published for February prior to the rate application ("Extension Index") has increased over the Beginning Index, the maximum rates for the following year (until the next adjustment) will be set by the following formula:

$$\text{New Max Rates} = \text{Commencement Day Rates} \times \left(\frac{\text{Extension Index} - \text{Beginning Index}}{\text{Beginning Index}} \times \text{"PCPII"} + 1 \right)$$

where "PCPII" is the Percent of the CPI Increase as bid by Contractor in Exhibit D.

Example calculation:

Assume: Commencement Day Rate for one 32 gallon cart each week "on curb" = \$28.20/month

Beginning index = 100

Extension Index = 110

"PCPII" bid by Contractor = 85%

$$\text{Then: New Max Rate} = \$28.20 \times \left(\frac{110 - 100}{100} \times 0.85 + 1 \right) = \$30.60/\text{month}$$

C. Replacement Index. If the CPI is changed so that the base year differs from that used as of the month in which the Term commences, the CPI will be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the CPI is discontinued or revised during the Term, the government index or computation with which it is replaced will be used in order to obtain substantially the same result as would be obtained if the CPI had not been discontinued or revised.

D. Revised Schedule of Rates. Upon acceptance by the Director and upon resolution or ordinance of the Board, as may be required by law to adjust rates, the revised "Schedule of Rates" will take effect no earlier than the anniversary date of the Commencement Date of this Agreement.

7.03 Special Rate Adjustment

A. Circumstances that Affect Ability to Perform. Contractor may apply to Authority for consideration of a special rate adjustment should an event or circumstance arise which materially affects Contractor's ability to perform under this Agreement resulting from one or more of the following:

- (1) Mandatory changes in Disposal methods or sites by any political body which may now or in the future have legal jurisdiction.
- (2) Changes in State or local fees mandated to be collected by Contractor.
- (3) Flood, earthquake, other acts of God, war, civil insurrection, riots, or other similar catastrophic events beyond the control of Contractor.

B. Circumstances that Increase Costs of Operation. Contractor may apply to Authority for consideration of a special rate adjustment should an event or circumstance arise which is a result of one or more of the following:

- (1) Any change in law that increases the annual cost of Contractor's operation relating to this Franchise Agreement by more than five (5) percent.
- (2) Mandatory changes to operations as provided under **Section 5.14**.
- (3) Tip fees at the Del Norte County Transfer Station for mixed wastes increase by more than five (5) percent since the Commencement Date, or since the date when the disposal components of rates were most recently adjusted.

C. Authority Review. Upon request of a special rate adjustment, Authority will have the right to review any or all costs associated with Contractor's services under this Agreement and may consider any rate adjustments granted pursuant to **Section 7.03**.

D. Six Months Notice. In order to allow Authority adequate time to review a request for a special rate adjustment, to draft appropriate ordinances and to set public hearings as may be necessary, Contractor must submit its request for an adjustment of service rates, and reasonable cost and operational data, in the form and manner specified by the Director, at least six (6) months prior to the proposed effective date of any rate adjustment.

E. Limit of Requests; Exception. Requests for special rate review and adjustment may be made at Contractor's discretion, except that Contractor may seek no more than a single annual adjustment to become effective at the time of the Consumer Price Index adjustment. Authority may allow for additional special rate review and adjustment requests should Authority determine that, due to extraordinary circumstances, an additional rate review and adjustment request is warranted.

F. Substantial Evidence. Contractor will bear the burden of justifying to Authority by Substantial Evidence any entitlement to a rate increase. If Authority determines that Contractor has not met its burden, Contractor may, before seeking arbitration, request another hearing to produce additional evidence. It is within Authority's discretion whether to schedule the additional hearing.

G. Authority Decision. Based on the evidence submitted by Contractor, Authority may grant the rate increase, grant an increase less than that requested, or deny the increase.

H. Cost-Reduction Incentive Program. Contractor may submit to Authority, without limit as to number or frequency, proposals for modifying plans, specifications, or other requirements of the Agreement for the purpose of reducing the total cost of the Agreement. If Authority is interested in a proposal, Contractor and Authority may negotiate a cost-reduction incentive program respecting the proposal.

7.04 Rates for Additional New Services

If Authority requests Contractor to provide any additional New Service(s), Contractor will furnish Authority with projected operational and cost data for the New Service in a form and manner specified by Authority. This operational and cost data will be reviewed by Authority. Implementing any New Service(s) will be contingent upon Authority approval and subject to the establishment of an appropriate maximum rate by the Board. If a mutually acceptable maximum rate for the New Service(s) cannot be negotiated between Authority and Contractor within a reasonable time, Authority may exercise the right to solicit other bids or proposals for this New Service.

7.05 Resolution of Disputes Regarding Rate Adjustments

A. Binding Arbitration. If Authority rejects a rate adjustment requested by Contractor, or grants an increase of less than what was requested by Contractor, or fails to act timely upon all or any part of Contractor's rate adjustment application, then Contractor may request binding arbitration of the matter as provided in **Section 10.07**. The parties agree that in the case of a rate dispute, the arbitrator(s) will not have the power to order Authority to institute any particular rate or any particular rate increase. The parties also agree, however, that the arbitrator will have the power to award damages to Contractor and against Authority in the event that Contractor demonstrates, by the applicable standard of evidence, that the Authority acted unreasonably in not granting the entire rate increase as requested by Contractor.

B. Measure of Damages. The measure of compensatory damages for each rate increase requested but not acted upon in a timely manner by Authority or rejected by Authority, will be the difference between revenues collected under the existing rates at the time the requested rate increase would have gone into effect and the revenues Contractor would have collected had the rate application been approved.

C. Particular Evidence Not Allowed. In determining whether Authority acted reasonably on the rate increase request, the arbitrator may not rely on evidence supporting the increase that was not supplied by the Contractor to Authority during consideration of the rate increase so requested.

D. Prevailing Party Determination. For purposes of arbitration, Contractor may not be considered the prevailing party unless the arbitrator determines Contractor was entitled to the entire increase requested in the rate application.

E. Authority Option. If the arbitrator rules in favor of Contractor, Authority will have the option of increasing rates paid by Generators under this Agreement or the applicable Ordinance to compensate Contractor for lost revenues over a reasonable period of time rather than in a lump sum. Contractor may not be precluded from submitting subsequent rate applications as set forth in this Article.

7.06 Notice of Rate Increases

Contractor must provide all Customers in the Franchise Area a minimum of twenty-one (21) days advance written notice of the implementation of changes in any of its rates, unless otherwise directed by Director.

7.07 Performance Audit

A. Authority Initiated. Authority may, in its sole discretion, require at any time during the Term of this Agreement a "Performance Audit" of the Contractor. The Performance Audit will:

- (1) Be performed by a qualified firm to be selected by Authority.
- (2) Be completely paid for by Authority. If, however, the Performance Audit finds a material breach or default in Contractor's performance, Contractor will reimburse Authority for the total cost of the Performance Audit.
- (3) Address all appropriate areas which may include, but are not limited to the following areas, and should provide specific recommendations, as appropriate, for improvement in each area, namely:
 - (a) Compliance with the terms of this Agreement and Applicable Laws;
 - (b) Overall organizational structure and management systems and procedures;
 - (c) Efficiency of Collection operations, including an analysis of routes, schedules and the impact of Franchise requirements;
 - (d) Staffing practices, including the deployment of management and supervisory personnel;
 - (e) Financial management practices, including the Contractor's billing and Collection system and its policies with regard to uncollected accounts and Related Party transactions;
 - (f) Personnel management practices, including compensation policies and the resolution of employee grievances;
 - (g) Employee job and safety training, tagging procedures, and management of Prohibited Waste;

- (h) Procedures for receiving, recording, reporting and resolving Customer complaints and concerns, including control of wind-blown debris during transport, truck washing, vehicle and container maintenance, and damage to containers;
- (i) Procedures for the acquisition, maintenance and replacement of equipment; types of equipment; rationale for recent capital investments; and financing options;
- (j) Utilization and management of facilities, equipment and personnel;
- (k) Comparison with practices of businesses similar to Contractor; and
- (l) Financial and rate analyses.

B. Contractor Cooperation. Contractor must cooperate fully with the Performance Audit, and provide within thirty (30) days of request, all operational, financial and other information considered reasonable or convenient by Authority or the auditing firm for purposes of conducting the Performance Audit. Contractor's failure to cooperate or provide all requested information will be considered an event of Default.

C. Event of Default; Termination. If, after Authority has reviewed a particular Performance Audit including problem areas, frequency of occurrence, recommended improvements, and compliance, and has considered all relevant evidence presented by Contractor, Authority determines that an event of Default has occurred, then this Agreement may be terminated by Authority at its option pursuant to **Section 9.03** without prejudice to any other remedy to which it may be otherwise entitled whether at law, in equity, or under this Agreement. Authority must give written notice of termination, either by mail or personal service, to Contractor, not less than thirty (30) days prior to the date upon which the termination is to become effective.

D. Changes to Operations. In conjunction with the review of a particular Performance Audit, Authority may require changes to the Contractor's operations, which Authority determines are necessary or appropriate, based on the findings or results of the Performance Audit, to carry out the terms and conditions of this Agreement, or to reduce Contractor operating costs and adjust rates accordingly pursuant to **Section 5.14**.

ARTICLE 8. INDEMNITY, INSURANCE, BOND

8.01 Indemnification of City, County and Authority

Separate and distinct from the insurance provisions found in this Agreement, Contractor agrees to indemnify, defend with counsel approved by Indemnitees, protect, and hold harmless, City, County, and Authority, and their officers, employees, agents, representatives, successors and assigns from and against all claims and causes of action for damages, costs, or expenses, including attorneys' fees, for injuries to any persons or property, that allegedly arise from the negligence, willful misconduct, or breach of this Agreement, of Contractor, or its officers, employees, agents, or representatives in performing work or services under this Agreement. Contractor also agrees to pay for all costs and expenses of investigating and defending against these claims and causes of action, however, Contractor's duty to indemnify and hold harmless does not include any claims or liability arising solely from the gross negligence or willful misconduct of City, County, or Authority, or their officers, employees, agents, or representatives.

8.02 Insurance

A. Minimum Limits of Insurance. Contractor will maintain limits no less than:

(1) **Commercial General Liability:**

General Aggregate Limit	\$2,000,000
Products - Completed Operations Aggregate Limit	\$2,000,000
Personal & Advertising Injury Limit	\$1,000,000
Each Occurrence Limit	\$1,000,000
Fire Damage Limit	\$ 100,000
Medical Expense	\$ 5,000

(2) **Automobile Liability:**

Combined Bodily Injury & Property Damage Liability Coverage	\$1,000,000
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(3) **Excess Liability (Umbrella):**

Each occurrence Limit	\$2,000,000
Aggregate Limit	\$2,000,000

(Underlying policies Commercial General Liability, Worker's Compensation and Employers Liability, Automobile Liability)

(4) **Worker's Compensation and Employers Liability:** Workers' Compensation limits as required by the Labor Code of the State of California and Employer's Liability of \$1,000,000 per accident.

B. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared and approved in writing by Authority. At the option of Authority, either: (1) the insurer must reduce or eliminate deductibles or self-insured retentions as respects Authority, its officers, employees, agents, and representatives; or (2) Contractor must procure an additional letter of credit or

bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

C. Other Insurance Provisions. The policies are to contain, or be endorsed to contain, the following provisions:

(1) General Liability and Automobile Liability Coverage

- (a) City, County, and Authority, their officers, employees, agents, and representatives are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, leased, or used by Contractor; and vehicles owned, leased, hired, or borrowed by Contractor. The coverage may not contain any special limitations on the scope of protection afforded to City, County, and Authority, their officers, employees, agents, or representatives.
- (b) Contractor's insurance coverage will be primary insurance as respects City, County, and Authority, their officers, employees, agents, and representatives. Any insurance or self-insurance maintained by the City, County, and Authority, their officers, employees, agents, or representatives will be in excess of Contractor's insurance requirements and may not be used to reduce Contractor's obligation to provide insurance coverage.
- (c) Any failure by Contractor to comply with the reporting provisions of the policies will not affect coverage provided to City, County, or Authority, their officers, employees, agents, or representatives.
- (d) Coverage must state that Contractor's insurance will apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (e) The insurer must agree to waive all rights of subrogation against City, County, and Authority, their officers, employees, agents, or representatives for losses arising from work performed by Contractor for Authority.

(2) All Coverage Each insurance policy required by this clause must be endorsed to state that coverage will not be suspended, modified, or canceled by either party, or reduced in coverage or in limits without thirty (30) days' prior written notice, sent by certified mail, return receipt requested, to City, County, and Authority.

D. Acceptability of Insurers. The insurance policies required by **Section 8.02** may only be issued by an insurance company or companies authorized to do business in the State of California and with a rating in the most recent edition of Best's Insurance Reports of size category VII or larger and a rating classification of A or better.

E. Verification of Coverage. Contractor will furnish Director with endorsements of coverage required by **Section 8.02**. The endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements must be received and approved in writing by Director before work commences. Director reserves the right to require complete, certified copies of all required insurance policies, at any time.

F. Subcontractors. Contractor must include all subcontractors as additional insureds under its policies or shall furnish separate endorsements for each subcontractor. All coverage for subcontractors will be subject to all of the requirements stated in **Section 8.02**.

G. Required Endorsements

- (1) The Workers' Compensation policy must contain an endorsement in substantially the following form:

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

Attention: Director
Del Norte Solid Waste Management Authority
1700 State Street
Crescent City, CA 95531"

- (2) The Public Liability policy must contain endorsements in substantially the following form:

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

Attention: Director
Del Norte Solid Waste Management Authority
1700 State Street
Crescent City, CA 95531"

- (b) "City, County, and Authority, their officers, employees, agents, and representatives are additional insureds on this policy."

- (c) "This policy shall be considered primary insurance as respects any other valid and collectible insurance maintained by City,

County, and Authority, including any self-insured retention or program of self-insurance, and any other such insurance may be considered excess insurance only."

- (d) "City, County, and Authority, their officers, agents, employees, and representatives will be named as additional insureds and such inclusion may not affect Authority's rights as respects any claim, demand, suit or judgment brought or recovered against Contractor. The policy will protect Contractor and City, County and Authority in the same manner as though a separate policy had been issued to each, but this will not operate to increase Contractor's liability as set forth in the policy beyond the amount shown or to which Contractor would have been liable if only one party had been named as an insured."

H. Proof of Coverage. Before any work commences, Contractor will furnish Authority endorsements of each policy of insurance required hereunder, acceptable in form and substance satisfactory to Authority. The endorsements must show the type and amount of coverage, effective dates and dates of expiration of the policies. If Authority so requests, Contractor will promptly deliver copies of each policy, together with all endorsements, to City, County, and Authority. Renewal certificates are to be furnished prior to the expiration of the certificates provided to Authority to demonstrate maintenance of the required coverage throughout the Term.

I. Other Insurance Requirements. In the event any services are delegated to a subcontractor, Contractor will require the subcontractor to provide statutory worker's compensation insurance and employer's liability insurance for all of the subcontractor's employees engaged in work in accordance with **Section 8.02**. The liability insurance required by **Section 8.02** is to cover all subcontractors, or the subcontractor must furnish evidence of insurance provided by it that meets all of the requirements of **Section 8.02**. Contractor shall comply with all requirements of the insurers issuing policies.

J. Continuing Obligations; Reporting. The carrying of insurance does not relieve Contractor from any obligation under this Agreement. If any claim exceeding the amount of any deductibles or self-insured reserves is made by a third person against Contractor or any subcontractor on account of any occurrence related to this Agreement, Contractor must promptly report the facts in writing to the insurance carrier and to Authority.

K. Public Liability Coverage. The Public Liability insurance required by this Agreement must be written on an "occurrence," rather than a "claims made" basis, if such coverage is obtainable. If it is not obtainable, Contractor must arrange for "tail coverage" of a period to be specified by Authority to protect City, County, and Authority from claims filed after the expiration or termination of this Agreement related to incidents which occurred prior to the expiration or termination.

8.03 Faithful Performance Bond

A. Amount of Bond. Contractor must secure, and throughout the Term hereof maintain in full force and effect, a performance bond in an amount not less than four-hundred-thousand dollars (\$400,000), payable to Authority, with respect to all duties on Contractor's part to be performed under this Agreement including, but not limited to, Collection, Transport, Processing, and Unloading of Solid Waste, Recyclables, and Organics. A current copy of the bond itself is attached as **Exhibit H**. Contractor must procure the bond from underwriters approved by the Director, licensed in California, rated not less than "a-vii" by A.M. Best Company, Inc.; provided that, the Authority may waive such requirements.

B. Representation and Warranty. Contractor represents and warrants that the bond is in the principal sum required and is executed as surety by a corporation admitted to issue surety bonds in the state of California, subject to regulation by the California Insurance Commissioner. By acceptance of this bond, Authority acknowledges that the financial condition and record of service of such corporation is satisfactory. Within one month after the Date of Execution, the Contractor must submit evidence to the Authority that all performance bonds in accordance with this section are in place. Simultaneously with the annual or other renewal of the bond or securing of substitute bond, Contractor must file with Authority evidence of such renewal or securing thereof in accordance with **Section 2.03**.

C. Alternative. Contractor is required to obtain and submit to the Authority a Performance Bond not more than one month after execution of this Agreement. As an alternative, Contractor may deposit a letter of credit or certificate of deposit in the name of the Authority for the same amount. The Performance Bond or acceptable alternative must remain in place for the duration of this Agreement.”

ARTICLE 9. BREACH, DEFAULT AND REMEDIES

9.01 Events of Breach

A. General. Authority finds, and Contractor concurs, that as of the time of the execution of this Agreement, it is impractical, if not impossible, to reasonably ascertain the extent of damages that may be incurred by Authority as a result of a breach by Contractor of its obligations under this Agreement. The factors relating to the impracticability of ascertaining damages include, but are not limited to, the following:

- (1) there is the potential for substantial damage to public health and safety;
- (2) there is the potential for substantial damage to members of the public who are denied services or denied quality or reliable service;

- (3) breaches may cause inconvenience, anxiety, frustration, and deprivation of the benefits of the Agreement to individual members of the general public for whose benefit this Agreement exists, in subjective ways and in varying degrees of intensity, which are incapable of measurement in precise monetary terms;
- (4) monetary losses resulting from denial of services or denial of quality or reliable services is impossible to calculate in precise monetary terms; and
- (5) the termination of this Agreement for uncorrected breaches, and other remedies are, at best, a means of future correction and not remedies which make the public whole for past breaches.

B. Reasonable Estimate of Damages. The parties acknowledge that consistent, reliable Solid Waste, Recyclables and Organics Collection services are of utmost importance to Authority and that Authority has considered and relied on Contractor's representations as to its quality of service commitment in awarding the Franchise to Contractor. The parties further acknowledge that some quantified standards of performance are necessary and appropriate to ensure consistent and reliable service and performance. The parties also recognize that if Contractor fails to achieve the performance standards or fails to submit required documents in a timely manner, Authority and residents of the Franchise Area will suffer damages and that it is impractical and extremely difficult to ascertain and determine the exact amount of damages which Authority and residents will suffer. Therefore, without prejudice to Authority's right to treat uncorrected non-performance as an event of default under this Article, the parties agree that the liquidated damage amounts set forth in **Exhibit G** represent a reasonable estimate of the amount of damages considering all of the circumstances existing on the date of this Agreement, including the relationship of the sums to the range of harm to Authority that reasonably could be anticipated and the anticipation that proof of actual damages would be costly or inconvenient.

C. Liquidated Damages. In the event that Contractor fails to fully perform any of Contractor's responsibilities under this Agreement (other than "Events of Default" stipulated in **Section 9.02**), then Contractor will be in breach ("Event of Breach") of this Agreement. The Director may assess liquidated damages in writing as described in **Exhibit G** as necessary in order to redress the breach and to enforce the delivery of timely, reliable, quality service and performance under this Agreement.

D. Substitute Services. Separate from, or in addition to, assessing the liquidated damages set forth in **Exhibit G**, Authority may also promptly secure, or direct Contractor to promptly secure, at Contractor's expense, substitute services satisfactory to Authority, for which Contractor is in breach, upon the same terms and conditions as provided in this Agreement.

9.02 Events of Default

Each of the following constitutes an Event of Default ("Event of Default") under this Agreement:

A. Failure to Cure. The failure to correct any breach, (i) within seventy-two (72) hours of written notice from Authority, however, if the nature of the breach is such that it can be cured but will reasonably require more than seventy-two (72) hours to cure, Contractor will not be in Default so long as Contractor promptly commences to cure the breach and diligently proceeds, but no additional time will be allowed to cure for failure to pay any amount due under this Agreement; or (ii) immediately, if the breach is such that the health, welfare, or safety of the public is determined to be endangered by the Director.

B. Misleading Representation. Any representation or disclosure made to Authority, posted on Contractor's website or placed in and advertisement by Contractor in connection with, or as an inducement to entering into, this Agreement or any future amendment or Change Order to this Agreement, that proves to be false or misleading in any material respect, as of the time the representation or disclosure was made, whether or not the representation or disclosure appears as part of this Agreement.

C. Seizure of Equipment. There is a seizure or attachment (other than a prejudgment attachment) of, or levy affecting possession on, the operating equipment of Contractor, including without limitation its vehicles, maintenance or office facilities, or any part thereof, in a proportion as to impair Contractor's ability to perform under this Agreement and that cannot be released, bonded, or otherwise lifted within forty-eight (48) hours excluding weekends and Authority approved holidays.

D. Petition for Debt Relief. Contractor files a voluntary petition for debt relief under any applicable bankruptcy, insolvency, debtor relief, or other similar law now or hereafter in effect, or consents to the appointment of or taking of possession by a receiver, liquidator, assignee (other than as a part of a transfer of equipment no longer useful to Contractor or necessary for this Agreement), trustee (other than as security for an obligation under a deed of trust), custodian, sequestrator (or similar official) of Contractor for a part of Contractor's operating assets or any substantial part of Contractor's property, or makes any general assignment for the benefit of Contractor's creditors, or fails generally to pay Contractor's debts as they become due.

E. Court Order. Any court having jurisdiction enters a decree or order for relief in respect of Contractor, in any involuntary case brought under any bankruptcy, insolvency, debtor relief, or similar law now or hereafter in effect, or Contractor consents to or fails to oppose any such proceeding, or any court enters a decree or orders appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of Contractor or for any part of Contractor's operating equipment or assets, or order the winding up or liquidation of the affairs of Contractor.

F. Failure to Assure Performance. Contractor fails to provide reasonable assurances of performance as required under **Section 9.07**.

G. Failure to Maintain Minimum Standards. Contractor fails to maintain the minimum standards as specified in **Section 2.03** at any time during the term of this Agreement.

H. Failure to Communicate Regulatory Action. Contractor fails to notify Authority in a timely manner of any receipt of notice of violation or official communication from those regulatory agencies regulating Solid Waste, Recyclables, or Organics Collection, transport, processing, or Disposal activities.

I. Insurance Lapse. Lapse of any policy of insurance required under this Agreement.

9.03 Right to Terminate Upon Default; Liquidated Damages

Upon a Default by Contractor, Authority has the right to terminate this Agreement without need for any hearing, suit or legal action. Contractor must forfeit its performance bond to Authority as liquidated damages upon such termination.

9.04 Possession of Property Upon Termination

In the event of termination for Default, Authority will have the right to take possession of any and all of Contractor's land, equipment, and other property used or useful in the Collection and transportation of Solid Waste or Recyclables in the provision of services under this Agreement, and the billing and collection of fees for these services and to use such property. Authority must pay reasonable compensation to Contractor for the temporary use of such land, equipment, and other property. Authority has the right to retain possession of such property until other suitable arrangements can be made for the provision of Solid Waste, Organics, or Recyclables Collection services, which may include the award of an agreement to another hauling company. Contractor must furnish Authority with immediate access to all of its business records related to its billing of accounts for services.

9.05 Authority's Remedies Cumulative

A. Cumulative Remedies. Authority's right to terminate this Agreement under **Section 9.03** and to take possession of Contractor's property under **Section 9.04** are cumulative, and Authority's termination of this Agreement does not constitute an election of remedies. Instead, all remedies provided for in this Agreement are in addition to any and all other legal and equitable rights and remedies which Authority may have under law or as otherwise provided in this Agreement.

B. Injunctive Relief. By virtue of the nature of this Agreement, the urgency of timely, continuous and high quality service, the lead time required to effect alternative service, and the rights granted by Authority to Contractor, the remedy

of damages for a breach of this Agreement by Contractor is inadequate and Authority will also be entitled to injunctive relief.

9.06 Excuse from Performance

A. Events Beyond Control of Parties. The parties will be excused from performing their respective obligations under this Agreement if they are prevented from so performing by reason of floods, earthquakes, tsunamis, other "acts of God," war, civil insurrection, riots, and other similar catastrophic events that are beyond the control of, and not the fault of, the party claiming excuse from performance.

B. Labor Unrest – Contractor. Labor unrest, including, but not limited to, strike, work stoppage or slowdown, sickout, picketing, or other concerted job action conducted by Contractor's employees, or directed at Contractor, is not an excuse from performance and Contractor must continue to provide service notwithstanding the occurrence of such events.

C. Labor Unrest – Third Party. If the labor unrest or job action directed at a third party over whom Contractor has no control, the inability of Contractor to make Collections due to the failure of the third party to provide reasonable assurance of the safety of Contractor's employees while making Collections or to make reasonable accommodations with respect to container placement and point of delivery, time of Collection, or other operating circumstances in order to minimize confrontation with pickets will, to that limited extent, excuse performance. The foregoing excuse will be conditioned on Contractor's cooperation in making Collection at different times and in different locations.

D. Notice of Excuse. The party claiming excuse from performance must, within two (2) days after such cause, give the other party notice of the facts constituting such cause and asserting its claim to excuse under this section. Regardless, in the event of a catastrophic event, Contractor must comply with County's Emergency Preparedness Plan.

E. Waiver. In the event that either party validly exercises its rights under this Article, the parties hereby waive any claim against each other for any damages sustained thereby.

F. Excuse of Performance Not Event of Default. The partial or complete interruption or discontinuance of Contractor's services caused by one or more of the events described in this Article and constituting an excuse from performance does not constitute an Event of Default by Contractor under this Agreement. Notwithstanding the foregoing, however, (i) the existence of an excuse from performance will not affect Authority's rights under **Section 9.08**; and (ii) if Contractor is excused from performing its obligations under this Agreement for any of the causes listed in this Article for a period of thirty (30) days or more, other than as the result of third party labor disputes where service cannot be provided for reasons described earlier in this Article, Authority will nevertheless

have the right, to terminate this Agreement by giving ten (10) days written notice, in which case the provisions of **Section 9.04** will apply.

9.07 Right to Demand Assurances of Performance

If Contractor: (i) is the subject of any labor unrest including work stoppage or slowdown, sickout, picketing or other concerted job action; (ii) appears in the reasonable judgment of Authority to be unable to regularly pay its bills as they become due; or (iii) is the subject of a civil or criminal investigation, charge, or judgment or order entered by a federal, state, regional or local agency for violation of a law relating to performance under this Agreement, and the Director believes in good faith that Contractor's ability to perform under the Agreement has thereby been placed in substantial jeopardy, Authority may, at its option and in addition to all other remedies it may have, demand from Contractor reasonable assurances of timely and proper performance of this Agreement, in such form and substance as the Director believes in good faith is reasonably necessary in the circumstances to evidence Contractor's continued ability to perform under the Agreement. If Contractor fails or refuses to provide satisfactory assurances of timely and proper performance in the form and by the date required by Authority, such failure or refusal will be an Event of Default for purposes of **Section 9.02**.

9.08 Authority's Right to Perform Upon Default

A. Right to Perform. In addition to any and all other legal or equitable remedies, in the event that Contractor, for any reason whatsoever, fails, refuses or is unable to collect, transport or deliver to the appropriate Solid Waste Management Facility any or all Solid Waste, Organics, or Recyclables that it is required by the Agreement to collect and transport, at the time and in the manner provided in this Agreement, for a period of more than seventy-two (72) hours, and if, as a result thereof, Solid Waste accumulates in the Franchise Area to such an extent, or in such a manner, or for such a time so that the Director finds that the accumulation endangers or threatens the environment, public health, safety or welfare, then Authority will have the right, but not the obligation, upon twenty-four (24) hours prior notice to Contractor, to do either one or both of the following: (i) cause the services to be performed with other personnel without liability to Contractor; (ii) to take possession of any or all of Contractor's land, equipment and other property used or useful in the Collection of Solid Waste, Organics, or Recyclables and to use such property to collect any Solid Waste or Recyclables generated within the Franchise Area which Contractor would otherwise be obligated to collect pursuant to this Agreement.

B. Notice to Contractor. Notice of Contractor's failure, refusal or neglect to collect and transport Solid Waste or Recyclables may be given orally by telephone to Contractor at its principal office and will be effective immediately. Written confirmation of any oral notification is to be sent to Contractor within twenty-four (24) hours of the oral notification.

C. Contractor Cooperation. If Authority exercises its rights under this section, Contractor agrees that:

- (1) Contractor will fully cooperate with Authority to affect the transfer of possession of property to Authority for Authority's use.
- (2) Contractor will, if Authority so requests and to the extent feasible, keep in good repair and condition all such property, provide all motor vehicles with fuel, oil and other service, and provide such other service as may be necessary to maintain the property in operational condition.

D. Effect on Other Provisions. Authority's exercise of its contractual rights under this **Article** (i) does not constitute a taking of private property for which compensation must be paid; (ii) does not create any liability on the part of Authority to Contractor; and (iii) does not exempt Contractor from the indemnity provisions of **Section 8.01**, which are intended to extend to circumstances arising under this Article, provided that Contractor is not required to indemnify City, County, and Authority against claims and damages that are solely caused by the gross negligence or willful misconduct of City, County, or Authority, their officers, employees, agents, or representatives acting under this Article.

E. Relinquishment of Possession. Authority has no obligation to maintain possession of Contractor's property or continue its use in Collection and transporting Solid Waste for any period of time and may, at any time, in its sole discretion, relinquish possession to Contractor. Authority's right to retain temporary possession of Contractor's property, and to provide Solid Waste Collection services, will continue until Contractor can demonstrate to Authority's satisfaction, that it is ready, willing and able to resume providing services.

ARTICLE 10. OTHER AGREEMENTS OF THE PARTIES

10.01 Relationship of Parties

The parties intend that Contractor perform the services required by this Agreement as an independent Contractor engaged by Authority and not as an officer or employee of Authority, or as a partner of, or joint venturer with, Authority. No employee or agent of Contractor may be considered or be deemed to be an employee or agent of Authority. Except as expressly provided herein, Contractor will have the exclusive control over the manner and means of conducting the Solid Waste and Recycling Collection services performed under this Agreement, and all persons performing those services. Contractor will be solely responsible for the acts and omissions of its officers, employees, subcontractors and agents. Neither Contractor nor its officers, employees, subcontractors or agents may obtain any rights to retirement benefits, workers' compensation benefits, or any other benefits which accrue to Authority employees by virtue of their employment with Authority. Contractor or its employees may not provide, directly or indirectly, any gifts or gratuities to any Authority officer, agent, employee, or representative.

10.02 Compliance with Applicable Law

In providing the services required under this Agreement, Contractor must at all times, at its sole cost, comply with all Applicable Laws.

10.03 Governing Law

This Agreement is to be governed by, and construed, and enforced in accordance with the laws of the State of California.

10.04 Jurisdiction

Any lawsuits between the parties arising out of this Agreement must be brought and concluded in the courts of the State of California, which have exclusive jurisdiction over such lawsuits. With respect to venue, the parties agree that this Agreement is made in and to be performed in Del Norte County.

10.05 Contractor Assignment

A. Prior Consent. Except as provided in this Article, Contractor may neither assign its rights, nor delegate or otherwise transfer its obligations, under this Agreement to any other person or entity without the prior written consent of Authority. Any attempt to do so will be void and constitute a material breach of this Agreement.

B. "Assignment." For purposes of this Section 10.05, "assignment" includes, but is not limited to: (i) a sale, exchange, or other transfer of substantially all of Contractor's assets dedicated to service under this Agreement to a third party; (ii) a sale, exchange or other transfer of thirty (30) percent or more of the outstanding common stock of Contractor; (iii) any reorganization, consolidation, merger recapitalization, stock issuance or re-issuance, voting trust, pooling Agreement, escrow arrangement, liquidation or other transaction to which Contractor or any of its shareholders is a party that results in a change of ownership or control of thirty (30) percent or more of the value or voting rights in the stock of Contractor; and (iv) any combination of the foregoing (whether or not in related or contemporaneous transactions) which has the effect of any such transfer or change of ownership. If Contractor is not a corporation, an assignment will also include, among other things, any transfer or reorganization that has an effect similar to the situations described in foregoing sentence for corporations. For purposes of this section, the term "proposed assignee" refers to the proposed transferee(s) or other successor(s) in interest pursuant to the assignment. If Contractor is a subsidiary of another corporation or business entity, any "assignment" by the parent company or corporation will also be considered an assignment by Contractor.

C. Specific to Contractor. Contractor acknowledges that this Agreement involves rendering a vital service to the County's residents and businesses, and that Authority has relied upon Contractor's representation of its experience and

financial resources in qualifying Contractor to perform the services under this Agreement.

D. Requirements for Consideration. If Contractor requests Authority's consent to an assignment, Authority may deny or approve the request in its complete discretion. No request by Contractor for consent to an assignment may be considered by Authority unless and until Contractor has met the following requirements:

- (1) Contractor must pay Authority its reasonable expenses for attorney's fees and investigation costs to investigate the suitability of any proposed assignee, and to review and finalize any documentation required as a condition for approving any such assignment;
- (2) Contractor must furnish Authority with audited financial statements of the proposed assignee's operations for the immediately preceding five (5) operating years;
- (3) Contractor must furnish Authority with satisfactory proof that the proposed assignee meets minimum standards described in **Section 2.03**.

E. No Consideration During Default. Under no circumstances will Authority be required to consider any proposed assignment if Contractor is in Default at any time during the period of consideration.

F. Contractor Cooperation. If Authority consents to an assignment, Contractor must cooperate with Authority and subsequent contractor(s) or subcontractor(s) to assist in an orderly transition, which will include Contractor providing complete Customer and route lists and billing information.

10.06 Franchise Transfer Fee

Any application for a Franchise transfer will be governed by the following conditions:

A. Application. Any application for a Franchise transfer is to be made in the manner prescribed by the Director. The application will include a transfer fee in an amount to be set by Authority by Resolution of the Board to cover the cost of all direct and indirect administrative expenses, including consultants and attorneys necessary to adequately analyze the application. The Franchise transfer fees are in addition to any Franchise fees, liquidated damages, or other fees described and due under this Agreement.

B. Costs. In addition, Contractor must reimburse Authority for all costs not covered by the transfer fee. Invoices must be supported with evidence of the expense or cost incurred. The applicant must pay all invoices within thirty (30) days of receipt.

10.07 Binding Arbitration

A. Good Faith Negotiation. Except for an event of Default, in the event of any dispute arising under this Agreement, Authority and Contractor will continue performance of their respective obligations and attempt to resolve the dispute in a cooperative manner, including, but not limited to, negotiating in good faith prior to arbitrating any dispute as set forth below.

B. Arbitration of Disputes. Any unresolved dispute or claim that arises out of, or that relates to, this Agreement, or to the interpretation or breach thereof, is to be resolved by binding arbitration pursuant to California Code of Civil Procedure Section 1280 et seq. Arbitration will be conducted by a single, neutral arbitrator. The parties should mutually agree to an arbitrator, but if the parties cannot agree, either party may apply to the Superior Court of Del Norte County to appoint an arbitrator. The arbitrator must follow applicable law in reaching a decision of any controversy submitted to arbitration. The arbitrator's fees and expenses and all arbitration costs will be awarded to the prevailing party and against the losing party, unless otherwise required by this Agreement or unless the arbitrator determines that a different apportionment of fees and costs is appropriate in the interests of justice. If the binding arbitration reduces expenses applicable to the current year's service, applicable rate reductions may be enacted. Any arbitration award rendered in favor of Contractor will be subject to the provisions of **Section 7.05** of this Agreement. Authority and Contractor will use their best efforts to conclude all binding arbitration proceedings involving rate adjustment disputes with all due diligence and as expeditiously as possible, allowing payment over a reasonable period of time through rate adjustments.

C. Burden of Proof. To prevail in arbitration relating to rate applications, Contractor must establish by a preponderance of evidence (i) that Authority acted unreasonably in denying the requested rate increase or payment; (ii) that the Contractor had presented Substantial Evidence to Authority's Governing Board as part of the negotiation or rate application process; and (iii) that Contractor was entitled to the entire payment or rate increase sought.

10.08 Subcontracting

Contractor may not engage any subcontractors for the lease of vehicles, equipment, or containers, for vehicle or equipment maintenance or painting, or for Collection, processing, or storage of Solid Waste, Recyclable Materials, or Organics without the prior written consent of Authority.

10.09 Binding on Successors

The provisions of this Agreement will inure to the benefit of and be binding upon the successors and permitted assigns of the parties.

10.10 Transition to Next Contractor

If at any point Authority desires to request bids or proposals or negotiate with a third party for services which are franchised to Contractor under this Agreement, or to evaluate or implement changes in Collection Services or processing, Contractor will cooperate with Authority, its agents, and subsequent contractor(s) to assist in gathering and analysis of information, and an orderly transition, which will include Contractor providing routes, account names and phone numbers, level of service provided, and other reasonable information requested by Authority. Failure to provide full cooperation will be considered a material Default and as a result, Authority may preclude Contractor from bidding on the new contract.

10.11 Parties in Interest

Nothing in this Agreement is intended to confer any rights upon any person(s) or entity(s) other than the parties to this Agreement.

10.12 Waiver

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

10.13 Contractor's Investigation

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

10.14 Condemnation

In addition to its rights under **Section 9.08**, Authority reserves the right to acquire Contractor's property utilized in the performance of this Agreement, by purchase or through the exercise of its power of eminent domain.

10.15 Notice

All notices, demands, requests, proposals, approvals, consents and other communications required, authorized or contemplated under this Agreement, unless otherwise provided, must be in writing and will be effective when personally delivered to a representative of the parties at the address below or deposited in the United States mail, first class postage prepaid, and addressed as follows:

If to Authority:

Attention: Director
Del Norte Solid Waste Management Authority
1700 State Street

Crescent City, CA 95531

If to Contractor:

Attention: General Manager
Recology Del Norte
PO Box 1933
Crescent City, CA 95531

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

10.16 Representatives of the Parties

All actions to be taken by Authority will be taken by the Board except as provided otherwise in this Agreement. The Board may delegate, in writing, authority to the Director or to other Authority officials and may permit such officials, in turn, to delegate in writing some or all of that authority to subordinate officers. Contractor may rely upon actions taken by these delegates if the actions are within the scope of the authority properly delegated to them.

Contractor must, no later than ninety (90) days prior to the Commencement Date, designate in writing a responsible officer who will serve as the representative of Contractor in all matters related to this Agreement and must inform Authority in writing of the designation and of any limitations upon his/her authority to bind Contractor. Authority may rely upon any action taken by the designated representative as an action of Contractor, unless the action is outside the scope of the authority delegated to him/her by Contractor as communicated to Authority.

ARTICLE 11. MISCELLANEOUS PROVISIONS

11.01 Entire Agreement

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

11.02 Article Headings

The article and section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction or interpretation of this Agreement.

11.03 References to Laws

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

11.04 Interpretation

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

11.05 Amendment

This Agreement may not be modified or amended in any respect except by a written Change Order signed by both parties.

11.06 Severability

If any non-material provision of this Agreement is for any reason determined to be invalid and unenforceable, the invalidity or unenforceability of that provision will not affect any of the remaining provisions of this Agreement which will be enforced as if the invalid or unenforceable provision had not been contained herein.

11.07 Counterparts

This Agreement may be executed in counterparts each of which is to be considered an original.

11.08 Exhibits

Each of the Exhibits identified in this Agreement is attached hereto and incorporated by this reference.

IN WITNESS WHEREOF, Authority and Contractor executed this Agreement on the day and year written below.

Executed this _____ day of _____, 2010 in Crescent City, California.

DEL NORTE SOLID WASTE MANAGEMENT AUTHORITY

Leslie McNamer, Chair

ATTEST:

APPROVED AS TO FORM:

Rose Reppond, Clerk

Robert N. Black, Legal Counsel

RECOLOGY DEL NORTE

Mike Sangiacomo, President & CEO
Recology, Inc.

Tom Sparrow, General Manager
Recology Del Norte

EXHIBIT A1: FRANCHISE AREAS AND COLLECTION TIMES

A. FRANCHISE AREAS

Within the Franchise Areas indicated on the map attached as **Exhibit A2**, Contractor will have exclusive right to provide the Collection Services described in this Agreement, and will not deny any Customer requesting Collection services within these areas. Customers within either Franchise Area are referred to hereafter as “Franchise Customers.”

- 1. PRIMARY FRANCHISE AREA:** The map attached as **Exhibit A2** shows the areas of the Primary and Secondary Franchise Areas. All Collection Services described in this Agreement must be made available to potential Customers with addresses in the Primary Franchise Area within the Board-approved maximum Franchise Collection rates.
- 2. SECONDARY FRANCHISE AREA:** All services available to potential Customers within the Primary Franchise Area, except for Bag Service, must also be made available to potential Customers in the Secondary Franchise Area. All Franchise Collection services provided in the Secondary Franchise Area will be subject to a “Secondary Franchise Area surcharge,” as approved by the Board.

B. DEL NORTE COUNTY AREAS OUTSIDE FRANCHISE AREAS

Outside the Primary and Secondary Franchise Areas, Contractor does not have exclusive right to provide Collection Services, nor does Contractor have any obligation to provide services to these areas.

C. TIMING OF COLLECTIONS

Unless otherwise specifically approved in writing by the Board, Collection of Solid Waste, Recyclable Materials and Organics must occur between the hours of 6:00 A.M. and 6:00 P.M. in all areas of Del Norte County. The Authority may authorize Collections starting as early as 5:00 A.M. in business districts, or other specific times as may be necessary to service specific facilities. Contractor is required to receive authorization for any and all Collections under this Franchise Agreement before 6:00 A.M. or after 6:00 P.M. Contractor will promptly resolve any complaints of noise to the reasonable satisfaction of Director.

- 1. Days and Hours of Collection.** Contractor will make daily Collections (Monday through Friday) in all business districts and once weekly (Monday through Friday) in all residential districts, subject to such changes as may be approved by resolution of Board. Contractor may offer weekend Collection Services to Customers for an additional fee.
- 2. All Weekly Solid Waste, Recyclables, and Organics Collection Services Occur on Same Day.** All weekly Collection Services offered to the general public will be provided so that Solid Waste, Recyclables, and Organics

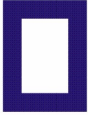
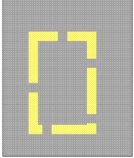
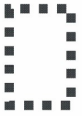
Collections occur on the same day of the week for any particular address within the Franchise Area.

3. Collection Service Holidays. Collection Service Holidays are January 1; Easter Sunday; Memorial Day; July 4; Labor Day; Thanksgiving Day; and Christmas Day. Contractor will notify Customers at least annually of Collection schedule changes associated with these holidays. Contractor may not assess any Collection surcharge solely due to Collection schedule adjustments during the week following a Collection Service Holiday.

EXHIBIT A2: MAP OF DEL NORTE COUNTY FRANCHISE AREAS

**Proposed Areas
for Del Norte's
New Collections
Franchise**

Legend

-  Del Norte County
-  Primary Franchise Area
-  Secondary Franchise Area

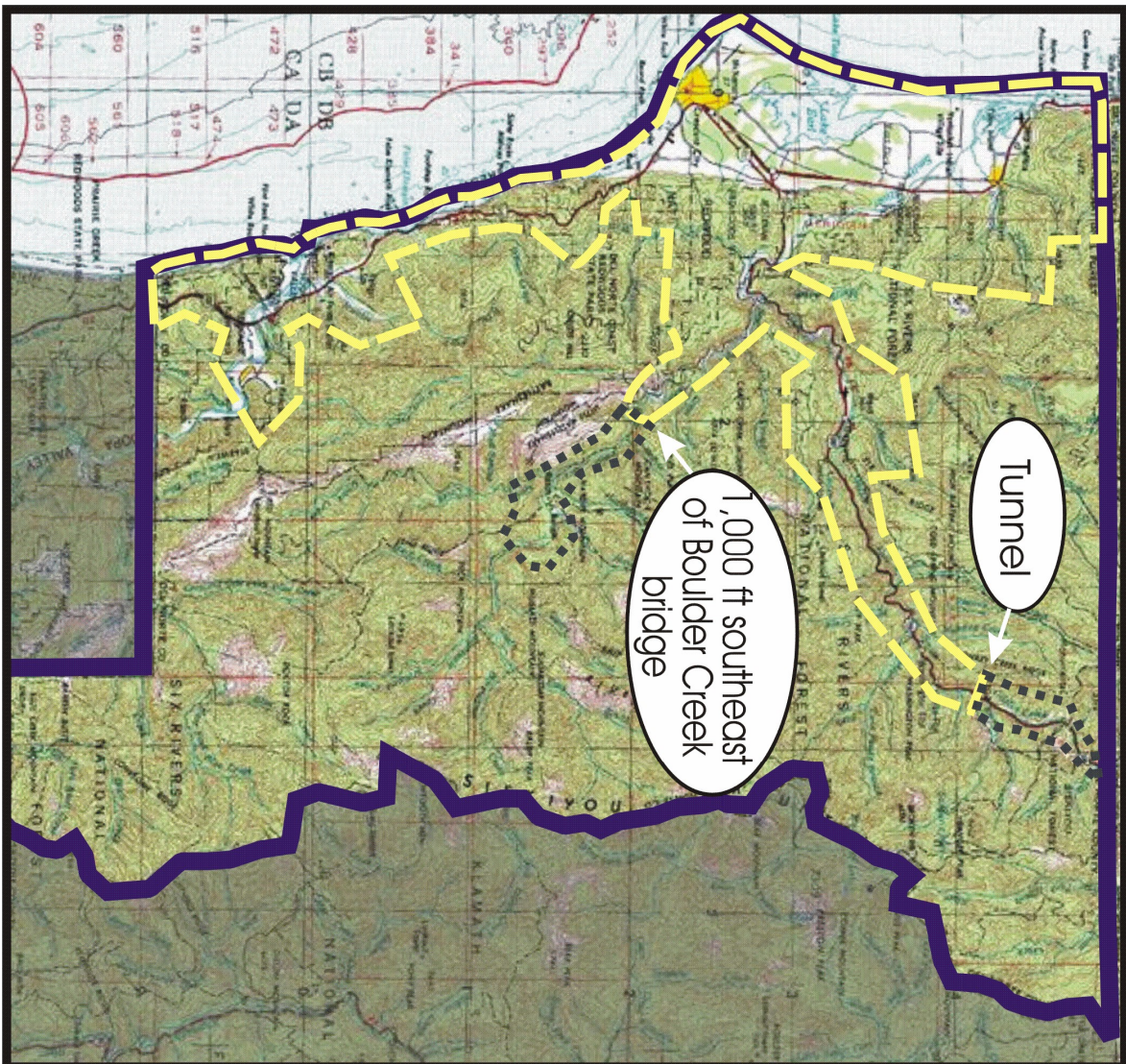


EXHIBIT B1: SOLID WASTE SERVICE SPECIFICATIONS

A. Frequency of Collections Services.

1. **Residential.** Contractor will offer same day weekly curbside Collection of Solid Waste and Recyclables to all Residences in the Franchise Area contracting for such services; and collect all materials delivered to a temporary container for Franchise Collection that week; subject to such maximum charges as approved by resolution of the Board.
2. **Commercial.** Contractor will provide same day Solid Waste and Recyclables Collection service to all commercial and industrial premises within the Franchise Area contracting for those services; and collect all wastes delivered to a commercial container for Franchise Collection not less than once per week.
3. **Organics.** Contractor will provide weekly Organics Collection services to all Customers subscribing to weekly Organics Collection services on the same day that Solid Waste Collection is offered for that address.

B. Types of Collections Services. Franchise Customers are eligible for bag, cart, bin, and Roll-off Collection services, with all necessary containers being provided or delivered by Contractor to each customer prior to Collection.

1. **Bag Service:** Contractor must offer residents in the Primary Franchise Area bag service for Solid Waste Collection. Bags of suitable size (>25 gallons capacity), at least 1 mil (0.001 inch) thickness, clearly depicting Contractor logo or other appropriate symbol, with printed instructions for appropriate use of the bag, will be offered for sale by Contractor at advertised locations in the City and County. Cost for Collection of bags is to be wholly recaptured by sale price of bags. Customers purchasing bags must be provided printed material indicating terms of bag service and acceptable and unacceptable materials for placement in bags. Contractor may collect the name and address where the bags will be used at the time of sale. A summary listing of the number of bags sold in the City and County during the previous quarter will be submitted by Contractor to the Authority within thirty (30) days of the end of each quarter. Printed material must clearly indicate that customers may only set-out bags, and Contractor will only collect bags, on days of regular collection for that address, and that some bag customers may be requested to call in (not later than 5:00 P.M., the evening before Collection) to alert the Contractor's office that there will be a bag for Collection at that address. The Contractor's office will have a container available for receiving pre-paid bags for disposal during business hours.
2. **Cart Service:** (a) Upon Customer request, Contractor will provide and deliver appropriately sized cart(s) at no additional cost, before such

Collection Service is initiated. The standard sizes for can or cart service will be: 20 gallons, 32 gallons, 64 gallons, and 96 gallons, unless otherwise agreed to by Authority and Contractor. If a Customer requests a cart in a size that is not readily available, that Customer will receive the next larger size cart at the requested size cart price until such time as the requested size cart is available. Contractor will use grey or black cans or carts for Solid Waste, blue carts for Recyclable Materials, and green carts for Organics.

- (b) Contractor will not be required to go into garages or other buildings to make pick-ups at residences. Nor will Contractor be required to go into backyards or closed areas to make pick-ups, but may do so and may assess a Board-approved 'Roll-out surcharge' for that service. Contractor will consult with each Customer to determine the appropriate location for Off-curb can(s).
- (c) Contractor may issue a Notice, Warning, or Non-collection tag as described in Sections 5.06.C and 5.06.D for carts that are overweight or that have been overfilled so the lid will not rest in the closed position. If rain has accumulated in a can or cart which is in need of repair or replacement, and the disrepair is the likely cause of the water accumulation, then the can or cart will be collected, regardless of weight.
- (d) After weekly Collection service is initiated, Customers may also request replacement of defective carts, which Contractor will provide at no additional charge. Customers may request replacement of carts which have been stolen, if the Customer provides a copy of a police report regarding theft of the container.
- (e) If a Customer requests replacement of a container, but is unable to provide the container to be replaced, Contractor may charge the Customer not more than 120% of the documented purchase price for the container.

3. **Bin Service:** Contractor will provide bins for storage and Collection of Solid Waste designed, constructed and maintained to be water tight, to prevent the leakage of liquids, and to have lids which inhibit the inflow of rainfall or snow. All bins with a capacity of one cubic yard or more must meet applicable federal regulations on Solid Waste bin safety. All bins must be maintained to have a consistent appearance, either galvanized or painted with Contractor's standard color(s) and prominently display the name and telephone number of Contractor. All such bins are to be supplied and maintained by Contractor at no charge to the customer. If a Customer requests a bin in a size that is not readily available, that Customer will receive the next larger size bin at the requested size bin price until such time as the requested size bin is available. Provisions to lock containers will be provided at customer request for an additional Board-approved charge. Contractor may charge a 'Roll-out surcharge' for

each instance when Contractor employee needs to unlock a bin prior to Collection, if that bin is not a Contractor-provided locking bin. Contractor may issue a Notice, Warning, or Non-collection tag as described in **Section 5.06.C and 5.06 D** for bins that have been overfilled so the lid will not rest in the closed position.

Contractor will provide Collection and disposal or recovery services for a variety of bin sizes in two general bin service categories:

- (a) **Temporary Cart or Bin Service.** Contractor will deliver the requested cart or bin size to a Customer's address and collect that bin for disposal or recovery one week later. If a Customer requests a bin in a size that is not readily available, that Customer will receive the next larger size bin at the requested size bin price until such time as the requested size bin is available.
- (b) **Temporary Cart Service for Events.** Contractor may collect up to twice the Board-approved rate at the time customers order one or more Temporary cart of 64 gallon or 96 gallon volume for Solid Waste. Each order of a temporary cart will be delivered to the requested delivery address paired with an appropriately labeled Recyclables cart of equal or larger volume. Upon collection, Contractor will note all Recyclables carts with less than 20% non-Recyclable Materials by volume or weight ('Uncontaminated Recyclables Cart'). After Collection, that Customer will be due a refund from Contractor for each collected Uncontaminated Recyclables Cart equal to the Board-approved rate for that volume Temporary Solid Waste cart service. At the time they order this service, Customers will be provided written materials pre-approved by the Director explaining this service, charges, potential refund for Uncontaminated Recyclable Carts, and tips for reducing contamination in the Recyclables carts.
- (c) **Subscription Cart or Bin Service.** Contractor will deliver the requested size of cart, bin, or debris box, plus all additional carts or bins necessary to provide additional included residential Collection Services, and provide weekly Collection and Disposal or recovery of the bins contents, or more frequently if so subscribed.

- 4. **Roll-off Debris Box Service.** Upon request, Contractor will provide Roll-off containers and collect and dispose of all Solid Waste generated by Customers within Franchise Area and delivered for Collection to a Roll-off container as scheduled with each Customer. Customers will have the option of requesting a bin with or without a wire mesh lid which can be raised or lowered over the Roll-off bin, and rain-proof lids and/or tarps deployed to securely cover the wire mesh will also be available for Roll-off debris boxes. Roll-off bins will be offered in 20 cubic yard, 30 cubic yard, or 40 cubic yard sizes. Solid Waste Collection Services offered in volumes of 10 cubic yards may be bins or debris boxes. If a Customer requests a bin or debris box in a size that is not readily available, that

Customer will receive the next larger size bin or debris box at the requested size price until such time as the requested size bin or debris box is available.

5. **Services included with Residential Solid Waste Cart, Bin or Debris Box Subscriptions.** All households at facilities subscribed for weekly Solid Waste cart, bin, or debris box Collection Services are eligible to participate in the following additional Collection Services. All printed information describing residential services will include descriptions of these additional services. Costs for the following additional Collection Services are to be included in the Collection component of all residential rates, except for Extra Bulky Item Collections as described below:

- (a) **Recyclables Collection.** Contractor will, for no additional charge, provide blue carts or bins of the same or larger total volume as Solid Waste Collection for that facility for the purpose of weekly Collection of Recyclable Materials, as described in **Exhibit C1 and Exhibit C2** on the same day of the week. Carts or bins provided for recyclables will be appropriately labeled 'Recyclables Only' with Authority-approved labels indicating acceptable Recyclable Materials and sorting, if any. Customers who opt to have a reduced volume, or entirely decline Recyclables Collection Services at a Multi-family residential facility with bin service must do so in writing, and such documentation will be retained by Contractor for all such facilities and Customers.
- (b) **Residential Bulky Item Special Collection.** Contractor will offer Bulky Item Special Collection services on an on-call basis to Franchise Area residential Customers. Contractor may limit free Bulky Item Special Collection Services to residential Customers who have paid for at least ninety (90) days uninterrupted subscription to Solid Waste Collection Service and to Customers who are current in payments for services, and to Customers who call at least 48 hours prior to the requested Bulky Item Collection. Each Bulky Item Special Collection will be limited to one large item (e.g. stove, water heater, couch, mattress, boxspring, television, computer monitor, tire, or any item subject to a per-item charge at the Central Transfer Station), or a single box of not more than one hundred pounds containing consumer electronics devices; a single tree of not more than 9 feet in height, such as a Christmas tree, free of tinsel, ornaments, or metal stands; or one and one-half (1.5) cubic yards of bagged material, provided that the bags do not include any items banned from mixed waste disposal and no single bag weighs more than 40 pounds. Refrigerators, freezers, and other items requiring certified Freon removal will count as two Bulky Item Special Collections for this residential program. Except for trees, Bulky items over sixty (60) pounds will be prepared for safe

loading using a hand truck, or may otherwise be subject to a Half-hour labor service fee.

- (i) **Single Family Bulky Items.** Single-family residential customers will be eligible for up to two (2) separate free Bulky Item Special Collection pick-ups during each year they subscribe to Solid Waste Collection services. Contractor will provide additional Bulky Item Special Collection services to residential customers who request more than two (2) Bulky Item Special Collections during any 12-month period for an additional Board-approved fee per Extra Bulky Item.

- (ii) **Multi-family Bulky Items.** Multi-family residential Solid Waste Collection Customers are also eligible for free Bulky Item Collections, up to an annual total of two (2) scheduled Bulky Item Collections per year from each single multi-family, apartment, condominium, or mobile home complex. Multi-family complexes are eligible for different annual numbers of free Bulky Item Special Collections, based on the total volume of Solid Waste Collection Services provided by Contractor to that complex, whether such service is containerized for each household in carts, to the entire complex in bins or debris boxes, or some combination thereof. For every cubic yard of weekly uncompacted Solid Waste Collection Services, and for every two (2) cubic yards of Compactor Collection Service monthly provided by Contractor to a multi-family complex, Contractor will offer up to two (2) bulky items collected annually from that complex for no additional charge. For example, an apartment complex with 10 units has a 2 cubic yard bin, so after 90 days of uninterrupted Collection Service, that complex is eligible to receive up to a total of $(2 \times 2 =)$ 4 Bulky Item Collections per year for no additional charge upon request from the Responsible Party for that complex.

The Responsible Party for each multi-family complex is responsible for notifying tenants that this service is available, to assure that the Bulky Items are properly prepared, and to call Contractor at least 72 hours prior to the requested Collection. Bulky items over sixty (60) pounds will be prepared for safe loading using a hand truck or may otherwise be subject to a labor service fee. Contractor may also charge a labor service fee to provide the third and subsequent Special Bulky Item Collections during a twelve-month period, in addition to any applicable charges for Extra Bulky Items. Contractor will provide additional Bulky Item Special Collection Services to multi-family residential complexes for an additional Authority-approved fee per Extra Bulky Item.

(c) **Spring Cleanup Week.** Contractor must establish an annual Spring Cleanup Week for all Primary Franchise Area weekly Residential Solid Waste Collection Customers, providing Collection Services for not less than a one week period between March and June, though each address may be scheduled for a single day of the Spring Cleanup Collection service. Eligible Customers may place up to 1.5 cubic yards of Organic Materials for Collection during the appointed time, whether or not they subscribe for Organics Collection Services. Contractor will offer a similar per-household volume of Collections of Organic Materials aggregated in one location (or more locations if Contractor agrees) as coordinated with the Responsible Party for each multi-family residential facility. Contractor will describe how Organic Materials are to be prepared for Collection, and when the Spring Cleanup Collections will occur. Contractor will issue Public Service Announcements to this effect to all regional radio stations and will advertise this service not fewer than four separate days in the local newspaper during the two weeks immediately prior to the Spring Cleanup Week in ads of dimensions not smaller than 4 inches by 4 inches.

6. **Collection Service Surcharges.** The following surcharges are allowed for special services in addition to Collection, and the amounts of these surcharges are to be included on all official listings of Board-approved Collection Rates. For surcharges assessed as percentage multipliers, the Board-approved Collection Rate is multiplied times the percentage multiplier surcharge to calculate the surcharge to be added to the Collection Rate. Per-occurrence surcharges are a fixed amount which is added to the Collection Rate. Per-occurrence surcharges may be adjusted under the annual CPI-based rate adjustment upon timely Contractor request, however, percentage multiplier surcharges will not be subject to modification under the CPI-based rate adjustments.

- (a) **Roll-out surcharge** may be assessed when the Contractor must move one or more bins or roll-offs more than 15 feet prior to collection. Roll-out surcharges may also be assessed for bins which are locked behind enclosures at the time of Collection. This surcharge does not apply to commercial carts (32, 64, 96 gallon).
- (b) **Off-curb surcharge** may be assessed when the Contractor must move a cart more than 15 feet to be accessible to the collection vehicle. This charge may also be assessed if Contractor agrees to enter a backyard, fenced, or enclosed area to access a can or cart. This surcharge does not apply to commercial carts (32, 64, 96 gallon).
- (c) **Off-road surcharge** may be assessed for Collection from an address within the Primary Franchise Area listed accordingly in **Exhibit E: Board-Approved List of Address-Specific Service**

Modifications. Any additions to this list must be approved by the Board. No single Franchise Collection Service will be subject to both an Off-road and a Roll-out surcharge.

- (d) **Weekend or Holiday Collection surcharge** may be assessed by Contractor for any requested Collection that occurs on a Saturday, Sunday, or Holiday, except for services described under Section C of this Exhibit.
- (e) **More than Weekly** surcharge may be assessed by Contractor for any requested subscription for regular Collection that occurs more than once per week. The 'More than Weekly' surcharge is assessed as the additional percentage of the monthly fee for weekly collection multiplied times the number of additional collections per week. For example, if the monthly rate for weekly collection of a cart was \$40, and the 'More than Weekly' surcharge was 100%, the rate for collection of that same size cart three times per week would be: $\$40 + ((\$40 \times (3-1)) \times 100\%) = \120 per month.
- (f) **Larger Recyclables Cart charge** may be assessed by Contractor for each Solid Waste cart Customer who requires a 96 gallon cart for Recyclables Collection and has a smaller volume Solid Waste cart.
- (g) **Medical waste surcharge** may be assessed by Contractor for Collection and Disposal of treated Medical Wastes in bins or carts of any size.
- (h) **Secondary Franchise Area Surcharge** may be assessed by Contractor for any Franchise Collection Service provided within the Secondary Franchise Areas.
- (i) **Overweight Debris Box charge** may be assessed at the per-ton rate for disposing mixed wastes at the Del Norte County Transfer Station by Contractor for bin services for the documented disposal fees in excess of 4.25 tons for a 20 cubic yard debris box, in excess of 5.5 tons for a 30 cubic yard debris box, or in excess of 6.75 tons for a 40 cubic yard debris box.
- (j) **Extra Time for Temporary Bins surcharge** may be assessed by Contractor for each additional week after the first eight days a Customer has requested additional access to a temporary bin.
- (k) **Relocation charge for Temporary Bins** may be assessed by Contractor for each requested move (5 miles or less) of temporary bins after initial delivery and before final Collection.
- (l) **Customer-initiated unscheduled collection surcharge** may be assessed by Contractor for any Franchise Collection Service provided in response to a Customer request for Collection Service on a day other than that scheduled by Contractor, except for those services described in Section C of this Exhibit.
- (m) **Pass-through per item charge** may be assessed by Contractor for Disposal of items placed in bins in addition to the per unit cost assessed to dispose of those items at the Del Norte County Transfer Station. Pass-through charges may be applied to bin or debris-box Customers with one or more of the following items in their bin or debris-box: large metal appliances such as washers,

dryers, water heaters, ovens, stoves, or dishwashers, tires with or without rims, bulky furniture, mattresses or box springs, refrigerators, freezers, or air conditioners. For Collection of one or more of the items listed in this section from Customers whose payments are not current or who are not subscribed for a weekly Collection Service, Contractor may require payment in advance of the Pass-through per item charge plus the per unit cost assessed to dispose of those items at the Del Norte County Transfer Station plus a Special Service Fee if necessary.

- (n) **Locking bin surcharge** may be assessed by Contractor for providing a locking bin and lock in response to a Customer request. Contractor will not assess a "Roll-out surcharge" for bins with a "locking bin surcharge" unless such bins are locked inside enclosures or the bins must be moved to enable Collection.
- (o) **Bear-proof bin surcharge** may be assessed by Contractor for providing a 'bear-proof' bin in response to a Customer request.
- (p) **Special Service Fee (per half-hour)** may be assessed by Contractor when significant additional labor is required to prepare materials for Collection, such as when Bulky Items are placed for Collection but are not readily moved by a hand truck.

C. Cart, Bin, and Debris Box Maintenance

1. **Cleaning, Painting, Maintenance.** Contractor will steam clean and repaint all Contractor supplied containers at a frequency sufficient to present a clean appearance. Visible rust on any Contractor bin or vehicle covering a contiguous area of two (2) square feet or more, or a total of ten (10) square feet, will by definition be a bin in need of painting or replacement, however, a bin or vehicle may be determined to need painting without meeting this criteria. All containers must be maintained in a functional condition, e.g. working lids and wheels. All graffiti on containers must be removed, or graffitied containers replaced, as soon as practicable, but not more than ten (10) days after discovery.
2. **Labelling.** All bins are to be labeled with the following text:
"Warning: It is unlawful for any person to deposit any trash in this container without prior authorization by the owner. Violators are subject to a minimum \$500 fine for first violation and up to six months in jail. - California Penal Code Section 374.3."
All blue carts for Recyclable Materials or green carts for Organics provided by Contractor must have labels affixed on the underside of the cart lid, with graphics and text approved or provided by Authority, describing what materials are acceptable within each cart and how materials are to be prepared by the Customer. Dimensions of each label will not be less than eight (8) inches by ten (10) inches.
3. **Repair and Replacement.** Contractor will repair or replace all containers damaged by Collection operations at no cost to Authority or Customers.

EXHIBIT B2: SPECIAL COLLECTION SERVICES

Services described in this section will not be subject to any surcharges described in Exhibit B1, section B.6.

- A. Collection, Transport, and Disposal of Wastewater Treatment Plant Sludge, Screenings, Skimmings, and Grit.** Contractor will offer Collection of sludge, screenings, skimmings, and grit from wastewater treatment plants within the Franchise Area. Contractor will use only vehicles, equipment, scales, storage containers, and drivers and Disposal Facilities that are appropriately permitted, placarded, and licensed to provide these services in compliance with all Applicable Laws. Costs for providing Collection, transportation, and Disposal services for these materials will be charged as a maximum fixed rate per ton, regardless of container, Collection method used, or frequency of Collection. Contractor may charge less, but may not charge more, than the maximum fixed rates described within Exhibit F, as adjusted under Article 7. Collection and Disposal of these materials is exclusive under this Agreement (Section 4.01.B), though collection and beneficial reuse (e.g. composting, land application for agricultural uses, etc.) of some of these materials is not exclusive (Section 4.01.C), and may be initiated by the Authority and/or the Contractor's Customer(s) at any time. All components of the fees collected by Contractor for the Collection, transport and Disposal of sludge, screenings, skimmings, and grit are and will be subject to the Franchise Fee as described in Section 4.02 of the Agreement. Charges to Customers for the Collection, transport, and Disposal of wastewater treatment plant sludge, screenings, skimmings, or grit will be accompanied by copies of all relevant weight receipts from the Disposal Facility and/or an appropriately certified (i.e. tested and sealed) scale.
- B. Authority-Directed Pull-charge Services.** Contractor will provide the services described in this Section under the Administrative guidance of the Authority Director.
- 1. Small-volume Transfer Station Collection.** Contractor will provide a suitable number of containers but not less than one (1) forty (40) cubic yard container for the Gasquet Transfer Station for trash, and one (1) forty (40) cubic yard container for brush and yard debris, and two (2) forty (40) cubic yard containers for trash, and one (1) forty (40) cubic yard container for brush and yard debris for the Klamath Transfer Station, unless otherwise specified by Director in writing.
- Contractor will provide for the Collection and transport of the containers to the Disposal Site on an as needed basis, but not less than weekly. Contractor will provide for the placement of empty forty (40) cubic yard replacement containers at the time of collecting full containers. Bins used at the small-volume transfer stations must be fitted with metal mesh lids that when closed effectively inhibit animal access to the materials in the bins, and the

lids used during the months of October through May must have lids which inhibit precipitation entering the bin when closed, or tarps must be deployed and secured over the metal mesh lids to inhibit precipitation inflow. Contractor must provide all necessary equipment of sufficient capacity and personnel of sufficient number to collect and transport Solid Waste from the transfer stations to the Disposal Site. Contractor will have a phone number which Authority may call to request Collection of bins from small-volume transfer stations as need arises on weekends or holidays, and Contractor will respond to such a request within four (4) hours.

Contractor will maintain the premises in and around the transfer stations in a neat and orderly condition, and is responsible for cleaning the loading bays after a bin is removed and before its replacement is placed. Cleaning must be to the satisfaction of the Director. If inspection reports of any small-volume transfer station indicate an 'area of concern' or 'violation' due to accumulation of trash in or around the loading bays during the previous four (4) weeks, Contractor must abide by instructions given by the Director to eliminate the cause of the trash or litter accumulation, or respond in writing to the Director proposing an alternative method to eliminate similar citations in the future. Furthermore, if the gates, bin flaps or any other structures or facility improvements at the small-volume transfer stations are damaged in the process of Collection, Contractor will repair or replace such damaged items at no additional cost as soon as practicable.

Contractor will bill Authority directly and on a monthly basis for the provision of small-volume transfer station Collection Services including Collection and transfer to Disposal Site. Bills will include the number of containers serviced and cost per container at each small-volume transfer station during the billing period, and will not include additional charges for weekend Collection or for using debris boxes with lids. Bills will be sent to the attention of the Director at the address provided in **Section 10.15** of this Agreement. Contractor will not be assessed a tipping fee at the Disposal Site and billing will not include cost of Disposal at Disposal Site.

- 2. Authority-requested Pull-charge Bin Service.** Contractor will respond within forty-eight (48) hours of an Authority request to deliver one or more bins of any size to be delivered anywhere within Del Norte County. If Contractor is unable to comply with the request due to access or equipment limitations, Contractor will respond by proposing an alternative method to collect an equivalent volume of materials from the Authority's requested location at no additional charge. After the twenty (20) Authority-directed complimentary bin pulls (as described in section C.3 of this Exhibit) have been depleted during a calendar year, Contractor is authorized to charge and bill the Authority for each bin requested under this section at the same rate as would be charged for a

single small-volume transfer station Pull-charge Collection. Contractor will not be assessed a tipping fee at the Disposal Site and billing will not include cost of Disposal at Disposal Site, for any bin so requested by the Authority.

C. Authority-Directed Contractor Services without charge.

- 1. Streetside Litter and Recycling Containers.** Contractor will provide, without cost to Authority, not less than sixty (60) suitable litter containers and sixty (60) suitable Recyclables containers to be co-located in pairs, with one litter container next to one Recyclables container. The sixty (60) pairs of containers will be located at the indicated locations specified in Exhibit J, and Contractor will collect and recycle or dispose of contents thereof free of cost to Authority, the City and the County. Containers will be of a size and type and in locations approved by the Director. Frequency of service must be sufficient to avoid overflow of litter and Recyclables containers. Contractor will collect all non-Prohibited Waste materials placed in any Streetside container, even if materials placed therein are improperly sorted or include contaminants. Contractor may place additional Director-approved signage or other educational materials near or on streetside containers to reduce contamination. As part of the Annual Report, Contractor will submit a map of the locations of all sidewalk litter containers and sidewalk recycling containers in Del Norte County for review by the City of Crescent City and County of Del Norte, and the Authority. The Authority may change the locations to be serviced with sidewalk containers and Collection Services as part of the annual review.
- 2. Community Recycling Drop-off Centers.**

 - (a)** Contractor will develop and operate recycling drop-off centers as follows: one (1) at the Del Norte County Transfer Station, plus one (1) drop-off center each for the City of Crescent City the communities of Smith River, Fort Dick, Houichi, Gasquet, and Klamath; for a total of seven (7) centers. The Gasquet and Klamath drop-off centers will be located at the communities' small-volume transfer station sites unless otherwise authorized by the Director in writing. Contractor will be responsible for the identification of appropriate drop-off center sites within the City and communities of Smith River, Fort Dick, and Hiouchi, subject to approval by the Director.
 - (b)** The Recycling drop-off centers are to be open to the public seven (7) days a week, except for such drop-off bins which are placed at Authority facilities. The drop-off centers must accept at a minimum: newspaper, magazines, aluminum cans, steel cans, glass containers, PET plastic containers, HDPE plastic containers, and corrugated cardboard. The list of materials may only be amended or modified with the written approval of the Director.
 - (c)** Properly labeled bins (or partitioned portions of bins) must be provided for each type of Recyclable Material. Contractor must provide for

adequate signage, parking, security, and vehicle ingress/egress. Contractor will provide for separation and marketing of any materials commingled in drop-off containers unless otherwise approved by the Director. The costs for collecting, processing, and marketing materials collected from the recycling drop-off centers, cleaning and maintaining the neat appearance of each drop-off area, properly collecting and disposing of materials placed outside the containers at each Community Recycling Drop-off Center, and Collection and Disposal of residuals removed from the Recyclable Materials delivered to the Processor, are to be included in the Collection components of all residential and commercial trash Collection Service fees.

(d) Contractor will collect all non-hazardous materials placed in any Community Recycling Drop-off Center, even if materials placed therein are improperly sorted or include contaminants. Contractor may place additional Director-approved signage or other educational materials at any Community Recycling Drop-off Center to reduce contamination.

3. **Authority-Directed Complimentary Bin Pulls for Community Cleanup.** For the purposes of supporting community activities and cleanup events, Contractor will provide bins of the requested size and deliver them to any location within Del Norte County Franchise Area as specified by the Board and/or Director for a period of not more than two (2) weeks prior to Collection. Contractor will provide up to twenty (20) bin pulls per calendar year for which the Contractor will not separately charge the Authority. Contractor will not be charged at Authority facilities for disposal or recovery of the contents of any Complimentary Bin pull.

EXHIBIT C1: RESIDENTIAL RECYCLABLES SERVICE SPECIFICATIONS

A. Collection Service; Materials Collected. The Contractor must provide a container(s) for the Collection of Recyclable Materials from any Solid Waste Collection Customer who requests such service. Contractor will use 32 gallon, 64 gallon, and 96 gallon containers with either one (1) or two (2) chambers. Each cart will have instructions on what materials can be recycled using that cart and how the materials are to be prepared and separated by customers. The form of the cart labels are subject to review and approval by the Director. Recyclable Materials Collections must include the following material types:

- Plastic containers, except expanded polystyrene;
- Steel and tin-plated steel cans;
- Aluminum Cans;
- Glass containers (all colors and sizes);
- Non-waxed Corrugated Cardboard and Brown Paper Grocery Bags;
- Newspapers, Magazines and Catalogs;
- Film Plastic bags; and
- Office paper and junk mail.

B. Charges for Multi-material Recyclables Collections. Contractor will collect Recyclable Materials at no additional cost to residential Solid Waste Customers or Commercial cart (32, 64, 96 gallons) Solid Waste Customers. Such Customers will receive a Recyclables cart of the same size as their Solid Waste cart, unless they request a larger or smaller size. Customers with a 20, 32, or 64 gallon Solid Waste cart may be charged a monthly fee of \$5.00 if they request the 96 gallon Recyclables cart. Contractor may charge up to the Board-approved rate(s) for customers who subscribe for Recycling collection but who do not subscribe for residential Solid Waste Collection Services.

C. Non-Collection of Improperly Sorted Materials. Contractor may refuse Collection of Recyclables contaminated or improperly sorted, including more than 10% (by volume or weight) non-recyclable or improperly sorted materials, if Contractor leaves a Notice, Warning, and/or Non-Collection tag explaining the reason for non-collection as described in section **5.06.C.**

D. Separate Truck for Collecting Multi-material Recyclables. Contractor will have a separate, dedicated recycling truck to perform this Collection.

E. Mixing of Recyclables; Delivery to Designated Location. Contractor will deliver materials to the Authority-designated Processor(s), and will provide Quarterly Reports of the weight of each commodity recycled from multi-material Recycling Collections as required in **Article 5.17** of this Agreement. If residential and non-residential multi-material Recyclables are mixed within the same truck during a Collection route, Contractor will allocate the Recyclables reported to commercial and residential Customers based upon the proportional volume collected from residential or commercial Customers on that route. In addition, the quantity of residuals collected through the residential curbside Recycling Collections that were separated by the Authority-designated processor for Disposal must also be reported on a quarterly basis. Curbside-Recycling-related Disposal will be disposed at the designated location (the Del

Norte County Transfer Station), at the expense of the Contractor, in accordance with **Section 5.12** of the Franchise Agreement.

EXHIBIT C2: MULTI-FAMILY RECYCLABLES COLLECTION

A. Containers. Contractor will provide Collection services for the Recyclable Materials listed in **Exhibit C1** for all residential units of any Multi-family housing complex at no additional cost if the complex subscribes for Franchise Solid Waste Collection, or for a monthly charge for for Recyclables-only Collections. Contractor will provide a container for all listed Recyclables that is conveniently accessible by each residential unit, but is not necessarily required to provide a separate Recycling cart for each dwelling. If labeled recycling carts are not used, Contractor will provide printed information about how to properly use the Recycling container(s) provided.

B. Educational Materials. Contractor will deliver to all Multi-family residential units educational materials introducing the service and specifying set-out requirements, material types and condition, times, as well as the address and telephone number for service questions at the time the customer subscribes for Collection service. Supporting educational materials will be re-distributed at least annually prior to July 1st by Contractor and any time there is a change in Collection schedule, frequency or material types. The type and content of educational materials must be submitted to the Director for approval at least forty-five (45) days prior to distribution.

C. Quarterly Report. Contractor will provide quarterly reports of the weight of each commodity recycled from Multi-family Recyclables Collections. If Multi-family residential and non-residential multi-material Recyclables are mixed within the same truck during a collection route, Contractor must allocate the recyclables reported to commercial and Multi-family residential customers based on the proportional volume collected from Multi-family residential or commercial Customers on that route.

EXHIBIT C3: COMMERCIAL, INDUSTRIAL, AND INSTITUTIONAL MULTI-MATERIAL RECYCLABLES COLLECTION SERVICE SPECIFICATIONS

A. Commercial Recyclables Collection. The Contractor will offer Multi-material Recyclables Collection services to all commercial, industrial, and institutional establishments in the Franchise Area, and may charge up to the Authority-approved maximum service rates for Multi-material Recyclables Collection, and the service will include recycling of the same materials listed in **Exhibit C1**. The Authority does not guarantee a minimum participation level in commercial, industrial, or institutional Recyclables Collection services offered by Contractor. If a commercial, industrial or institutional establishment subscribes to commercial cart service (32, 64, or 96 gallons), it will receive a Recyclables cart of equal size at no additional cost.

B. Containers. Contractor will provide commercial and industrial Customers desiring Recycling service with one or more appropriately colored and labeled containers for the placement of Recyclables.

EXHIBIT C4: SINGLE MATERIAL COMMERCIAL RECYCLING COLLECTIONS SERVICES

A. Services. Contractor will offer commercial and industrial Customers, Recycling Collections for single separated Recyclable Materials, such as corrugated cardboard, metals, office paper, or beverage containers, in all available sizes of bins. In addition, Collection of recyclable glass containers must be offered to all bar and restaurant accounts for Collection. Customers may subscribe to commercial recycling services without subscribing to commercial Solid Waste Collection Services. The charge for Single Material Commercial Recyclables Collection may not be more than 60% of the Authority-approved rate for the equivalent volume of Solid Waste Collection Service. Prior to delivery, Contractor will affix a label or sign not less than eight (8) inches by ten (10) inches indicating that the bin is to be used for recycling the single material only, and that material will be identified on the label. Contractor will provide for separation and marketing of any materials commingled in recycling containers, unless otherwise approved by the Director.

B. Educational Materials. Contractor will deliver educational materials describing all available Collections Services, costs, participation requirements, and address and telephone number for service questions, at least fourteen (14) days prior to initiating any Collections service to commercial, institutional, or industrial customers. Supporting educational materials will be distributed at least annually prior to July 1st by Contractor to all commercial and industrial Customers. The type and content of educational materials must be submitted to the Director for approval prior to distribution.

EXHIBIT D1: RESIDENTIAL ORGANICS COLLECTION

A. Service. During the term of this Agreement, Contractor will offer separate Collection of Organic Materials. At a minimum, the Organics Materials to be collected will include leaves, grass, and plant trimmings with limbs up to six (6) inches in diameter. The service will be available to all Franchise Customers by separate subscription.

B. Frequency. Organics Collections will occur not less than once per week, and will utilize Contractor-supplied Organics containers including the following sizes: 64 gallon or 96 gallon carts, and all available bin sizes. Organics carts will be green in color, and bins will be labeled, colored or painted to indicate that only Organic Materials are to be placed therein.

C. Reports and Receipts. Contractor will provide quarterly reports to Authority of the weight of Organic Materials collected from residential and non-residential customers, as measured when the trucks collecting such materials unload those materials for processing. Contractor will also provide receipts or other documentation of the weight of all materials collected and composted, burned, and/or disposed under this service. Authority reserves all rights described in **Section 5.09** of the Franchise Agreement with regards to Organics collected under the Agreement.

EXHIBIT D2: COMMERCIAL ORGANICS COLLECTION

A. Service. During the term of the Franchise Agreement, Contractor will offer separate Collection of Organic Materials from commercial Customers. Contractor will utilize Contractor-supplied green carts including the following sizes: 64 gallons or 96 gallons, and all available volumes of bins or debris boxes, and will provide such Organics Collections not less than once per week, except for Temporary bins and debris boxes. Prior to delivery Contractor will affix a label or sign not less than eight (8) inches by ten (10) inches indicating that such bin is to be used for Organic Materials only.

B. Reports and Receipts. Contractor will provide quarterly reports to Authority of the weight of Organic Materials collected from commercial, institutional, and industrial Customers, as measured when the trucks collecting Organic Materials unload those materials for processing. Contractor will also provide receipts or other documentation of the weight of all materials collected and composted, burned, and/or disposed associated with this service. The Authority reserves all rights described in **Section 5.09** of the Agreement with regards to Organics collected under the Agreement.

EXHIBIT E: BOARD-APPROVED LIST OF ADDRESS-SPECIFIC SERVICE MODIFICATIONS

A. Streets and Addresses with Justified Off-Road Surcharges

1. All addresses on Ashford / Hiouchi Mountain Road in Hiouchi
2. All addresses on Compass Court in Smith River
3. All Addresses on Cone Rock Circle in Smith River
4. 275 Harbor View Drive in Crescent City
5. The following addresses on Highway 199: 2773 and 2815 in Hiouchi
6. 16720 Highway 101 N in Smith River
7. 160 Kenwood Lane in Crescent City
8. 300 Kristian Lane in Fort Dick
9. 121 Lopez Court in the Smith River / State Line Area
10. 245 Monument Drive in Hiouchi
11. All addresses on Nautical Heights Drive in Smith River
12. All Addresses on Spyglass Road in the State Line area
13. 455 Ternie Lane in Crescent City

B. Locations Not Serviceable by Contractor

[none approved]

EXHIBIT F: RATES AND SERVICE FEES

(The following rates presume a per-ton disposal fee of \$127.08 in July 2011 at the Del Norte County Transfer Station. If disposal fees will be less than that amount on that date, the Tipping portion of these rates may be proportionally modified prior to the Commencement Date.)

Contractor: Recology Del Norte

Contractor's percent CPI escalation =

85

 %

Breakdown of Rate Components	Collection %	Transport %	Tipping %	
Bag Disposal	66.5%	16.7%	16.8%	= 100%
Cart Disposal (incl. recycling as req'd)	56.5%	14.1%	29.4%	= 100%
Bin Disposal (incl. recycling as req'd)	46.6%	11.6%	41.8%	= 100%
Roll-off Disposal (incl. Recycling as req'd)	7.2%	7.2%	85.6%	= 100%
Compactor Disposal	30.1%	30.1%	39.8%	= 100%
Cart Recyclables	80.0%	20.0%	0	= 100%
Bin Recyclables	80.0%	20.0%	0	= 100%
Cart Organics	56.2%	14.0%	29.8%	= 100%
Bin Organics	56.2%	14.0%	29.8%	= 100%
Sludge, screenings, skimmings and grit	20.0%	20.0%	60%	= 100%
Extra Bulky Collection	28.2%	7.1%	64.7%	= 100%
Construction & Demolition	7.0%	7.0%	86.0%	= 100%

Roll-out bin	25%	% Additional
Off-Curb Cart	25%	% Additional
Off-Road	56.25%	% Additional
96 Gal. Recyclables Cart Charge	\$ 5.00	\$ Additional per month, except for weekly 96 gallon disposal subscribers
Weekend or Holiday Collection	50%	% Additional
More than Weekly	100%	% Additional x (Coll/wk -1)
Medical Waste	80%	% Additional
Secondary Franchise Area	65%	% Additional
Additional Collection for Temp	100%	% of Rate for Single-Collection Temporary
Extra Time for Temp	25%	% of rate for Temporary Bin for each week overdue.
Relocation Temp	\$ 50.00	\$ per relocation more than 5 miles
Unscheduled Collection	\$ 5.00	\$ Additional per unsch. Coll.
Pass-through (PT) per Item	\$ 0.00	\$ PT + Transfer Station pre Item Charge
Locking Bin	\$ 5.00	\$ Add'l per lock + locking bin / month
Bear-proof Bin	\$100.00	\$ Add'l per bin / month
Special Service Fee per half hour	\$ 50.00	\$ / h-hr

Weekly Cart Collection Services, Rate per month for separate subscription

	Disposal & Recyclables	Recyclables Only	Organics
20 gal	\$ 18.50		
32 gal	\$ 23.14	\$ 18.00	\$ 9.19
64 gal	\$ 33.72	\$ 26.23	\$ 13.58

96 gal	\$ 48.86	\$ 38.00	\$ 20.59
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Temporary Bin Solid Waste Collection Services, per collection

	Waste	Mixed Recyclables Only	Organics
64 gallon (Paired w/ 64 Gal Recycling)	\$ 32.95	\$ 19.77	
96 gallon (Paired with 96 gal Recycling)	\$ 57.67	\$ 34.60	
2 cubic yard bin	\$ 62.99	\$ 37.79	\$ 44.58
3 cubic yard bin	\$ 98.64	\$ 59.18	\$ 69.80
4 cubic yard bin	\$ 130.15	\$ 78.09	\$ 92.10
6 cubic yard bin	\$ 172.24	\$ 103.34	\$ 121.88
10 cubic yard bin	\$ 565.10	\$ 339.06	\$ 399.90
20 cubic yard bin	\$ 672.47	\$ 403.48	\$ 475.88
30 cubic yard bin	\$ 820.41	\$ 492.25	\$ 580.57
40 cubic yard bin	\$ 1114.12	\$ 668.47	\$ 788.42

Weekly Bin Solid Waste Collection Services, rate per month

	Disposal (including Mixed Recyclables)	Mixed Recyclables Only	Organics
32 gallon cart	\$ 36.10	\$ 21.66	\$ 10.31
64 gallon cart	\$ 72.20	\$ 43.32	\$ 20.90
96 gallon cart	\$126.36	\$ 75.82	\$ 38.29
1 cubic yard	\$ 124.78	\$ 74.87	\$ 91.54
1.5 cubic yard	\$ 179.69	\$ 107.81	\$ 130.33
2 cubic yard	\$ 223.80	\$ 134.28	\$ 159.06
3 cubic yard	\$ 324.06	\$ 194.44	\$ 227.74
4 cubic yard	\$ 405.60	\$ 243.36	\$ 278.97
6 cubic yard	\$ 587.41	\$ 352.45	\$ 398.89
10 cubic yard	\$ 1984.35	\$ 1190.61	\$ 1294.63
20 cubic yard	\$ 2579.65	\$ 1547.79	\$ 1683.01
30 cubic yard	\$ 3223.80	\$ 1934.28	\$ 2103.27
40 cubic yard	\$ 3867.94	\$ 2320.76	\$ 2523.51

Single-Family Residential Collection Services

Bag service

\$ 7.00

 (per bag not per month)

Compactors per cubic yard per pickup, not per month

All sizes of compactors

\$64.05

 per cubic yard per collection

Other Collection Services

Small-volume Transfer Station Collection or Authority-requested Pull Charge	\$ 174.12	per collection, delivery included
Sludge, screenings, skimmings and grit hauling and disposal as directed	\$150.00	per ton
Extra Bulky Item Collection	\$ 55.00	per additional bulky item

EXHIBIT G: LIQUIDATED DAMAGES

In the event that Contractor fails to perform fully any of the Contractor's responsibilities under the Franchise Agreement (other than "events of Default" stipulated in Section 9.02) Contractor shall be in breach ("Event of Breach") of the Agreement. Upon delivery of written notice to Contractor, Authority may assess the following:

	<u>Payment per Occurrence</u>
<u>A. Collection Reliability</u>	
(i) For each failure to commence service to a new customer account within seven (7) days after order:	\$20.00
(ii) For each failure to collect Solid Waste or Recyclables, which have been properly delivered for Collection, from a subscription customer account on the scheduled Collection day:	\$20.00
<u>B. Collection Quality</u>	
(iii) For each occurrence of failure to properly return empty Solid Waste or Recycling Containers to avoid pedestrian or vehicular traffic impediments or to place cans upright with lids secured:	\$15.00
(iv) For each occurrence of excessive noise:	\$25.00
(v) For each occurrence of discourteous behavior:	\$25.00
(vi) For each failure to immediately clean up material spilled from Solid Waste or Recycling Containers:	\$25.00
(vii) For each failure to maintain containers so they are leak proof and have a clean appearance:	\$25.00
(viii) For each occurrence of collecting Solid Waste or Recyclables during unauthorized hours:	\$25.00
(ix) For each failure to have Collection workers dressed in suitable and acceptable uniforms and identification badge (per employee per day):	\$25.00
(x) For each failure to remedy a complaint that is found to be justified by the Director, or to provide acceptable substitute services as requested by the Director within forty-eight (48) hours after notification by the Director (each day):	\$100.00
(xi) For each failure to maintain any Solid Waste or Recycling	

- | | |
|---|----------|
| Collection vehicle in accordance with the specifications in this Agreement within twenty-four (24) hours of notification by the Director (per vehicle per day): | \$100.00 |
| (xii) For each failure to notify the Director of material operational changes (each day): | \$100.00 |

C. Customer Services

- | | |
|--|----------|
| (xiii) For each failure to respond to a customer complaint within twenty-four (24) hours: | \$10.00 |
| (xiv) For each website page on Contractor's website containing misinformation or misrepresentation, and failure to remove or correct the information within forty-eight (48) hours of notice by Director | \$50.00 |
| (xv) For each failure to provide Spring Cleanup Event for residential customers in the Primary Franchise Area | \$15,000 |

D. Timeliness of Submissions to Authority

- | | |
|--|------------------------------------|
| (xvi) Reports: Any report will be considered late until such time as a correct and complete report is received by Authority. For each <u>calendar day</u> a report is late, the daily assessment shall be: | \$15.00 |
| (xvii) For providing a new service within the Franchise Area and charging a rate which had not first been approved under either Section 5.15 or Section 7.04 of this Agreement : | \$100 for each unauthorized charge |

Above amounts may be adjusted by Authority on each anniversary date of the Commencement Date to reflect changes in the Consumer Price Index for the preceding twelve (12) month period, if the Authority is specifically requested to do so within the text of the request for Annual CPI-based Rate Adjustment, as described in **Section 7.02.A.**

Authority may determine the occurrence of events giving rise to liquidated damages through the observation of its own employees, representatives or as a result of the investigation of Customer complaints.

Prior to assessing liquidated damages, Authority must give Contractor notice of its intention to do so. The notice must include a brief description of the incident(s) or non-performance. Contractor may review (and copy at its own expense) all information in the possession of Authority relating to incident(s) or non-performance. Contractor may, within ten (10) days after receiving the notice, request a meeting with Authority. If a meeting is requested, it will be held by the Director. Contractor may present evidence in writing and through testimony of its employees and other persons relevant to the incident(s) or non-performance. The Director will provide Contractor with a written explanation of his or her determination on each incident/non-performance prior to authorizing the assessment of liquidated damages. The decision of the Director may be appealed to the Board following payment in full. Within seven (7) days of receiving authorized assessment of liquidated damages from Authority, Contractor must remit to

Authority damages specified in the assessment. At the time of remitting liquidated damages as assessed, Contractor may submit a written appeal to the Authority Board if Contractor disputes said assessment for consideration at a subsequent Authority Board meeting.

EXHIBIT H: PERFORMANCE BOND

(to be attached prior to signature)

EXHIBIT I: ADDITIONAL PROGRAMS AND SERVICES

(attach Recology proposal for additional programs and services)

EXHIBIT J: MAP OF STREETSIDE LITTER CONTAINERS