



Public Works Department
STAFF REPORT

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TO: Andrew P. Powers, City Manager
FROM: Clifford G. Finley, Public Works Director
DATE: November 9, 2021
SUBJECT: Limited Franchise Solid Waste Agreements

RECOMMENDATION:

Adopt resolution approving a total of four Limited Franchise Agreements with American Reclamation, Inc.; Arakelian Enterprises, Inc. dba Athens Services; E.J. Harrison and Sons, Inc.; and Ware Disposal, Inc., each with a term beginning January 1, 2022 and ending December 31, 2024 with an optional two year-extension.

FINANCIAL IMPACT:

No Additional Funding Requested. Minimal staff time required to process the agreements are included in the FY 2021-22 Solid Waste Budget.

BACKGROUND:

The City utilizes a system of Exclusive and Non-Exclusive Franchise Agreements to manage refuse, recycling, and street sweeping service in Thousand Oaks. Exclusive Franchise Agreements with two contractors, USA Waste of California (Waste Management) and Newbury Disposal Company (EJ Harrison), were approved by City Council in June 2013 with terms ending December 31, 2021. On March 9, 2021, City Council approved a new 15-year Exclusive Franchise agreement with Athens Services which becomes effective on January 1, 2022.

Non-Exclusive Franchises, now referred to as Limited Franchises, are utilized for temporary activities such as construction and demolition projects (C&D), remodels, cleanup, and land clearing, landscaping and tree removal projects. The Agreement authorizes franchisees to place bins and roll-off containers in the public right-of-way on a temporary, short-term basis, which is defined as service that occurs for no more than 30 consecutive days in a calendar year or as long as an ongoing project has an active City-issued building or grading permit. In November 2018, City Council approved Non-Exclusive Franchises with five waste hauling companies. These contracts expire on December 31, 2021.

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The City's Limited Franchise process offers both choice and rate competition for Thousand Oaks residents and businesses to effectively manage their temporary waste service needs. Limited Franchisees can charge up to, but not exceed, those rates established in accordance with the Exclusive Franchise Agreement. This allows for competitive pricing for temporary service.

DISCUSSION/ANALYSIS:

A Request for Proposals (RFP) for haulers to provide Limited Franchise solid waste service was issued on August 26, 2021 with a closing date of September 23, 2021. In response, proposals were submitted by three waste hauling companies (two current franchisees and one additional company). In addition, per the new Exclusive Franchise Agreement, Athens Services is automatically entitled to a Limited Franchise and was not required to submit a proposal through the RFP process. A review committee made up of Public Works staff determined all three submissions to be complete and compliant. All applicants demonstrated the ability to provide temporary waste hauling services and comply with franchise requirements, including the use of alternative fuel vehicles, a verified minimum 65 percent diversion rate for C&D materials, vehicle safety and training, insurance requirements, and requisite certifications. The successful applicants were:

1. American Reclamation, Inc. (Los Angeles, CA)
2. E.J. Harrison and Sons, Inc. (Ventura, CA)
3. Ware Disposal, Inc. (Santa Ana, CA)

As indicated above, Arakelian Enterprises, Inc. dba Athens Services, is an automatic addition to this list.

Using a selective RFP process to award Limited Franchise agreements limits awardees to vetted, qualified providers. This benefits the City by reducing staff time to manage franchisees, limits adverse impacts on City streets, and reduces greenhouse gas (GHG) emissions. The recent RFP resulted in three applicants, who, together with the automatic franchisee, provide ample choice for customers and helps maintain rate competition.

The solid waste haulers being recommended for the four Limited Franchise agreements include one local hauling company and three regional service providers. The agreements are identical and establish a term length of three years with an optional two-year extension. Additional features of the agreements are as follows:

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- Nine percent of the hauler's gross revenue is paid as a Franchise Fee to the City's General Fund.
- Haulers pay fees to the City's Solid Waste Enterprise Fund to finance the City's solid waste, recycling, and environmental programs.
- All fees are built into the City approved solid waste rate schedule.
- The Limited Franchise Agreements provide for an annual C&D tracking fee that offsets the City's costs for operation of an online C&D tracking system (Green Halo), set at a not-to-exceed amount of \$1,500 per franchisee.

Adoption of the resolution (Attachment #1) approving Limited Franchise Solid Waste Agreements (Attachment #2 through #5) is recommended.

COUNCIL GOAL COMPLIANCE:

Meets City Council Goals C and F:

- C. Operate City government in a fiscally and managerially responsible and prudent manner to ensure that the City of Thousand Oaks remains one of California's most desirable places to live, work, visit, recreate, and raise a family.
- F. Provide and enhance essential infrastructure to ensure that the goals and policies of the Thousand Oaks General Plan are carried out and the City retains its role and reputation as a leader in protecting the environment and preserving limited natural resources.

PREPARED BY: Rod Cordova, Assistant Analyst

Attachments:

- Attachment #1 – Resolution (Limited Franchise Solid Waste Agreements)
- Attachment #2 – Limited Franchise Agreement with American Reclamation, Inc.
- Attachment #3 – Limited Franchise Agreement with Arakelian Enterprises, Inc. dba Athens Services
- Attachment #4 – Limited Franchise Agreement with E.J. Harrison and Sons, Inc.
- Attachment #5 – Limited Franchise Agreement with Ware Disposal, Inc.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF THOUSAND OAKS APPROVING LIMITED FRANCHISE SOLID WASTE AGREEMENTS WITH AMERICAN RECLAMATION, INC.; ARAKELIAN ENTERPRISES, INC. DBA ATHENS SERVICES; EJ HARRISON AND SONS, INC.; AND WARE DISPOSAL INC.

WHEREAS, City of Thousand Oaks Municipal Code Section 6-2.301 *et seq.*, allows the City to provide for integrated solid waste collection and management services through private contractors, who are authorized to perform such services through franchises granted by the City; and

WHEREAS, Five Non-Exclusive Franchise Agreements for temporary refuse and recycling service are currently in effect and terminate on December 31, 2021; and

WHEREAS, the above-named companies have met City requirements for Limited Franchises.

NOW, THEREFORE, the City Council of the City of Thousand Oaks resolves as follows:

The City Council hereby approves the following Limited Franchise Agreements for the collection, processing and/or disposal of solid waste, green and organic waste, and recyclable materials, effective January 1, 2022 through December 31, 2024, with:

- American Reclamation, Inc.
- Arakelian Enterprises, Inc. dba Athens Services
- E.J. Harrison and Sons, Inc.
- Ware Disposal, Inc.

PASSED AND ADOPTED this 9th day of November, 2021, by the following vote:

Ayes:
Noes:
Absent:

Claudia Bill-de la Peña, Mayor
City of Thousand Oaks. California

ATTEST:

Cynthia M. Rodriguez, City Clerk

Date Attested: _____

APPROVED AS TO FORM:
Office of the City Attorney

Tracy Friedl, Assistant City Attorney

APPROVED AS TO ADMINISTRATION:

Andrew P. Powers, City Manager

The presence of electronic signature certifies that the foregoing is a true and correct copy as approved by the City of Thousand Oaks City Council on the date cited above.

LIMITED FRANCHISE AGREEMENT

FOR THE PROVISION OF

LIMITED FRANCHISE SOLID WASTE HAULER

Executed Between the

City of Thousand Oaks and American Reclamation, Inc.,

This 1st day of January 2022

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This Agreement is effective as of January 1, 2022 ("Effective Date"), and is between the City of Thousand Oaks, a general law city of the State of California, referred to as "City" and American Reclamation, Inc., referred to as "Contractor".

Now, therefore, in consideration of the mutual covenants, agreements and consideration contained in this Agreement, City and Contractor agree as follows:

Article 1. Definitions

For the purpose of this Limited Franchise Agreement, referred to as "Agreement", the definitions contained in this Article apply unless otherwise specifically stated. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Use of the masculine gender includes the feminine gender. The meaning of terms or words not defined in this Article will be as commonly understood in the solid waste collection services industry when the common understanding is uncertain.

1.01 AB 341. "AB 341" means State of California Assembly Bill No. 341 approved October 5, 2011. AB 341 requires businesses, defined to include commercial or public entities that generate more than 4 cubic yards of commercial solid waste per week or multifamily residential dwellings of 5 units or more, to arrange for recycling services and requires jurisdictions to implement a commercial solid waste recycling program.

1.02 AB 939. "AB 939" or "The Act" means "The California Integrated Waste Management Act of 1989" codified in part in Public Resources Code §§ 40000 et seq, as it may be amended and as implemented by the regulations of the California Department of Resources Recycling and Recovery (CalRecycle), or its successor agency.

1.03 AB 1594. "AB 1594" means State of California Assembly Bill No. 1594 approved September 28, 2014. AB 1594 provides that as of January 1, 2020, the use of green material as Alternative Daily Cover does not constitute diversion through recycling and would be considered disposal.

1.04 AB 1826. "AB 1826" means State of California Assembly Bill No. 1826 approved September 28, 2014. AB 1826 requires each jurisdiction, on and after January 1, 2016, to implement an organic waste recycling program to divert from the landfill organic waste from businesses. Each business generating 2 cubic yards or more of solid waste per week, and multi-family complexes of five units or more, is required to arrange for organic waste recycling services.

1.05 Agreement. "Agreement" means the written agreement between the City and the Contractor covering the work to be performed and all contract documents attached to the agreement and made a part thereof.

1.06 Agreement Administrator. The City Manager, or his or her designee, designated to administer and monitor the provisions of the Agreement.

1.07 Agreement Year. Agreement year means each twelve (12) month period from January 1st to December 31st during the term of this Agreement.

1.08 Applicable Law. "Applicable Law" means all laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirement of any federal, state, county, city, and local governmental agency having jurisdiction over the collection and disposition of Solid Waste, including Recyclable Materials, Organic Waste, and Construction and Demolition Waste.

1.09 Best Management Practice. Best Management Practice means the collection of written activities, practices, policies and procedures prepared and proposed by a responsible party, and then approved by the Director, to prevent or reduce, to the maximum extent that is technologically and

economically feasible, the discharge of pollutants to the storm drain system which might be generated from any site in the City.

1.10 Bin. "Bin" means a metal or plastic waste container designed or intended to be mechanically serviced by a commercial front-end loader vehicle. It shall be designed to hold from one (1) to six (6) cubic yards of material with the lid properly closed. The specifications for Contractor-provided Bins are set forth in Exhibit 4.

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

1.12 Brown Goods. Electronic equipment such as stereos, televisions, computers, VCR's and other similar items.

1.13 Business Day. Any Monday through Friday, excluding any holidays.

1.14 Calendar Year. Each twelve (12) month period from January 1 to December 31.

1.15 CERCLA. The Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sections 9601 and following, as may be amended and regulations promulgated thereunder.

1.16 Change in Law. Change in Law means any of the following events or conditions which has a material and adverse effect on the performance by the parties of their respective obligations under this Agreement (except for payment obligations), or providing the Temporary Collection Service or other matters to which Applicable Law applies:

A. the enactment, adoption, promulgation, issuance, modification, or written change of or in Applicable Law, including but not limited to new or increased fees and charges imposed by the State of California or the U.S. Federal government, directly related to the collection, handling, processing, recycling or disposal of Solid Waste, or the enactment, adoption, promulgation, issuance, modification, or written change in administrative or judicial interpretation on or after Effective Date of any Applicable Law;

B. the order or judgment of any Governmental Body, on or after the Effective Date, to the extent such order or judgment is not the result of willful or negligent action, error or omission or lack of reasonable diligence of the City or of the Contractor, whichever is asserting the occurrence of a Change in Law; provided, however, that the contesting in good faith or the failure in good faith to contest any such order or judgment shall not constitute or be construed as such a willful or negligent action, error or omission or lack of reasonable diligence; or

1.17 City. The City of Thousand Oaks, California.

1.18 City Manager. City Manager means the City Manager of the City of Thousand Oaks, or his or her designated representative, or any employee of the City who succeeds to the duties and responsibilities of the City Manager.

1.19 Code. Code means the City of Thousand Oaks Municipal Code.

1.20 Collection. The process whereby Solid Waste and Construction and Demolition Debris are removed and transported to a Disposal Facility, Organic Waste Processing Facility, Construction and Demolition Materials Processing Facility, or Materials Recycling (or Recovery) Facility as appropriate.

1.21 Collection Container. A Bin, or Roll-Off Container that is approved by the Agreement Administrator for use by Service Recipients for Temporary Collection Services under this Agreement.

1.22 Collection Vehicle. A licensed vehicle that is approved by the Agreement Administrator for use by Contractor for the transport, delivery, and collection of Solid Waste Bins and Roll-off Containers.

1.23 Compost. "Compost" means the product resulting from the controlled biological decomposition of Organic Wastes that are source separated from the municipal waste stream, or which are separated at a centralized facility. Compost may also include the product of anaerobic digestion or other conversion technologies.

1.24 Composting. "Composting" means the controlled and monitored process of converting Organic Waste into Compost.

1.25 Construction and Demolition waste. "Construction and Demolition waste" or "C&D" means Solid Waste consisting of building materials, packaging and rubble resulting from construction, remodeling, repair, and demolition operations on pavement, residential, commercial or industrial premises, buildings, and other structures, and land clearing operations.

1.26 Consumer Price Index (CPI). "CPI" means the index published by the United States Bureau of Labor Statistics and used to measure the variation in prices paid by typical consumers for goods and services. The CPI used to calculate the Maximum Service Rates is All Urban Consumers (CPI-U), Los Angeles-Long Beach-Anaheim.

1.27 Contaminant. Any material that is placed in a waste stream intended for recycling, including organics and C&D, that cannot be recycled or reclaimed within the waste stream in which it is placed.

A. A Contaminant of the Recycling stream is any material placed in that waste stream that cannot be recycled or reclaimed after processing.

B. A Contaminant of the C&D stream is any material placed in that waste stream that is not normally produced from construction and demolition activities such as, but not limited to, food waste, liquids, and hazardous waste.

C. A Contaminant of the Green Waste stream is any material not normally produced from gardens or landscapes such as, but not limited to, brick, rocks, gravel, large quantities of dirt, concrete, sod, non-organic wastes, oil and wood or wood products, including but not limited to, stumps, and diseased trees.

D. A Contaminant of the Food Waste stream is any non-Food Waste material placed in that waste stream.

1.28 Contractor. An entity that has obtained from the City this Agreement to provide Temporary Collection Services.

1.29 County. Ventura County, California.

1.30 Director. Director means the Public Works Director of the City or his or her designated representative, or any employee of the City who succeeds to the duties and responsibilities of the Public Works Director.

1.31 Dispose or Disposal. “Disposal” or “Dispose” means the final disposition of Solid Waste at a permitted Landfill or other permitted Solid Waste disposal facility, as defined in California Public Resources Code 40192.

1.32 Disposal Facility. “Disposal Facility” means the facility or such place or places specifically designated by the City for the disposal, or processing as appropriate, of Solid Waste, Construction and Demolition debris, and other materials as appropriate and acceptable.

1.33 Effective Date. “Effective Date of Agreement” means the date designated in the Agreement as the effective date. If no such date is indicated, it shall mean the date on which the Agreement is signed and delivered by the last of the parties to sign and deliver.

1.34 Exempt Waste. Biohazardous or Biomedical Waste, Hazardous Waste, Sludge, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, dead animals, and those wastes under the control of the Nuclear Regulatory Commission.

1.35 Food Waste. “Food Waste” means all putrescible solid, semisolid, and liquid food, such as, fruit, vegetables, cheese, meat, bones, poultry, seafood, bread, rice, pasta, and oils; coffee grounds and filters and tea bags; and any putrescible matter produced from human or animal food production, preparation, and consumption activities.

1.36 Franchise Fee. A fee established by resolution by City Council in consideration of the Limited Franchise.

1.37 Garbage. All putrescible and non-putrescible solid, semi-solid and associated liquid waste, as defined in California Public Resources Code section 40191. Garbage does not include Recyclable Materials, C&D, Organic Waste, Large Items, or Exempt Waste.

1.38 Green Waste. “Green Waste” means Solid Waste consisting of any vegetative waste generated from the maintenance or alteration of residential, commercial, or industrial premises including, but not limited to, grass clippings, leaves, tree trimmings, prunings, brush, weeds, flowers, herbs, and holiday trees

1.39 Gross Revenue. All monetary amounts actually collected or received by Contractor for the provision of Franchise services pursuant to this Agreement. Gross Revenue shall include all receipts from customers including late charges, contamination charges etc., including Solid Waste Management Fees and Franchise Fees. The term Gross Revenues, for purposes of this Agreement, does not include any revenues generated from the sale of Recyclable Material, compost product or energy, grants, cash awards or rebates resulting from the performance of this Agreement.

1.40 Hazardous Waste. “Hazardous Waste” means a waste, or combination of wastes as defined by Code of Federal Regulations, Title 40.

1.41 Large Items. “Large Items” or “Bulky Waste” means Solid Waste consisting of discarded white goods, furniture, tires, carpets, mattresses, and similar large items which do not fit in a regular

Collection Container and require special handling due to their size but can be collected and transported without the assistance of special loading equipment (such as forklifts or cranes) and without violating vehicle load limits. It does not include abandoned automobiles and other vehicles, nor does it include items defined as Exempt Waste.

1.42 Materials Recovery Facility. Materials Recovery Facility (MRF) means a facility to which Solid waste, Organic waste, Recyclable Materials, and Construction and Demolition Waste are brought for separation into marketable Recyclables.

1.43 Materials Recycling Facility. Same as Materials Recovery Facility.

1.44 Maximum Service Rate. The maximum amount that Contractor may charge Service Recipients for Collection Services, as listed in Exhibit 1, and as may be adjusted in accordance with the provisions of this Agreement.

1.45 Non-Collection Notice. A form developed and used by Contractor, as approved by City, to notify Service Recipients of the reason for non-collection of materials set out by the Service Recipient for Collection by Contractor pursuant to this Agreement.

1.46 Non-putrescible Material. "Non-putrescible Material" means Solid Waste consisting of waste which is not organic and not subject to decomposition by microorganisms.

1.47 Organic Waste. "Organic Waste" means Food Waste, Green Waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with Food Waste.

1.48 Organic Waste Processing Facility. "Organic Waste Processing Facility" means a State permitted commercial Solid Waste facility which accepts and processes Organic Materials.

1.49 Overage. Overage means excess Solid Waste, Organic Waste and Recyclable Materials (i) placed inside a Container that prevents the lid on the Container from being completely closed (i.e., lid remains open greater 45-degrees) or excess materials placed on top of or around a Container and (ii) could potentially result in excess materials spilling/dislodging during collection activity by Contractor's vehicles.

1.50 Premises. "Premises" means any land or building in the City where waste is generated or accumulated.

1.51 Putrescible Material. "Putrescible Material" means Solid Waste consisting of waste which is organic and subject to decomposition by microorganisms.

1.52 Quarter. Period of three (3) months with first quarter the months of January through March, second quarter April through June, third quarter July through September, and fourth quarter October through December.

1.53 Recyclable Materials. "Recyclable Materials" means Solid Waste consisting of any material which retains useful properties and can be reclaimed after the production or consumption process.

1.54 Recycling. "Recycling" means the process of collecting, sorting, cleansing, treating and/or marketing Recyclable Materials that would otherwise be disposed of in a landfill. The collection, transportation or disposal of Solid Waste not intended for, or capable of, reuse is not Recycling.

1.55 Residual or Residuals. Residual or Residuals means Solid Waste that is not diverted from landfill disposal after it has been delivered to an Organic Waste Processing Facility or a Recyclables Processing Facility for processing for diversion from landfill disposal. Residual does not include Recyclable Materials or Organic Material that is processed for diversion but has no available markets.

1.56 Roll-Off Container. A metal container with a capacity of ten (10) or more cubic yards that is normally loaded onto a specialized Collection Vehicle and transported to an appropriate facility.

1.57 SB 1383. "SB 1383" means State of California Senate Bill 1383, approved September 19, 2016, which mandates a fifty (50) percent reduction in disposal of Organic Materials from the 2014 levels by 2020 and seventy-five (75) percent reduction by 2025. Further, SB 1383 requires jurisdictions to implement Edible Food Recovery Programs designed to recover edible food that is currently landfilled by twenty (20) percent by 2025.

1.58 Service Area. That area within the city limits of the City of Thousand Oaks.

1.59 Service Recipient. An individual or entity receiving Temporary Collection Service from a Limited Franchise Contractor on a Temporary Basis using Bins or Roll-off Collection Containers.

1.60 Single-family Dwelling or SFD. "Single-family/duplex dwelling" or "SFD" means a single detached dwelling unit, and/or a duplex structure of two (2) single attached dwelling units, each designed for use by one bona fide housekeeping group.

1.61 Solid Waste. "Solid Waste" means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes, as set forth in California Public Resources Code Section 40191(a)(b), as amended from time to time, and includes Brown Goods, Construction and Demolition Debris, Food Waste, Garbage, Green Waste, Large Items, Organic Waste, Recyclable Materials, White Goods.

1.62 Solid Waste Management Fee. Administrative costs of managing the City's solid waste program paid for by Contractor.

1.63 Source separated. "Source separated" means the segregation, by the waste generator, of materials designated for separate collection for some form of materials recovery or special handling.

1.64 SRRE (Source Reduction and Recycling Element). A formal planning document prepared and adopted by a California jurisdiction, and submitted to the California Department of Resources Recycling and Recovery (CalRecycle), that demonstrates how the jurisdiction will comply with the California Integrated Waste Management Acts (AB 939) diversion goals. The jurisdiction's SRRE must include specific components, as defined in Public Resources Code sections 41003 and 41303.

1.65 Temporary Basis. "Temporary Basis" means the collection of solid waste for a temporary project or limited period of time, not a regular weekly collection service. Limited to no more than 30 consecutive days in a calendar year, or as long as an ongoing project has an active building permit.

1.66 Temporary Collection Services. “Temporary Collection Services” means collection of Solid Waste and Construction and Demolition debris using Bins and Roll-off Containers, on a Temporary Basis.

1.67 Term. “Term” means the time period or duration of the Limited Franchise.

1.68 Transfer station. “Transfer station” means those facilities utilized to receive Solid Waste, and temporarily store and transfer such waste directly from smaller to larger vehicles for transport

1.69 Universal Waste or U-Waste. E-Waste, dry-cell batteries, non-empty aerosol cans, fluorescent lamps, and fluorescent bulbs, mercury thermostats, and other mercury containing equipment.

1.70 Waste. “Waste” means the useless, unused, unwanted or discarded material and debris resulting from normal residential and commercial activity or materials which, by their presence, may injuriously affect the health, safety, and comfort of persons or depreciate property values in the vicinity thereof.

1.71 Waste diversion. “Waste diversion” means to divert Solid Waste, in accordance with all applicable Federal, State, and local requirements, from disposal at landfills or transformation facilities through source reduction, composting or recycling.

1.72 Waste generator. “Waste generator” means any person, as defined by the most current version of the Public Resources Code, whose act or process produces solid waste as defined in that same code, or whose act first causes solid waste to become subject to regulation.

1.73 Waste Reporting System (WRS). An online/digital data system designated by the City for recording and documenting receipts, revenue, outreach, customer service, site visits, weights and volumes by waste stream, and field issues for compliance, customer service, and reporting purposes.

1.74 White goods. “White goods” means enamel-coated major appliances, such as washing machines, clothes dryers, hot water heaters, stoves, and refrigerators.

1.75 Work Day. Any day, Monday through Saturday, that is not a holiday.

1.76 Wood waste. “Wood waste” means Solid Waste consisting of stumps, large branches, tree trunks, and wood pieces or particles that are generated from the manufacturing or production of wood products, harvesting, processing or storage of raw wood materials, or construction and demolition activities.

Article 2. Term of Agreement

2.01 Initial Term. The initial term of this Agreement will be for a three (3) year period beginning January 1, 2022 and terminating on December 31, 2024.

2.02 Extension of Term. Subject to the provisions of Section 2.03, at the end of the Initial Term, Contractor may be eligible to receive one, two (2) year term extension to the Initial Term, at the City’s sole discretion. Under no circumstances will City be obligated to extend the term.

2.03 Agreement Extension. In order to receive the Agreement term extension offer set forth in Section 2.02 of this Agreement, Contractor must meet or exceed the quarterly minimum performance and diversion standards set forth in Article 5. If either party elects to forego the Agreement extension, the party

wishing to forego the extension shall provide written notice to the other party prior to the applicable Extension Date. Upon delivery of such notice, this Agreement shall not be extended and shall terminate on the termination date.

Article 3. Conditions Governing Services Provided by Contractor

3.01 Grant of Limited Franchise for Temporary Solid Waste Collection In accordance with Title 6, Chapter 2 of the TOMC, City hereby grants to Contractor a Limited Franchise to provide Temporary Solid Waste Collection within the City, subject to the terms and conditions, and within the scope set forth in Exhibit 1, which provides the right and privilege to collect, remove and dispose of, in a lawful manner, Solid Waste, Recyclable Materials, Construction and Demolition debris, and Organic Materials on a Temporary Basis using Bins and Roll-off Containers.

3.02 Recyclable Materials Organic Waste, and Bulky Waste Discarded by Service Recipients. This Agreement shall not prohibit any person from selling Recyclable Materials or Organic Waste or giving Recyclable Materials or Organic Waste away to persons or entities other than Contractor. However, in either instance: (1) the Recyclable Materials or Organic Waste must be source separated from and not mixed with other Solid Waste; and (2) the seller/donor may not pay the buyer/donee any consideration for collecting, processing or transporting such Recyclable Materials or Organic Waste. A discount or reduction in the price for collection, disposal and/or recycling services for any form of un-segregated or segregated Solid Waste is not a sale or donation of Recyclable Materials or Organic Waste and such Solid Waste does not qualify for this exception. However, once the Recyclable Materials or Organic Waste have been placed in the Collection Container and the Container set out for Collection, the Recyclable Materials or Organic waste become the property of Contractor.

3.03 Responsibility for Service Billing and Collection. Contractor is responsible for the billing and collection of payments for Temporary Collection Services within the Service Area.

3.04 Contractor's Payments to City.

3.04.1 Franchise Fee. In consideration of the Limited Franchise provided for in Section 3.01 of this Agreement, Contractor shall pay the City a Franchise Fee as a percent of the Gross Revenue received by the Contractor from Limited Franchise services provided in the City pursuant to this Agreement. The Franchise Fee shall reflect a reasonable estimate of the value of the franchise and shall be established and adjusted as necessary by City Council by resolution. If adjusted during the term of this Agreement, Contractor shall be entitled to a rate adjustment as a City-directed change negotiated as part of the City's Exclusive Franchise Agreement for Solid Waste Collection Services. Any such adjustment will be reflected in the Maximum Service Rates under this Temporary Collection Services Agreement. The Franchise Fee for the Agreement Year and thereafter shall be nine (9) percent of Gross Revenue.

3.04.2 Solid Waste Management Fee. In consideration of the administrative costs of managing the City's solid waste program, Contractor shall pay City a Solid Waste Management Fee as a percent of the Gross Revenue received by the Contractor from Limited Franchise services provided in the City pursuant to this Agreement. The City Council may adjust the Solid Waste Management Fee by resolution, in which case Contractor shall be entitled to a rate adjustment as a City-directed change

negotiated as part of the City's Exclusive Franchise Agreement for Solid Waste Collection Services. Any such adjustment will be reflected in the Maximum Service Rates under this Temporary Collection Services Agreement. The Solid Waste Management Fee for the Agreement Year and thereafter shall be as follows:

- i. Eight and one-quarter (8.25 percent) percent of the Gross Revenues received during the reporting period, less Tipping or Facility Processing Fees, if the diversion rate for every waste stream during the reporting period meets or exceeds the Contractor's Diversion Requirements specified in Section 5.02;
- ii. Sixteen and one half percent (16.50 percent) of the Gross Revenues received during the reporting period, less Tipping or Facility Processing fees, if the diversion rate for any waste stream during the reporting period does not meet the Contractor's Diversion Requirements specified in Section 5.02.

3.04.3 Limited Franchise Construction and Demolition Tracking Fee. In consideration of the Limited Franchise provided for in this Agreement, and in consideration of annual operation costs of City's electronic construction and demolition waste tracking system, Contractor shall pay to City \$1,500 each year for the duration of this Agreement, and any extension thereof. Fee shall be adjusted based on annual operation costs of City's electronic construction and demolition waste tracking system. Payment of the Annual Fee shall be due by February 1st of each year.

3.04.4 Time and Method of Payment; Late Fees. Solid Waste Management Fees and Franchise Fees shall be computed and paid based on Gross Revenue received each calendar month for services rendered. Contractor shall prepare and submit such remittance on a quarterly basis to the Finance Director or designee in a manner specified by the City, and such remittance must be received no later than the last business day of the month following the end of each quarter. For hand-delivered remittance, the Contractor must request and receive a receipt or time stamp with the exact date remittance is received by the City Finance Director or designee.

3.04.5 The remittance will be accompanied by a report, prepared and submitted in an electronic format specified by the City, setting forth the basis, and calculations used for computing the amount due. The figures used shall be taken from the general books of account of the Contractor. All supporting documentation must be retained by the Contractor in accordance with the records retention requirements in Section 12.01.

3.04.6 If the Contractor fees to the City are not paid by the date set by this Agreement, Contractor shall also pay a penalty as specified in Exhibit 3, except to the extent that such lateness is due to extenuating circumstances.

3.04.7 In addition, Contractor shall pay interest on all unpaid fees at the rate of six (6) percent per annum or the prime (lending) rate, whichever is higher, but not to exceed the legal rate, from the date the fees were due and payable to the date actually paid.

3.04.8 If the delay is due to extenuating circumstances, Contractor must request approval in writing from the City Manager or designee at least five (5) business days prior to the date on which fees and reports are due. City shall contact Contractor within three (3) business days of receiving request for submission delay as to whether delay shall be permitted.

3.04.9 Taxes and Utility Charges. Contractor shall pay all Taxes lawfully levied or assessed upon or in respect of the Operating Assets or the Limited Franchise Services, or upon any part thereof or upon any revenues necessary for the operation of the Operating Assets and the provision of the Limited Franchise Services, when the same shall become due.

3.04.10 Disputes. In the event of any disputes between Contractor and City with respect to the fees described in Section 3, City shall provide Contractor with written objection within 180 days of the receipt of the report described in Section 3.04.5, indicating what is disputed and providing all reason then known to the City for its objection to or disagreement with such amount. If any such amount is adjusted in the City's favor pursuant to agreement, mediation, legal proceeding, or otherwise, Contractor shall pay the amount of such adjustment to City, with interest thereof at the Overdue Rate from the date such disputed amount was due City to date of payment in full of such amount. Nothing contained in this subsection shall limit the authority of any authorized office of the City or any other governmental agency to raise a further objection to any amount billed by Contractor pursuant to an audit conducted pursuant to Applicable Law. If Contractor prevails in the dispute, the Contractor shall have the right to recover from City its reasonable costs incurred in connection with the dispute resolution procedure.

3.05 Service Standards. Contractor must perform all Temporary Collection Services under this Agreement in a thorough and professional manner as described in Exhibit 1, while meeting the minimum performance and diversion standards listed in Article 5.

3.06 Labor and Equipment. Contractor must provide and maintain all labor, equipment, tools, facilities, and personnel supervision required for the performance of this Agreement.

3.07 Inspections. The City has the right to inspect Contractor's facilities or Collection Vehicles and their contents used to provide services pursuant to this Agreement at any reasonable time while operating inside or outside the City.

3.08 Commingling of Materials.

3.08.1 Solid Waste Materials Collected in Thousand Oaks. Contractor may commingle materials collected pursuant to this Agreement with other materials collected outside the City of Thousand Oaks, provided that Contractor tracks the tonnage of material collected inside the City of Thousand Oaks separately using a City-approved allocation methodology, and provided that Contractor transports the commingled materials to an appropriate processing facility for proper sorting and recycling. Changes to the allocation methodology may only be made with the express prior written authorization of the Agreement Administrator.

3.08.2 Spillage and Litter. Contractor may not litter premises in the process of providing Temporary Collection Services or while its vehicles are on the road. Contractor must transport all materials Collected under the terms of this Agreement in such a manner as to prevent the spilling or blowing of such materials from Contractor's vehicles. Contractor must exercise all reasonable care and diligence in providing Temporary Collection Services so as to prevent spilling or dropping of debris and must immediately, at the time of occurrence, clean up such spilled or dropped debris.

3.08.3 Except as provided in Article 3.08.2, Contractor is not responsible for cleaning up sanitary conditions caused by the carelessness of the Service Recipient; however, Contractor must clean up any material or residue that is spilled or scattered by Contractor or its employees.

3.08.4 Equipment oil, hydraulic fluids, spilled paint, or any other liquid or debris resulting from Contractor's operations or equipment must be covered immediately with an absorptive material and removed from the street surface. Contractor must document spillage in the Waste Reporting System and notify City's stormwater compliance coordinator within two (2) hours of any spills resulting from Contractor's operations or equipment. When necessary, Contractor must apply a suitable cleaning agent and cleaning technique to the street surface to provide adequate cleaning as approved by the City's stormwater compliance coordinator to be compliant with the City's stormwater permit.

3.08.5 The above paragraphs notwithstanding, Contractor must clean up any spillage or litter caused by Contractor within two (2) hours upon notice from the City. If City deems necessary, Contractor must engage third-party environmental clean-up specialist to remove any equipment oil, hydraulic fluids, or any other liquid or debris that remains on street after Contractor's own clean-up efforts. If clean-up is not conducted to satisfaction of City, City has right to engage environmental clean-up specialist to perform additional clean-up work at the expense of Contractor.

3.08.6 In the event where damage to City streets is caused by a hydraulic fluid spill (i.e., any physical damage in excess of a simple cosmetic stain caused by the spill), Contractor shall be responsible for all repairs to return the street to the same condition as that prior to the spill. Contractor shall be responsible for all clean-up activities related to the spill. Repairs and clean-up shall be performed in a manner satisfactory to the City and at no cost to the City.

3.08.7 To facilitate immediate cleanup, Contractor's vehicles must always carry sufficient quantities of petroleum absorbent materials along with a broom and shovel.

3.09 Regulations and Record Keeping. Contractor must comply with emergency notification procedures required by applicable laws and regulatory requirements. All records required by regulations must be maintained at Contractor's facility. These records must include waste manifests, waste inventories, waste characterization records, inspection records, incident reports, and training records.

Article 4. Billing, Charges and Rates

4.01 Temporary Collection Services. Contractor is responsible for the billing and collection of payments for all Temporary Collection Services. Contractor shall charge Service Recipients no more than the Maximum Service Rates established in Exhibit 2 and as such rates may be adjusted under this Agreement.

4.02 Production of Invoices. At the City's direction, Contractor shall prepare, mail or electronically transmit, and collect bills (or shall issue written receipts for cash payments) for Temporary Collection Services provided by Contractor under this Agreement. If made by mail, Billings shall be placed in an envelope at least 22 square inches in size and shall include a return envelope for each billing period. Contractor shall include an e-mail address on all billing notices and shall accept payment by check, credit card or ACH debit. Billings shall include sufficient space on the statement to accommodate up to 20 typed characters as specified by City. City shall have the right to revise the billing format, provided that reasonable notice is given. Where it has been determined that a Service Recipient has overpaid for service for any reason, Contractor must refund the Service Recipient the credit due within thirty (30) days of such determination.

4.03 Service Recipients and Payments. Through the Waste Reporting System, Contractor must report to the Agreement Administrator quarterly, the names, addresses, services rendered, and billing amounts of all Service Recipients who have received Collection Service. The provisions of Code Section 6-2.401(C) and Exhibit 2 shall apply to billing generally, including penalties for late payments and collection of delinquent accounts. For this purpose, delivery of the billing shall include the date such billing is deposited by Contractor into the U.S. Mail or delivered electronically.

4.04 Adjustments to Maximum Service Rates using Consumer Price Index (CPI). Beginning on January 1, 2023, and annually thereafter, Contractor shall, subject to compliance with all provisions of this Section, receive an annual adjustment to the Maximum Service Rates as set forth below.

4.04.1 Annual CPI Calculation. The Maximum Service Rate adjustment shall be calculated using the percentage change in the CPI between the base year, which shall be the prior preceding 12-month period ending July 31, and the preceding 12-month period ending July 31. Therefore, the first annual CPI adjustment (effective January 1, 2023) will be based on the percentage change between the CPI for the base year, August 1, 2020 through July 31, 2021 (the prior preceding 12-month period), and the CPI for the period of August 1, 2021 through July 31, 2022 (the preceding 12-month period).

4.04.2 Rounding. Adjustments to the overall Maximum Service Rates shall be made only in units of one cent (\$0.01). Fractions of less than one cent (\$0.01) shall not be considered in making adjustments. All CPI indices shall be rounded at two (2) decimal places for the adjustment calculations.

4.05 City Approval of Maximum Service Rates. On or before November 1, 2022, and annually thereafter during the term of this Agreement, City shall notify Contractor of the CPI adjustments to the affected Maximum Service rates to take place on the subsequent January 1st. City shall take action on any changes in the Maximum Service Rates in accordance with the City's Municipal Code.

4.06 Annual Rate Cap on Maximum Service Rates. In any Calendar year that the calculation of the CPI exceeds four percent (4.00%) or is between zero and one percent (1.00%), the total adjustment for that year will equal four percent (4.0%) or one percent (1.0%), respectively, and no rollover amount will be added to or subtracted from the rate adjustment percentage in the following year, or any subsequent year. If the CPI is negative there will be no CPI adjustment for that year.

4.07 Extraordinary Adjustment to Maximum Service Rates. If a material Change in Law occurs after the date hereof, an appropriate adjustment to Maximum Service Rates sufficient to offset the additional cost of solid waste service may be negotiated as part of the City's Exclusive Franchise Agreement for Solid Waste Collection Services. Any such adjustment will be reflected in the Maximum Service Rates under this Temporary Collection Services Agreement.

4.08 Performance Standards for Adjustments to Rates. To be eligible for a CPI adjustment under Article 4.04 or an extraordinary adjustment under Article 4.07, Contractor must cure any material default under Article 18 of this Agreement for which City has provided notice to Contractor.

Article 5. Diversion Requirements

5.01 Minimum Requirements. City requires Contractor to achieve a minimum quarterly diversion rate as described in Article 5.02 below. Contractor must provide diversion documentation to City in its quarterly reporting.

5.01.1 If Contractor fails to achieve a minimum Diversion Rate as described in Section 5.02, Contractor may be subject to an Administrative Penalty as specified in Exhibit 3. Contractor's failure to meet the minimum Diversion requirements for more than three quarters during the term of this Agreement shall constitute an event of default under this Agreement, and, at the sole determination of the City this Agreement shall be terminated.

5.01.2 If Contractor fails to meet Diversion requirements, the City may also direct Contractor to modify its disposal practices.

5.02 Contractor's Diversion Requirements. For purposes of Article 5, Contractor's Diversion requirements are:

5.02.1 For Construction and Demolition materials, the minimum Diversion Rate requirement will be sixty-five percent (65%), per California Green Building Code C&D Diversion standards.

5.02.2 For Organic waste, the minimum Diversion Rate requirement will be seventy-five percent (75%), per CalRecycle SB 1383 Diversion standards.

5.02.3 For all other non-organic and/or non-C&D waste materials, the minimum Diversion rate requirement will be fifty percent (50%), per CalRecycle AB 939 Diversion standards.

For purposes of determining whether Contractor has met its Diversion requirements under this Agreement, the Diversion rate will be calculated using the following formula: "the tons of materials Collected by Contractor from Temporary Collection Services in the City that counts as diversion under applicable CalRecycle regulations (in each case, net of all residue from processing and net of materials processed for diversion but landfilled as a result of unavailable markets), divided by the total tons of materials Collected in the City by Contractor."

5.03 Warranties and Representations. Contractor warrants that it has the ability to and will provide sufficient services to ensure it will meet or exceed the diversion requirements as set forth in this Article 5, as well as the diversion requirements of the Applicable Laws (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) (including AB 939, AB 341, AB 1826, AB 1594, SB 1016, and SB 1383, and all amendments and related subsequent legislation), and that it will do so without imposing any costs or fees other than those set forth on Exhibit 2.

5.04 Guarantee. Except for programs currently required by Applicable Law but not set forth in this Agreement, or programs Contractor is expressly instructed by City not to implement, Contractor shall implement the diversion programs set forth in this Agreement such that Contractor and City will at all times be in compliance with the requirements of the Applicable Laws applicable to them including specifically AB 939, AB 341, AB 1826, AB 1594, SB 1016, and SB 1383, and all amendments thereto (subject to Section 28.01.1). In this regard Contractor agrees that it will, in addition to any other Agreement requirement, at its sole cost and expense:

5.04.1 Assist City in responding to inquiries from CalRecycle or any other regulatory agency;

5.04.2 Assist City in any hearing conducted by CalRecycle, or any other regulatory agency, relating to City's compliance with the Applicable Laws including AB 939, AB 341, AB 1826, AB 1594, SB 1016, and SB 1383;

5.04.3 Be responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle, and indemnify and hold harmless City from and against any fines, penalties, or other liabilities, levied against it for violation of the diversion requirements, set forth in the Applicable Laws, including AB 939, AB 341, AB 1826, AB 1594, SB 1016, and SB 1383, or for violation of any other provision of the Applicable Laws, arising from or in any way related to Contractor's performance under this Agreement.

Article 6. Materials and Facilities

6.01 Construction and Demolition Debris Processing Facility. All C&D Debris collected as a result of performing Temporary Collection Services must be delivered to a C&D Debris Processing Facility certified by the City of Los Angeles and/or facilities that can verify diversion of no less than 65% and are approved by the City. Failure to comply with this provision will result in the levy of a penalty charge as specified in Exhibit 3 and may result in Contractor being in default under this Agreement.

6.02 Materials Recovery Facility. All Recyclable Materials Collected as a result of performing Temporary Collection Services must be delivered to a Materials Recovery Facility. Failure to comply with this provision will result in the levy of a penalty as specified in Exhibit 3 and may result in Contractor being in default under this Agreement.

6.03 Organic Waste Processing Facility. Contractor must deliver all Collected Organic Waste to a fully permitted Organic Waste Processing Facility or a fully permitted Organic Waste transfer station, that has been approved by the City. Failure to comply with this provision will result in the levy of a penalty charge as specified in Exhibit 3 and may result in Contractor being in default under this Agreement.

Article 7. Audits and Performance Reviews

7.01 Billing/Financial Audit and Performance Reviews

7.01.1 Selection and Cost. City may conduct billing audit, financial audit and performance reviews (together, "reviews") of Contractor's performance during the term of this Agreement. The reviews will be performed by the City or a qualified firm under contract to City. City will have the final responsibility for the selection of the firm. City may conduct reviews at any time during the term of the Agreement.

7.01.2 Purpose. The reviews will be designed to verify that customer billing rates have been properly calculated and they correspond to the service received by the customer, verify that Contractor is correctly billing for all services provided, Franchise Fees, Solid Waste Management Fees and other fees required under this Agreement have been properly calculated and paid to City, verify Contractor's compliance with the reporting requirements and performance standards of this Agreement, verify the diversion percentages reported by Contractor, and verify any other provisions of the Agreement.

7.01.3 Contractor's Cooperation. Contractor shall cooperate fully with the review and provide all requested data, including operational data, financial data of the type described in Article 12, and other data reasonably requested by City within fifteen (15) Work Days of the request.

7.01.4 Findings. In the event that the Billing/Financial Audit and Performance Review concludes that Contractor is not in compliance with all terms and conditions of this Agreement and such non-compliance is material, Contractor is subject to administrative fees and penalties as described in Exhibit 3 as well as reimbursement to the City for the full cost of the audit plus any underpayments discovered during the Audit. If findings include default under Agreement, City may, at its sole discretion, terminate Agreement.

Article 8. Collection Equipment

8.01 Equipment Specifications.

8.01.1 General Provisions. All equipment used by Contractor in the performance of services under this Agreement must be of a high quality and meet all Federal, State, and local regulations and air quality standards, including all applicable provisions of Ventura County Air Pollution Control District. Collection vehicles must be designed and operated so as to prevent collected materials from escaping from the vehicles. Hoppers must be closed on top and on all sides with screening material to prevent collected materials from leaking, blowing or falling from the vehicles.

8.01.2 Large Items. Vehicles used for Collection of Large Items may not use compactor mechanisms or mechanical handling equipment that may damage reusable goods or release Freon or other gases from pressurized appliances.

8.01.3 Collection Vehicles. Contractor may not use any Collection Vehicle that is more than fifteen (15) years old during the term of the Agreement. Collection Vehicles must utilize low carbon ("alternative") fuel, which must be compressed natural gas (CNG or RNG), renewable diesel or electric unless otherwise authorized by the City.

8.01.4 Collection Vehicle Size Limitations / Overweigh Vehicle Charge. Contractor may not use any Collection Vehicle in violation of weight limitations in Applicable Law. The Contractor may exceed the Collection Vehicle size limitation for a limited time due to extraordinary circumstances or conditions with the prior written consent of the Agreement Administrator. Contractor must report all instances of overweight vehicles to City monthly as part of its quarterly reports.

8.01.5 Registration; Inspection. All vehicles used by Contractor in providing Temporary Collection Services under this Agreement, except those vehicles used solely on Contractor's premises, are to be registered with the California Department of Motor Vehicles. In addition, each such vehicle must be inspected by the California Highway Patrol in accordance with Applicable Law. Within two (2) Work Days of a request from the Agreement Administrator, Contractor must provide City a copy of its vehicle maintenance log and any safety compliance report, including, but not limited to, any report issued under California Vehicle Code sections 34500 and following, as well as the biennial "BIT" inspections conducted by the California Highway Patrol.

8.01.6 Safety Markings. All Collection equipment used by Contractor must have appropriate safety markings including, but not limited to, highway lighting, flashing and warning lights,

clearance lights, and warning flags. All such safety markings must be in accordance with the requirements of the California Vehicle Code, as may be amended from time to time.

8.01.7 Vehicle Signage and Appearance. Collection Vehicles must have Contractor's name and customer service telephone number identified on each side of each vehicle. No advertising is permitted other than the name of Contractor, its logo and registered service marks. All Contractor Collection vehicles must be maintained in a clean and sanitary condition and appearance during the term of this Agreement on a frequency as necessary to maintain a positive public image as reasonably determined by the Agreement Administrator.

8.01.8 Bin and Roll-off Container Signage, Painting, and Cleaning. All metal Bins and Roll-off Containers of any service type furnished by Contractor must be either painted or galvanized. All metal or plastic Bins and Roll-off Containers must display Contractor's name, Contractor's customer service telephone number, and the number of the Bin or Roll-off on at least two (2) sides. Identification shall be visible from the street in letters a minimum of two (2") inches in height. Bins and Roll-off Containers should be freshly painted at the start of this Agreement, free of dents, and must be kept in a clean and sanitary condition throughout the term of this Agreement, and painted as needed to maintain an orderly appearance throughout the term of the Agreement. Bins and Roll-off Containers shall be adequately reflectorized with a minimum of ten (10) square inches of plastic or reflective sheeting on each corner at a height between fifteen (15") and sixty (60") inches from the ground. Contractor shall affix a list of acceptable materials to Collection Containers with text approved by the City Manager, per Exhibit 4 and Exhibit 5 of this Agreement. Bins and Roll-off Containers may be subject to periodic, unscheduled inspections by City and determination as to sanitary condition will be made by City.

8.02 Vehicle Certification. For each Collection Vehicle used in the performance of services under this Agreement, Contractor must obtain a certificate of compliance (smog check) issued pursuant to Part 5 of Division 26 of the California Health and Safety Code (Section 43000 and following) and regulations promulgated thereunder and/or a safety compliance report issued pursuant to Division 14.8 of the California Vehicle Code (Section 34500 and following) and the regulations promulgated thereunder, as applicable to the vehicle. Contractor must maintain copies of such certificates and reports and must make such certificates and reports available for inspection upon request by the Agreement Administrator.

8.02.1 No later than January 1, 2022, Contractor must submit to the Agreement Administrator verification that each of the Contractor's Collection Vehicles has passed the California Heavy Duty Vehicle Inspection. Thereafter, Contractor must cause each vehicle in Contractor's Collection fleet to be tested annually in the California Heavy Duty Inspection Program and must, upon request, submit written verification to City within ten (10) Work Days of the completion of such test. Contractor may not use any vehicle that does not pass such inspection.

8.03 Equipment Maintenance. Contractor must maintain Collection equipment in a clean condition and in good repair at all times. All parts and systems of the Collection equipment must operate properly and be maintained in a condition satisfactory to City.

8.04 Maintenance Log. Contractor must maintain a maintenance log for all Collection Vehicles. The log must at all times be accessible to City by physical inspection upon request of Agreement Administrator, and must show, at a minimum, each vehicle Contractor assigned identification number, date

purchased or initial lease, dates of performance of routine maintenance, dates of performance of any additional maintenance, and description of additional maintenance performed.

8.05 Equipment Inventory. On or before January 1, 2022 Contractor shall provide to City an inventory of Collection Vehicles and major equipment used by Contractor for Temporary Collection Services under this Agreement. The inventory must indicate each Collection Vehicle by Contractor assigned identification number, DMV license number, the age of the chassis and body, type of fuel used, the type and capacity of each vehicle, the number of vehicles by type, the date of acquisition, the decibel rating and the maintenance and rebuild status. Contractor must submit to the Agreement Administrator by e-mail, an updated inventory annually to the City or more often at the request of the Agreement Administrator. Each inventory must also include the tare weight of each vehicle as determined by weighing at a certified scale used by Contractor. Each vehicle inventory must be accompanied by a certification signed by Contractor that all Collection Vehicles meet the requirements of this Agreement.

8.06 Equipment Failure. In the event that Contractor's collection vehicles are unable to collect and transport Bin/Roll-off Containers due to equipment breakdown, and the Bin/Roll-off placement poses a safety hazard or exceeds the 30-day placement limit, the City may contract with a hauler to have the Bin/Roll-off Container removed and the Contractor shall be responsible for the cost of removal.

Article 9. Contractor's Office

9.01 Contractor's Office. Contractor shall maintain an office or call center within Ventura County or such other location as City approves where calls and complaints can be received. The office must have responsible persons in charge during Collection hours and must be open during normal business hours, 8:00 a.m. to 5:00 p.m. on Monday through Friday. Contractor must provide either local or toll-free service and emergency telephone numbers that connect to the call center, and a telephone answering service or mechanical device to receive Service Recipient inquiries during those times when the office is closed. The service telephone number(s) must be available through an online search and listed on the Contractor's website. Calls received after normal business hours must be addressed the next Work Day morning.

9.01.1 Emergency Contact. Contractor must provide the Agreement Administrator with an emergency phone number where the Contractor can be reached outside required office hours.

9.01.2 Multilingual/TDD Service. Contractor must at all times maintain the capability of responding to telephone calls in English and such other languages as City may direct. Contractor must at all times maintain the capability of responding to telephone calls through Telecommunications Device for the Deaf (TDD) Services.

9.01.3 All incoming calls will be answered at the local office or call center within 5 rings. Any call "on-hold" in excess of 1.5 minutes must have the option to remain "on-hold" or request a "call-back" from a customer service representative. Contractor's customer service representatives must return Service Recipient calls. For all messages left before 3:00 p.m., all "call backs" must be attempted a minimum of one time prior to 5:00 p.m. on the day of the call. For messages left after 3:00 p.m., all "call backs" must be attempted a minimum of one time prior to noon the next Work Day. Contractor must make a minimum of three (3) attempts within one (1) Work Day of the receipt of the call. Contractor must record all calls including any inquiries, service requests, and complaints into a customer service log.

Article 10. Contractor Support Services

10.01 Contractor website. Contractor shall maintain a business website that explains the Contractor's City-specific services and rates. Contractor will ensure that information provided on the website is regularly updated. Temporary Collection Services should be able to be reserved and paid for online using electronic payment through said website.

10.02 Recycling resources. Contractor shall maintain an accurate list of recyclable materials on its website, and promote proper recycling to all Service Recipients.

10.03 Weighing Containers and Tonnage Documentation. Contractor shall weigh all Bin and Roll-off Containers used for material collection, regardless of capacity, and provide verifiable documentation of tonnage to customers upon request for reporting purposes. Contractor shall report tonnage to City on a quarterly basis using reporting methods defined in Article 12.

10.04 Contamination and Overage Reporting. Contractor shall provide documentation of contamination and overage charges when requested by the City.

Article 11. Emergency Service

11.01 Disaster Recovery Support. In the event of a tornado, major storm, earthquake, fire, natural disaster, or other such event, Contractor agrees to provide disaster recovery support to a reasonable degree, upon request by Agreement Administrator. This may include additional hauling of debris, special handling such as burrito wrapping, temporary storage of debris where feasible, additional disposal, use of different transfer and disposal facilities, and documentation of debris type, weight, and diversion. Contractor should follow protocol laid out in the County of Ventura's Disaster Debris Plan (1999) and any subsequent County or City Disaster Debris Plans, as applied to solid waste hauling and handling.

Article 12. Record Keeping and Reporting Requirements

12.01 Record Keeping. Notwithstanding Article 35 herein:

12.01.1 Accounting Records. Contractor must maintain full, complete and separate financial, statistical and accounting records, pertaining to cash, billing, and provisions of all Temporary Collection Services, prepared on an accrual basis in accordance with generally accepted accounting principles. Such records will be subject to audit, copy, and inspection for the purposes set forth in Section 7.01.2. Gross receipts derived from provision of the Temporary Collection Services will be recorded as revenues in the accounts of Contractor. Contractor shall keep and preserve, during the Term of this Agreement, and for a period of not less than four (4) years following expiration or other termination hereof, full, complete and accurate records, including all cash, billing and disposal records, as indicated in the Agreement. City reserves the right to request audited, reviewed, or compiled financial statements prepared by an independent Certified Public Accountant, or as may be provided by Contractor or its parent company. In the event that Contractor does not maintain separate financial or accounting records prepared specifically for services provided under this Agreement, Contractor may use industry standard allocation methods to provide financial information as applicable to the service provided under this Agreement.

12.01.2 Agreement Materials Records. Contractor must maintain records of the quantities of (i) Solid Waste, (ii) C&D Debris, (iii) Recyclable Materials, and (iv) Organic Waste by type, that are collected, purchased, processed, sold, donated or given for no compensation, and residue disposed under the terms of this Agreement

12.01.3 Other Records. Contractor must maintain all other records reasonably related to provision of Temporary Collection Services, whether or not specified in this Agreement.

12.01.4 Report Format. All reports to be submitted electronically in the City's Waste Reporting System or in a format approved by the City.

12.02 Quarterly Reporting.

Quarterly reports must be submitted no later than 5 p.m. PT on the last day of the month following the end of Quarter in which the receipts are collected and must be provided electronically in a form and means as specified by the City. If the last day of the month falls on a day that City is closed or a holiday, then the report will be due on the next business day. Failure to submit complete quarterly reporting by the due date will result in penalties as specified in Exhibit 3.

Quarterly reports to City must include:

1. Franchise Fee and Solid Waste Management Fee Payment Reporting. The payment report must include an accounting of Contractor's Gross Revenues received during the preceding quarter, and the calculated Franchise Fee and Solid Waste Management Fee.
2. Tonnage and Service Data. Contractor must report the number of unique accounts serviced, individual tonnage of Solid Waste, C&D Debris, Recyclable Materials and Organic Waste loads collected and processed for diversion and/or landfill disposal, broken down by Container type.
3. Overweight Vehicle Reporting. The quarterly report must include a summary total of all instances of overweight Collection Vehicles. This summary must include the number of overweight vehicle instances expressed as a percentage of the total number of Collection Vehicle loads transported during the reported quarter.
4. Service Recipient Complaint Log. The quarterly report must include the Service Recipient call log collected from the previous quarter as required in Section 9.01.3 of this Agreement.

12.03 Diversion Rate Calculation and Data. Contractor must provide documentation, in the format specified by City, of the quarterly Diversion Rate, as calculated in accordance with the provisions of Article 5.

12.04 CalRecycle Reports. Contractor will provide reasonable assistance to City in preparing annual reports to CalRecycle (the "Electronic Annual Report" or EAR), including but not limited to supplying required data for preparation of the reports, and completing all required data input in the Waste Reporting System.

12.05 Additional Reporting. Contractor must furnish City with any additional reports as may reasonably be required, such reports to be prepared within a reasonable time following the reporting period.

Article 13. Nondiscrimination

13.01 Nondiscrimination. In the performance of all work and services under this Agreement, Contractor may not discriminate against any person based on such person's race, sex, color, national origin, religion, marital status or sexual orientation. Contractor must comply with all applicable local, State and Federal laws and regulations regarding nondiscrimination, including those prohibiting discrimination in employment.

Article 14. Service Inquiries and Complaints

14.01 Contractor's Customer Service. All service inquiries and complaints will be directed to Contractor. A representative of Contractor must be available to receive the complaints during normal business hours. All service complaints will be handled by Contractor in a prompt and efficient manner. In the case of a dispute between Contractor and a Service Recipient, the matter will be reviewed, and a decision made by the Agreement Administrator.

14.01.1 Contractor will utilize the Customer Service Log to maintain a record of all inquiries and complaints in a manner prescribed by City.

Article 15. Quality of Performance of Contractor

15.01 Intent. Contractor acknowledges and agrees that one of City's primary goals in entering into this Agreement is to ensure that the Temporary Collection Services are of the highest caliber, that customer satisfaction remains at the highest level, that maximum diversion levels are achieved, and that materials Collected are put to the highest and best use to the extent possible.

15.02 Contract Manager. Contractor must designate a Contract Manager and must provide the name of that person in writing to City within thirty (30) days prior to the effective date of this Agreement and annually by January 1st of each subsequent Calendar Year of this Agreement and any other time the person in that position changes. The Contract Manager must be available to the City by phone at all times that Contractor is providing Temporary Collection Services in the Service Area. The Contract Manager must provide City with an emergency phone number where the Contract Manager can be reached outside of normal business hours.

15.03 Administrative Penalties. Quality performance by the Contractor is of primary importance. In respect of this, Contractor agrees to pay City administrative penalties as detailed in Exhibit 3 should Contractor fail to meet its responsibilities under this Agreement. Should Contractor be in breach of the requirements set forth in this Agreement, City may exercise its right to terminate Agreement.

15.04 Procedure for Review of Administrative Charges. The Agreement Administrator may assess administrative penalties as specified in Exhibit 3 pursuant to this Agreement on a quarterly basis.

15.04.1 City's assessment or collection of administrative penalties will not prevent City from exercising any other right or remedy, including the right to terminate this Agreement, for Contractor's failure to perform the work and services in the manner set forth in this Agreement.

15.05 Uncontrollable Circumstances.

15.05.1 If either party is prevented from or delayed in performing its duties under this Agreement by circumstances beyond its control, whether or not foreseeable, including, without limitation, acts of terrorism, landslides, lightning, forest fires, storms, floods, severe weather, freezing, earthquakes, other natural disasters, the threat of such natural disasters, pandemics (or threat of same), quarantines, civil disturbances, acts of the public enemy, wars, blockades, public riots, strikes, lockouts, or other labor disturbances, acts of government or governmental restraint or other causes, whether of the kind enumerated or otherwise, that are not reasonably within the control of the affected party, then the affected party will be excused from performance hereunder during the period of such disability.

15.05.2 The party claiming excuse from performance must promptly notify the other party when it learns of the existence of such cause, including the facts constituting such cause, and when such cause has terminated.

15.05.3 The interruption or discontinuance of services by a party caused by circumstances outside of its control will not constitute a default under this Agreement.

Article 16. Insurance

16.01 Insurance Policies. Contractor must secure and maintain throughout the term of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with Contractor's performance of work or services under this Contract. Contractor's performance of work or services includes performance by Contractor's employees, agents, and representatives.

16.02 Minimum Scope of Insurance. Insurance coverage must be at least this broad:

16.02.1 Insurance Services Office Form No. GL 0002 (Ed. 1/20) covering Comprehensive General Liability and Insurance Services Office Form No. GL 0404 covering Broad Form Comprehensive General Liability; or Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 0001), including X, C, U where applicable.

16.02.2 Insurance Services Office Form No. CA 0001 (Ed. 1/20) covering Automobile Liability, code 1 "any auto", or code 2 "owned autos" and endorsement CA 0025. Coverage must also include code 8, "hired autos" and code 9 "non-owned autos".

16.02.3 Workers' Compensation insurance as required by the California Labor Code and Employers Liability Insurance.

16.02.4 Environmental Pollution Liability Insurance.

16.03 Minimum Limits of Insurance. Contractor must maintain insurance limits no less than:

16.03.1 Comprehensive General Liability: \$2,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability insurance with a general aggregate limit is used, either the general aggregate limit will apply separately to this Agreement or the general aggregate limit must be \$4,000,000.

16.03.2 Automobile Liability: \$3,000,000 combined single limit per accident for bodily injury and property damage.

16.03.3 Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of \$1,000,000 per accident.

16.03.4 Environmental Pollution Liability: \$3,000,000 per occurrence and \$5,000,000 aggregate, with five (5) years tail coverage. Coverage shall include bodily injury or property damage arising out of the actual, alleged, or threatened discharge, dispersal, seepage, migration, release or escape of pollutants resulting from Contractor's operations.

16.03.5 If Contractor maintains higher limits than the minimum shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Service Provider. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

16.04 Deductibles and Self-Insured Retention. Any deductibles or self-insured retention must be declared to City's risk manager. Should City form a reasonable belief that Contractor may be unable to pay any deductibles or self-insured retentions, Contractor must procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by City's risk manager.

16.05 Endorsements. The policies are to contain, or be endorsed to contain, the following provisions:

16.05.1 General Liability, Automobile and Environmental Liability Coverage.

1. City, its officers, employees, agents and contractors are to be covered as additional 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 automobiles owned, leased, hired or borrowed by Contractor. The coverage must contain no special limitations on the scope of protection afforded to City, its officers, employees, agents and contractors.

2. Contractor's insurance coverage must be primary insurance as respects City, its officers, employees, agents and contractors. Any insurance, or self-insurance maintained by City, its officers, employees, agents or contractors will be in excess of Contractor's insurance and will not contribute with it.

3. Any failure to comply with reporting provisions of the policies will not affect coverage provided to City, its officers, employees, agents, or contractors.

4. Coverage must State that Contractor's insurance will apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

16.05.2 All Coverage. Each insurance policy required by this Agreement must be endorsed to State that coverage may not be canceled except after thirty (30) calendar days (ten (10) days in the event of cancellation for non-payment) prior written notice has been given to City. Moreover, Contractor will not order the cancellation of any required insurance policy or change in insurance policy limits without thirty (30) days prior written notice to City by Contractor.

16.06 Acceptability of Insurers. Insurance is to be placed with insurers having an A.M. Best rating of A-/VII or better.

16.07 Verification of Coverage. Contractor must furnish City with certificates of insurance and with original endorsements affecting coverage required by this Agreement. The certificates and endorsement for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Contractor must furnish City with a new certificate of insurance and endorsements on each renewal of coverage or change of insurers.

16.07.1 Proof of insurance must be mailed to the following address or any subsequent address as may be directed by the City:

City of Thousand Oaks Public Works Department

Attn: Sustainability Division Manager

2100 Thousand Oaks Blvd.

Thousand Oaks, CA 91362

16.08 Modification of Insurance Requirements. The insurance requirements provided in this Agreement may be modified or waived by City's risk manager, in writing, upon the request of Contractor if City's risk manager determines such modification or waiver is in the best interest of City considering all relevant factors, including exposure to City.

16.09 Rights of Subrogation. All required insurance policies must preclude any underwriter's rights of recovery or subrogation against City with respect to matters related to Contractor's performance of its obligations under this Agreement, with the express intention of the parties being that the required insurance coverage protects both parties as the primary coverage for any and all losses covered by the above-described insurance. Contractor must ensure that any companies issuing insurance to cover the requirements contained in this Agreement agree that they will have no recourse against City for payment or assessments in any form on any policy of insurance. The clauses 'Other Insurance Provisions' and 'Insured Duties in the Event of an Occurrence, Claim or Suit' as it appears in any policy of insurance in which City is named as an additional insured will not apply to City.

16.10 Failure to maintain insurance. Should Contractor fail to obtain or maintain insurance as required by this Agreement, Contractor shall have 7 days to cure the defect, during which time City shall have the option, but not the obligation to, at Contractor's sole expense: (i) hire replacement waste hauler services to perform Contractor's tasks until insurance coverage is resumed; or (ii) obtain replacement insurance coverage during said cure period. Should Contractor fail to correct this defect, City shall have the option to terminate this Agreement immediately.

Article 17. Hold Harmless and Indemnification

17.01 Hold Harmless for Contractor's Damages. Contractor holds City, its elected officials, officers, agents, employees and volunteers, harmless from all of Contractor's claims, demands, lawsuits, judgments, damages, losses, injuries or liability to Contractor, to Contractor's employees, to Contractor's contractors, or to the owners of Contractor's firm, which damages, losses, injuries or liability occur during

the work or services required under this Agreement, or performance of any activity or work required under this Agreement.

17.02 Defense and Indemnity of Third Party Claims/Liability. Contractor shall indemnify, defend with legal counsel approved by City, and hold harmless City, its officers, officials, employees and volunteers from and against all liability including, but not limited to, loss, damage, expense, cost (including without limitation reasonable legal counsel fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with Contractor's negligence, recklessness or willful misconduct in the performance of work hereunder or its failure to comply with any of its obligations contained in the Agreement, except such loss or damage which is caused by the active negligence or willful misconduct of City. Should conflict of interest principles preclude a single legal counsel from representing both City and Contractor, or should City otherwise find Contractor's legal counsel unacceptable, then Contractor shall reimburse City its costs of defense, including without limitation reasonable legal counsel fees, expert fees and all other costs and fees of litigation. The Contractor shall promptly pay City any final judgment rendered against City (and its officers, officials, employees and volunteers) with respect to claims determined by a trier of fact to have been the result of Contractor's negligent, reckless or wrongful performance. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

17.02.1 Contractor's obligations under this section apply regardless of whether or not such claim, charge, damage, demand, action, proceeding, loss, stop notice, cost, expense, judgment, civil fine or penalty, or liability was caused in part or contributed to by an Indemnitee. However, without affecting the rights of City under any provision of this Agreement, Contractor shall not be required to indemnify and hold harmless City for liability attributable to the active negligence of City, provided such active negligence is determined by agreement between the parties or by findings of a court of competent jurisdiction. In instances where City is shown to have been actively negligent and where City's active negligence accounts for only a percentage of the liability involved, the obligation of the Contractor will be for that entire portion or percentage of liability not attributable to the active negligence of City.

17.03 Nonwaiver. City does not waive, nor shall be deemed to have waived, any indemnity, defense or hold harmless rights under this section because of the acceptance by City, or the deposit with City, of any insurance certificates or policies described in Section 16.

17.04 Diversion Indemnification. Subject to the requirements of Public Resources Code section 40059.1, which will control in the event of any conflict with the provisions of this Section, Contractor agrees to protect and defend City Indemnitees with counsel selected by Contractor and approved by City, to pay all attorneys' fees, and to indemnify and hold City Indemnitees harmless from and against all fines or penalties imposed by the California Integrated Waste Management Board if the diversion goals specified in California Public Resources Code section 41780, as it may be amended, are not met by City with respect to the Materials Collected by Contractor and if the inability to meet such goals is attributable in any way to Contractor's failure to undertake the related activities required by this Agreement. In the event CalRecycle provides an administrative process to challenge the imposition of a compliance order or a fine or fines,

Contractor will be responsible for engaging any consultants or attorneys necessary to represent City in any challenge. Contractor will be responsible for the retention of and payment to any consultants engaged to perform waste generation studies (diversion and disposal). All consultants and attorneys engaged hereunder are subject to the agreement of City and Contractor.

17.05 Hazardous Substances Indemnification. Contractor agrees to indemnify, defend (with counsel reasonably approved by City), protect and hold harmless the City Indemnitees from and against any and all Claims of any kind whatsoever paid, suffered or incurred by or against the City Indemnitees resulting from any repair, cleanup, removal action or response action undertaken pursuant to CERCLA, the Health & Safety Code or other similar Federal, State or local law or regulation, with respect to Solid Waste or Household Hazardous Waste Collected and Disposed of by Contractor. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of CERCLA and Section 25364 of the Health & Safety Code to defend, protect, hold harmless and indemnify the City Indemnitees from all forms of liability under CERCLA, the Health & Safety Code or other similar Federal, State or local law or regulation.

17.06 Consideration. It is specifically understood and agreed that the consideration inuring to Contractor for the execution of this Agreement consists of the promises, payments, covenants, rights and responsibilities contained in this Agreement.

17.07 Obligation. This Agreement obligates Contractor to comply with the foregoing indemnification and release provisions; however, the collateral obligation of providing insurance must also be complied with as set forth in this Agreement.

17.08 Exception. Notwithstanding other provisions of this Agreement, Contractor's obligation to indemnify, hold harmless and defend City, its officers and employees will not extend to any loss, liability, penalty, damage, action or suit arising or resulting solely from acts or omissions constituting active negligence, willful misconduct, breach of this Agreement, or violation of law on the part of City, its officers or employees.

17.09 Damage by Contractor. If Contractor's employees cause any injury, damage or loss to City property, including but not limited to City streets or curbs, excluding normal wear and tear, Contractor must reimburse City for City's cost of repairing or replacing such injury, damage or loss. Such reimbursement is not in derogation of any right of City to be indemnified by Contractor for any such injury, damage or loss. With the prior written approval of City, Contractor may repair the damage at Contractor's sole cost and expense. Any injury, damage or loss to private property caused by the negligent or willful acts or omissions of Contractor to private property must be repaired or replaced by Contractor at Contractor's sole expense. Disputes between Contractor and its Service Recipients or private property owners as to damage to private property are civil matters and complaints of damage will be referred to Contractor as a matter within its sole responsibility and as a matter within the scope of Section 17.01 [Indemnification].

Article 18. Default of Agreement

18.01 Termination. City may cancel this Agreement, except as otherwise provided below in this Section, by giving Contractor thirty (30) calendar days advance written notice, to be served as provided in this Agreement, upon the happening of any one of the following events:

18.01.1 By, or pursuant to, or under the authority of any legislative act, resolution or rule or any order or decree of any court or governmental board, agency or officer having jurisdiction, a receiver, trustee or liquidator takes possession or control of all or substantially all of the property of Contractor, and such possession or control continues in effect for a period of sixty (60) calendar days; or

18.01.2 Contractor has defaulted, by failing or refusing to pay in a timely manner the administrative charges or other monies due City and such default is not cured within thirty (30) calendar days of receipt of written notice by City to do so; or

18.01.3 Contractor has defaulted by allowing any final judgment for the payment of money owed to City to stand against it unsatisfied and such default is not cured within thirty (30) calendar days of receipt of written notice by City to do so; or

18.01.4 Contractor has defaulted, by failing or refusing to perform or observe the terms, conditions or covenants in this Agreement, or any of the rules and regulations promulgated by City pursuant thereto or has wrongfully failed or refused to comply with the instructions of the Agreement Administrator relative thereto and such default is not cured within thirty (30) calendar days of receipt of written notice by City to do so, or if by reason of the nature of such default, the same cannot be remedied within thirty (30) calendar days following receipt by Contractor of written demand from City to do so, Contractor fails to commence the remedy of such default within such thirty (30) calendar days following such written notice or having so commenced fails thereafter to continue with diligence the curing thereof (with Contractor having the burden of proof to demonstrate (a) that the default cannot be cured within thirty (30) calendar days, and (b) that it is proceeding with diligence to cure such default, and such default will be cured within a reasonable period of time).

18.02 Violations. Notwithstanding the foregoing and as supplemental and additional means of termination of this Agreement under this Article, in the event that Contractor's record of performance shows that Contractor has defaulted in the performance of any of the covenants and conditions required herein to be kept and performed by Contractor three (3) or more times in any twenty-four (24) month period, and regardless of whether the Contractor has corrected each individual condition of default, Contractor will be deemed a "habitual violator", will be deemed to have waived the right to any further notice or grace period to correct, and all such defaults will be considered cumulative and collectively will constitute a condition of irredeemable default. City will thereupon issue Contractor a final warning citing the circumstances therefore, and any single default by Contractor of whatever nature, subsequent to the occurrence of the last of such cumulative defaults, will be grounds for immediate termination of the Agreement. In the event of any such subsequent default, City may terminate this Agreement upon giving of written final notice to Contractor, such cancellation to be effective upon the date specified in City's written notice to Contractor, and all contractual fees due hereunder plus any and all charges and interest will be payable to such date, and Contractor will have no further rights hereunder. Immediately upon the specified date in such final notice Contractor must cease any further performance under this Agreement.

18.03 Effective Date. In the event of any the events specified above, and except as otherwise provided in such subsections, termination will be effective upon the date specified in City's written notice to Contractor and upon such date this Agreement will be deemed immediately terminated and upon such termination, except for payment of services rendered up to and including the date of termination, all liability of City under this Agreement to Contractor will cease.

18.04 Early Termination. Notwithstanding the provisions of Section 18.01 above, City may terminate this Agreement immediately upon notice to Contractor if Contractor offers or gives any gift to a City official or employee as prohibited by TOMC Section 1-10.12. For purposes of this section, a gift creating financial conflict shall be anything which would be considered reportable income under FPPC rules.

18.05 Termination Cumulative. City's right to terminate this Agreement is cumulative to any other rights and remedies provided by law or by this Agreement.

Article 19. Modifications to the Agreement

19.01 City-Directed Change. City has the power to make changes in this Agreement to impose new rules and regulations on Contractor under this Agreement relative to the scope and methods of providing Temporary Collection Services as may from time-to-time be necessary and desirable for the public welfare. The capabilities and capacities of Material Recovery Facilities, Disposal Facilities, and Organics Waste Processing facilities may change during the term of this Agreement; as such City reserves the right to redirect materials to alternate facilities in accordance with any such changes. When such modifications are made to this Agreement, City and Contractor will negotiate in good faith, a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of Contractor due to any modification in the Agreement under this Article. City and Contractor will not unreasonably withhold agreement to such compensation adjustment. Should agreement between City and Contractor on compensation adjustment not be reached within six months of the change request, or other period as agreed upon by both parties, City and Contractor agree to submit the compensation adjustment to binding arbitration as described in Section 19.03.

19.02 Change in Law. City and Contractor understand and agree that the California Legislature has the authority to make comprehensive changes in Solid Waste Collection legislation, and that these and other changes in Applicable Law in the future which mandate certain actions or programs for counties, municipalities or Contractor may require changes or modifications in some of the terms, conditions or obligations under this Agreement. Contractor agrees that the terms and provisions of the City of Thousand Oaks Municipal Code, as it now exists or as it may be amended in the future, will apply to all of the provisions of this Agreement and the Service Recipients of Contractor located within the Service Area. In the event any future change in Federal law or regulations, State or local law of regulation, or the City Code materially alters the obligations of Contractor, then the affected Maximum Service Rates, as established in Exhibit 2 of this Agreement will be adjusted in accordance with Section 4.04. Nothing contained in this Agreement will require any party to perform any act or function contrary to law. City and Contractor agree to enter into good faith negotiations regarding modifications to this Agreement which may be required in order to implement changes in the interest of the public welfare or due to Change in Law. When such modifications are made to this Agreement, City and Contractor will negotiate in good faith, a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of Contractor due to any Change in Law or modification in the Agreement under this Article. City and Contractor will not unreasonably withhold agreement to such compensation adjustment. Should agreement between City and Contractor on compensation adjustment not be reached within six months of the change

request, or other period as agreed upon by both parties, City and Contractor agree to submit the compensation adjustment to binding arbitration as described in Section 19.03.

19.03 Arbitration. Arbitration shall be conducted by a single arbitrator. If, within twenty (20) days from the receipt of a request to arbitrate (or such longer period mutually agreed to by the parties), the parties are unable to agree on an arbitrator, then a single arbitrator shall be appointed pursuant to the Commercial Arbitration Rules of the American Arbitration Association, which shall govern any arbitration requested under this provision. Each party shall bear its own costs and expenses of any arbitration. Each party shall pay one-half of the costs of the arbitrator.

Article 20. Legal Representation

Acknowledgement. It is acknowledged that each party was, or had the opportunity to be, represented by counsel in the preparation of and contributed equally to the terms and conditions of this Agreement and, accordingly, the rule that a contract will be interpreted strictly against the party preparing the same will not apply due to the joint contributions of both parties.

Article 21. Conflict of Interest

Financial Interest. Contractor is unaware of any City employee or official that has a financial interest in Contractor's business. During the term of this Agreement and/or as a result of being awarded this Agreement, Contractor shall not offer, encourage or accept any financial interest in Contractor's business by any City employee or official.

Article 22. Contractor's Personnel

22.01 Personnel Requirements. Contractor must employ and assign qualified personnel to perform all services required under this Agreement. Contractor is responsible for ensuring that its employees comply with all Applicable Laws related to their employment and position.

22.01.1 City may request the transfer of any employee of Contractor who materially violates any provision of this Agreement, or who is wanton, negligent, or discourteous in the performance of his or her duties under this Agreement.

22.01.2 Contractor's field operations personnel are required to wear a clean uniform shirt bearing Contractor's name. Contractor's employees, who normally come into direct contact with the public, including drivers, must bear some means of individual photographic identification such as a name tag or identification card.

22.01.3 Each driver of a Collection Vehicle must at all times carry a valid California driver's license and all other required licenses for the type of vehicle that is being operated.

22.01.4 Each driver of a Collection Vehicle must at all times comply with all applicable State and Federal laws, regulations and requirements.

22.01.5 Contractor's employees, officers, and agents may not identify themselves or in any way represent themselves as being employees or officials of City.

Article 23. Exempt Waste

Contractor is not required to Collect or dispose of Exempt Waste but may offer such services. Collection and disposal of Exempt Waste are not regulated under this Agreement, but if provided by Contractor must be in strict compliance with all Applicable Laws.

Article 24. Independent Contractor

In the performance of services pursuant to this Agreement, Contractor is an independent contractor and not an officer, agent, servant or employee of City. Contractor will have exclusive control of the details of the services and work performed and over all persons performing such services and work. Contractor is solely responsible for the acts and omissions of its officers, agents, and employees. Neither Contractor nor its officers, employees, or agents will obtain any right to retirement benefits, Workers Compensation benefits, or any other benefits which accrued to City employees and Contractor expressly waives any claim to such benefits.

Article 25. Laws to Govern

The law of the State of California governs the rights, obligations, duties and liabilities of City and Contractor under this Agreement and govern the interpretation of this Agreement.

Article 26. Consent to Jurisdiction

The parties agree that any litigation between City and Contractor concerning or arising out of this Contract must be filed and maintained exclusively in the Superior Courts of Ventura County, State of California, or in the United States District Court for the Central District of California to the fullest extent permissible by law. Each party consents to service of process in any manner authorized by California law.

Article 27. Assignment

27.01 No assignment of this Agreement or any right occurring under this Agreement may be made in whole or in part by Contractor without the express prior written consent of the City. City will have full discretion to approve or deny, with or without cause, any proposed or actual assignment by the Contractor. Any assignment of this Agreement made by Contractor without the express written consent of the City will be null and void and will be grounds for City to declare a default of this Agreement and immediately terminate this Agreement by giving written notice to Contractor.

27.02 The use of a subcontractor is prohibited under the terms of this Agreement.

Article 28. Compliance with Laws

28.01 In the performance of this Contractor, Contractor must comply with all Applicable Laws, including, without limitation, the Thousand Oaks Municipal Code.

28.02 City shall provide written notice to Contractor of any planned amendment of the Thousand Oaks Municipal Code that would substantially affect the performance of Contractor's services pursuant to this Agreement. Such notice must be provided at least thirty (30) calendar days prior to the City Council's approval of such an amendment.

Article 29. Permits and Licenses

Contractor shall obtain, at its own expense, all permits, certificates, and licenses required by law or ordinance and maintain same in full force and effect throughout the term of this Agreement. This includes, but is not limited to, City of Thousand Oaks Business Tax Certificate and annual City Blanket Encroachment Permit. Contractor must provide proof of such permits, licenses or approvals and must demonstrate compliance with the terms and conditions of such permits, licenses and approvals upon the request of the Agreement Administrator.

Article 30. Ownership of Written Materials

Contractor hereby grants City a non-exclusive license as to all reports, documents, brochures, public education materials, and other similar written, printed, electronic or photographic materials developed by Contractor at the request of City or as required under this Agreement, and intended for public use, without limitation or restrictions on the use of such materials by City. Contractor may not use such materials that specifically reference City for other purposes without the prior written consent of the Agreement Administrator. This Article 30 does not apply to ideas or concepts described in such materials and does not apply to the format of such materials.

Article 31. Waiver

Waiver by City or Contractor of any breach for violation of any term covenant or condition of this Agreement will not be deemed to be a waiver of any other term, covenant or condition or any subsequent breach or violation of the same or of any other term, covenant or condition. The subsequent acceptance by City of any fee, tax, or any other monies which may become due from Contractor to City will not be deemed to be a waiver by City of any breach for violation of any term, covenant or condition of this Agreement.

Article 32. Prohibition Against Gifts

Contractor represents that Contractor is familiar with City's prohibition against the acceptance of any gift by a City officer or designated employee. Contractor may not offer any City officer or designated employee any gifts prohibited by the City.

Article 33. Point of Contact

The day-to-day dealings between Contractor and City will be between Contractor and the Agreement Administrator.

Article 34. Notices

34.01 Except as provided in this Agreement, whenever either party desires to give notice to the other, it must be given by written notice addressed to the party for whom it is intended, and sent to the physical and email address last specified and to the place for giving of notice in compliance with the provisions of this Section. For the present, the parties designate the following as the respective persons and places for giving of notice:

As to the City:

Public Works Director
City of Thousand Oaks Public Works Dept.
2100 Thousand Oaks Blvd.
Thousand Oaks, CA 91362
Telephone: (805) 449-2399
email: cfinley@toaks.org

As to the Contractor:

American Reclamation, Inc.
4560 Doran Street
Los Angeles, CA 90039
Attn: John R. Gasparian
Telephone: (818) 552-4068
Email: John@socoastrec.com

34.02 Notices will be effective when received at the physical address and email address as specified above. Changes in the respective address to which such notice is to be directed may be made by written notice.

34.03 Notice by City to Contractor of a Collection or other Service Recipient problem or complaint may be given to Contractor orally by telephone at Contractor's local office with confirmation sent to Contractor through the Customer Service System by the end of the Work Day.

Article 35. Contractor's Records

35.01 Contractor shall keep and preserve, during the Term of this Agreement, full, complete, and accurate financial and accounting records, pertaining to cash, billing and disposal transactions for the franchise area, prepared on an accrual basis in accordance with generally accepted accounting principles. These records and reports are necessary for the City to properly administer and monitor the Agreement and to assist the City in meeting the requirements of the Act. The Contractor shall keep and preserve, during the Term of this Agreement, and for a period of not less than four (4) years following expiration or other termination hereof or for any longer period required by law, full, complete and accurate records as indicated in the Agreement.

35.02 Any records or documents required to be maintained pursuant to this Agreement must be made available for inspection or audit for the purposes set forth in Section 7.01.2, at any time during regular business hours, upon written request by the Agreement Administrator, the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such documents will be provided to City electronically, available to City for inspection at the local Contractor office, or an alternate site if mutually agreed upon.

35.02.1 Contractor acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"). City acknowledges that Contractor may consider certain records, reports, or information contained therein, ("Records") which Contractor is required to provide to City under this Agreement, to be of a proprietary or confidential nature. In such instances, Contractor will inform City in

writing of which records are considered propriety or confidential and shall identify the statutory exceptions to disclosure provided under the CPRA that legally permit non-disclosure of the Records. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act ("FOIA") or a subpoena or other court order requesting disclosure of the Records, City will notify Contractor of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) calendar days. Contractor shall within five (5) calendar days either: (i) consent in writing to the disclosure of the Records; or (ii) seek and obtain, at Contractor's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the Records. If Contractor fails to timely respond, then City may proceed to disclose the Records in which event Contractor agrees waives and releases City of any liability for the disclosure of the Records

35.03 Where City has reason to believe that such records or documents may be lost or discarded in the event of the dissolution, disbandment or termination of Contractor's business, City may, by written request or demand of any of the above named officers, require that custody of the records be given to City and that the records and documents be maintained in City Hall. Access to such records and documents will be granted to any party authorized by Contractor, Contractor's representatives, or Contractor's successor-in-interest.

Article 36. Entire Agreement

This Agreement and the attached Exhibits constitute the entire Agreement and understanding between the parties, and the Agreement will not be considered modified, altered, changed or amended in any respect unless in writing and signed by the parties.

Article 37. Severability

If any provision of this Agreement or the application of it to any person or situation is to any extent held invalid or unenforceable, the remainder of this Agreement and the application of such provisions to persons or situations other than those as to which it is held invalid or unenforceable, will not be affected, will continue in full force and effect, and will be enforced to the fullest extent permitted by law.

Article 38. Right to Require Performance

The failure of City at any time to require performance by Contractor of any provision of this Agreement will in no way affect the right of City thereafter to enforce same. Nor will waiver by City of any breach of any provision of this Agreement be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

Article 39. All Prior Agreements Superseded

This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained in this Agreement and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms of this Agreement will be predicated upon any prior representations or agreements, whether oral or written.

Article 40. Headings

Headings in this document are for convenience of reference only and are not to be considered in any interpretation of this Agreement.

Article 41. Exhibits

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

Article 42. Attorney's Fees

In the event that litigation is brought by a party in connection with this Agreement, the prevailing party will be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies under this Agreement or the enforcement of any of the terms, conditions, or provisions of this Agreement.

Article 43. Effective Date

This Agreement will become effective when it is properly executed by City and Contractor and Contractor will begin Services under this Agreement as of January 1, 2022.

Article 44. Signatures

(a) **Counterparts.** This Agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument.

(b) **Scanned Signatures.** In the event that any signature is delivered by facsimile transmission or submitted electronically as a scanned image (i.e. files with .pdf, .tiff or .jpeg extensions), such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or scanned signature page were an original thereof.

(c) **Digital/Electronic Signatures.** This Agreement may be executed through the use of digital or electronic signatures provided they meet the requirements of the Electronic Signatures in Global and National Commerce (ESIGN) Act and the California Uniform Electronic Transactions Act (UETA) and are produced using a City-approved method. The presence of an electronic signature on this document shall be construed as the parties' consent to do business electronically.

IN CONCURRENCE AND WITNESS WHEREOF, City and Contractor have executed this Agreement on November 9, 2021.

American Reclamation, Inc.

John R. Gasparian, President/Chief Executive Officer

John R. Gasparian Jr., Vice President

CITY OF THOUSAND OAKS

Claudia Bill-de la Peña, Mayor

ATTEST:

Cynthia M. Rodriguez, City Clerk

APPROVED AS TO ADMINISTRATION:

Andrew P. Powers, City Manager

APPROVED BY DEPARTMENT HEAD:

Clifford G. Finley, Public Works Director

APPROVED AS TO FORM:

Office of the City Attorney

Tracy Friedl, Assistant City Attorney

EXHIBIT 1

Limited Franchise Scope of Services Summary

E1.0 Limited Franchise Collection Service

Limited Franchise Contractor is authorized to place Bins and/or Roll-off containers to collect Solid Waste on a Temporary Basis, where such Solid Waste originates from premises within City. Examples of such service include residential, commercial/industrial construction and demolition projects with or without a current City issued building and/or grading permit, cleanup and land clearing projects, and temporary green waste service for landscaping and tree removal projects.

E1.01 Time Limits of Service

Temporary Collection service for residential and/or commercial/industrial cleanup projects shall be provided on a Temporary Basis, i.e. no more than thirty (30) consecutive days per calendar year at a single location unless a time extension is granted by Agreement Administrator, or unless the Bin/Roll-off container is for the purpose of a Construction and Demolition project with an active City building and/or grading permit in which case Bin/Roll-off container may be left until construction activities have been completed and/or a certificate of occupancy has been issued by the City.

E1.02 Bin/Roll-off Container Placement

Per TOMC Sec. 6-2.602(c), Bin/Roll-off containers placed in the public right-of-way shall be restricted to the following:

- (i) Bin/Roll-off Container may only be placed where vehicles can legally park.
- (ii) Placement is restricted to any location on the street right-of-way which has a slope less than seven (7%) percent.
- (iii) Bin/Roll-off Container shall be identified by contractor's name and phone number on at least two (2) sides. Identification shall be visible from the street in letters a minimum of two (2") inches in height.
- (iv) Bin/Roll-off Container shall be adequately reflectorized with a minimum of ten (10) square inches of plastic or reflective sheeting on each corner at a height between fifteen (15") and sixty (60") inches from the ground.
- (v) Bin/Roll-off Container shall only be placed at locations permissible by the TOMC and with approval of the customer requesting said service.

E1.03 Bin/Roll-off Container Requirements

Bin and Roll-off Containers shall meet specifications and requirements defined in Article 8.01.8 and Exhibit 4 of this Agreement. Bins/Roll-off Containers must be freshly painted at the start of this Agreement and maintained in good repair and condition throughout the term of this Agreement. Contractor shall provide Bins having an approximate volume of 1, 2, 3, 4 and 6-cubic yards, and Roll-off containers shall be provided in sizes 10, 20, 30, and 40 cubic yards.

E1.04 Weighing

Contractor shall weigh all Bin/Roll-off containers used for collection of Solid Waste, regardless of capacity, and provide verifiable documentation of material tonnage to customers, per Article 10.3 of this Agreement. Contractor shall report tonnage to City on a quarterly basis using reporting methods defined in Article 12 of this Agreement.

E1.05 Collection Vehicle Requirements

Per Article 8 of this Agreement, Limited Franchise Contractor may not use any Collection Vehicle that is more than fifteen (15) years old during the term of the Agreement. Collection Vehicles must utilize low carbon ("alternative") fuel, which must be compressed natural gas (CNG or RNG), renewable diesel or electric unless otherwise authorized by the City. Collection Vehicles must have Contractor's name and customer service telephone number identified on each side of each vehicle. All Contractor Collection vehicles must be maintained in a clean and sanitary condition and appearance and in good repair at all times.

E1.06 Use of Certified C&D Facilities

Limited Franchise Contractor shall only transport and deposit Construction and Demolition materials at facilities certified by the City of Los Angeles and/or facilities that can verify diversion of no less than 65% and are approved by the City.

E1.07 Recyclable Materials Collection

Limited Franchise Contractor shall advise all Customers about source-separation/recyclable materials opportunities including, but not limited to, asphalt concrete, wood waste and other construction and demolition materials, green and organic waste, and mixed Recyclable Materials. Limited Franchise Contractor shall divert these materials from landfill disposal to the maximum extent possible.

E1.08 Organic Material Collection

Limited Franchise Contractor must deliver all Collected Organic Waste to a fully permitted Organic Waste Processing Facility or a fully permitted Organic Waste transfer station, that has been approved by the City. Failure to comply with this provision will result in the levy of a penalty charge as specified in Exhibit 3 and may result in Contractor being in default under this Agreement.

E1.09 Diversion Requirements

Limited Franchise Contractor shall achieve a minimum quarterly diversion rate as described in Article 5.02 of this Agreement. Contractor must provide diversion documentation to City in its quarterly reporting as described in Article 12 of this Agreement.

E1.10 Customer Quotes and Billing

Contractor shall clearly itemize and identify the following items in all service quotes and billing to customers for the provision of services under this Agreement.

- Bin/Roll-off Container service rate (not to exceed approved Maximum Service Rate as identified in Exhibit 2)
- Tipping or Processing Fees
- Any applicable Special Fees (allowable Special Fees identified in Exhibit 2)

Contractor shall cooperate with Agreement Administrator regarding the provision of records to the City upon request including copies of individual customer billing receipts and associated disposal receipts on request.

E1.11 Illicit Discharge and Stormwater Accumulation

Contractor shall apply industry-wide Best Management Practices to prevent both the accumulation of stormwater and non-stormwater in Bins and Roll-off containers and subsequent Illicit Discharge. Such measures are subject to review and approval of City Manager and may include lids and/or hard-top covers to prevent water intrusion. Contaminated accumulated water shall be disposed of in accordance with Applicable Law and shall not be discharged directly to the storm drain or sanitary sewer system.

E1.12 Container Content Information

For all Containers provided to the Customer by the Contractor, Contractor shall provide and affix to such Containers a list of acceptable materials with text approved by the Agreement Administrator, per Exhibit 4 and 5 of this Agreement.

EXHIBIT 2
Limited Franchise Solid Waste Collection Maximum Rates

Table 1: Temporary Roll-Off Rates (Solid Waste, Recycle, C&D, Green Waste, Food Waste)		
Roll-Off Containers billed per haul plus disposal fee*		
10 Cubic Yard Container per pull	per haul	\$210.00
20 Cubic Yard Container per pull	per haul	\$210.00
30 Cubic Yard Container per pull	per haul	\$210.00
40 Cubic Yard Container per pull	per haul	\$210.00

Table 2: Temporary Bin Rates (Solid Waste, Recycle, C&D, Green Waste, Food Waste)		
Includes seven day bin rental plus one dump (at the time of removal)		
Temporary Bin	per occurrence	\$180.00
Temporary Bin: Dead Run	per occurrence	\$50.00
Temporary Bin: Demurrage (in excess of 7 day rental)	per day	\$7.50
Temporary Bin: Extra Dump	per lift	\$50.00

Table 3: Other Services and charges		
Delinquency Charge for Non-Payment of Account	% of service charge	5.00%
Returned Check Fee	per occurrence	\$30.00
Damaged Bin (Caused by Service Recipient)	per occurrence	\$195.00
Damaged Roll-Off (Caused by Service Recipient)	per occurrence	\$495.00
Overage Fee	per occurrence	\$50.00
Excess of Posted Weight	per ton	\$75.00
Recyclable Materials Contamination Fee (Bins), 3+ occurrence/year	per occurrence	\$100.00
Organic Waste Contamination Fee (Bins), 3+ occurrence/year	per occurrence	\$175.00
Return Fee for Blocked Roll-Off	per run	\$75.00
Trip Charge/Dry Run	per occurrence	\$150.00
Roll-Off "Rocket Launcher" Service (one hour minimum)	per hour	\$165.00
Roll-Off Dead-Run, Go-Back, or Box Relocation	per occurrence	\$180.00
Roll-Off Same-Day Priority Service	per occurrence	\$75.00
Roll-Off Overweight Penalty (in addition to disposal charges)	per occurrence	\$250.00

* Disposal/recycling processing fees (gate fees) are charged per ton and vary depending on the type of material and the facility where the material is taken.

EXHIBIT 3

Administrative Penalties

Item		Penalty Amount
a.	Failure to respond to each complaint within three (3) Work Days of receipt of complaint.	\$100 per incident
b.	Failure to maintain call center hours as required by this Agreement.	\$100 per day.
c.	Failure to submit to City all reports by the deadlines required under the provisions of this Agreement.	\$100 per day.
d.	Failure to include all parts of quarterly reports specified in Article 12 of this Agreement.	\$100 per day.
e.	Failure to submit to City all payments by the deadlines required under the provisions of this Agreement.	1% of the total amount due if fees are 1 – 10 days late; and 10% of the total amount due if fees are more than 10 days late.
f.	Failure to deliver collected C&D materials to a City of Los Angeles-certified C&D Debris processing facility, or other facility, that can verify 65% diversion or more, as specified in Article 6 of this Agreement.	\$100 per incident.
g.	Failure to deliver collected Recyclable materials to a proper Material Recovery Facility, as specified in Article 6 of this Agreement.	\$100 per incident.
h.	Failure to deliver collected Organic materials to a fully permitted Organics Processing Facility or Organic Waste transfer station, that has been approved by the City, as specified in Article 6 of this Agreement.	\$100 per incident.
i.	Failure to meet diversion requirements for collected materials as specified in Article 5 of this Agreement in any quarter	\$500 per quarter per waste stream.
j.	Failure for Collection Containers to be compliant with specifications of Exhibit 4.	\$50.00/each Collection Container not compliant.
k.	Failure to display Contractor's name and customer service phone number on Collection Vehicles.	\$100 per incident per day.

Item		Penalty Amount
i.	Failure to maintain collection hours as required by this Agreement.	\$100 per day.
m.	Failure to have Contractor personnel in Contractor-provided uniforms.	\$25 per day per employee.
n.	Vehicle mechanic fluid leak (e.g. hydraulic fluid or oil) incidents from Contractor Collection Vehicles in excess of three (3) during a calendar year.	\$1000 per incident in excess of three (3)
o.	Failure of Contractor to provide proof of insurance as required by this Agreement	Agreement Default
p.	Failure to report customer data in quarterly report.	\$500 per occurrence.
q.	Failure to report tonnages, diversion, and revenue in quarterly report.	\$500 per occurrence.
r.	Failure to comply with City Municipal Code requirements.	Agreement Default.
s.	Failure to comply with State of California or Federal regulatory requirements.	Agreement Default.

EXHIBIT 4
Collection Bin Specifications

E4.01 Bin Specifications.

E4.01.1 Bins must be constructed of heavy metal or heavy plastic and must be watertight, well painted, in good condition and without rust or dents.

E4.01.2 Wheels, forklift slots, and other appurtenances, which are designed for movement, loading, or unloading of the container, must be maintained in good repair.

E4.01.3 Contractor may provide Bins having an approximate volume of 1, 2, 3, 4 and 6-cubic yards.

E4.01.4 Bins must have the name and phone number of Contractor on the exterior so as to be visible when the Bin is placed for use.

E4.01.5 Each Bin must be labeled with a listing of materials that may and may not be placed in a particular Bin type, and each Bin must include a conspicuous warning: "Not to be used for the disposal of hazardous, electronic, or universal waste." Bins must be labelled in English and Spanish.

E4.01.6 Bin lids must be constructed of metal or heavy plastic, so as to minimize the intrusion of rainwater and minimize odors.

E4.01.7 Bins shall be adequately reflectorized with a minimum of ten (10) square inches of plastic or reflective sheeting on each corner at a height between fifteen (15") and sixty (60") inches from the ground.

E4.01.8 Bins must be capable of being lifted into the Collection Vehicle without damage under normal usage.

E4.02 Roll-off Container Specifications.

Roll-off specifications shall be the same as Bin specifications E4.01.1 through E4.01.8, with the exception of E4.01.3 and E4.01.6. Roll-offs may be provided in sizes 10, 20, 30, 40 cubic yards.

E4.03 Containers End of Life

Collection Containers must be recycled at the end of their useful life.

EXHIBIT 5
Recyclable Materials

This list will be updated annually on or before November 22 each year. Recyclable Materials currently being Collected in Recycling Collection Containers under this Agreement include all plastics #s 1 through 5, and #7, except where specifically excluded in list below:

Material	Type	Recyclable (Diversion)	Non- recyclable¹
Aluminum	Metal	X	
Foil	Metal	X	
Steel	Metal	X	
Tin	Metal	X	
Bimetal	Metal		X
Ferrous Scrap Metal	Metal	X	
Non-Ferrous	Metal	X	
PET	Plastic	X	
HDPE Natural	Plastic	X	
HDPE Color	Plastic	X	
PVC	Plastic	X	
LDPE	Plastic	X	
Polypropylene	Plastic	X	
Polystyrene	Plastic		X
Film Plastics/Plastic Bags	Plastic		X
Expanded Polystyrene (Foam & Rigid)	Plastic		X
Bioplastic	Plastic		X
Glass Flint	Glass	X	
Glass Amber	Glass	X	
Glass Green	Glass	X	
Mixed Glass	Glass	X	
Mixed Paper	Paper	X	
Newspaper	Paper	X	
Corrugated Cardboard	Paper	X	

Tetra Pak, Aseptic Containers	Paper	X	
Clothes	Textiles		X
Nylon/Polyester/Wool/etc.	Carpet		X
Concrete/Rock/Soil/Fines/Dry wall/etc.	Building		X
Wood/Lumber	Building		X
Electronic Waste	E-waste		X

¹Not recycled under this Agreement. May not be placed in Recycling Container.

List of acceptable organic materials:

- Food waste
- Green Waste
- Landscape and pruning waste
- Non-hazardous wood waste
- Food-soiled paper that is mixed in with food waste
- Compostable food containers
- Compostable foodware

List of materials which Contractor should explore means and markets to recycle but which Service Recipient may seek, and pay for, alternative recycling markets. Also included are all materials listed as “Non-recyclable” in table above.

- Plastics #6 and #7
- Plastic bags, wrap and film
- Laboratory ware (plastics, glass etc.)
- Mirrors
- Porcelain and ceramics
- Glass and metal cookware/bakeware
- Hoses, cords, wires
- Paper less than 4 inches in size in any dimension
- Microwaveable trays
- Window or auto glass
- Coated cardboard
- Coat hangers
- White goods (household appliances)
- Needles, syringes, IV bags or other medical supplies
- Textiles, cloth or any fabric
- Propane tanks
- Universal waste (u-waste)
- Electronic waste (e-waste)

LIMITED FRANCHISE AGREEMENT
FOR THE PROVISION OF
LIMITED FRANCHISE SOLID WASTE HAULER

Executed Between the
City of Thousand Oaks and Arakelian Enterprises, Inc.
d/b/a Athens Services

This 1st day of January 2022

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This Agreement is effective as of January 1, 2022 ("Effective Date"), and is between the City of Thousand Oaks, a general law city of the State of California, referred to as "City" and Arakelian Enterprises, Inc. d/b/a Athens Services referred to as "Contractor".

Now, therefore, in consideration of the mutual covenants, agreements and consideration contained in this Agreement, City and Contractor agree as follows:

Article 1. Definitions

For the purpose of this Limited Franchise Agreement, referred to as "Agreement", the definitions contained in this Article apply unless otherwise specifically stated. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Use of the masculine gender includes the feminine gender. The meaning of terms or words not defined in this Article will be as commonly understood in the solid waste collection services industry when the common understanding is uncertain.

1.01 AB 341. "AB 341" means State of California Assembly Bill No. 341 approved October 5, 2011. AB 341 requires businesses, defined to include commercial or public entities that generate more than 4 cubic yards of commercial solid waste per week or multifamily residential dwellings of 5 units or more, to arrange for recycling services and requires jurisdictions to implement a commercial solid waste recycling program.

1.02 AB 939. "AB 939" or "The Act" means "The California Integrated Waste Management Act of 1989" codified in part in Public Resources Code §§ 40000 et seq, as it may be amended and as implemented by the regulations of the California Department of Resources Recycling and Recovery (CalRecycle), or its successor agency.

1.03 AB 1594. "AB 1594" means State of California Assembly Bill No. 1594 approved September 28, 2014. AB 1594 provides that as of January 1, 2020, the use of green material as Alternative Daily Cover does not constitute diversion through recycling and would be considered disposal.

1.04 AB 1826. "AB 1826" means State of California Assembly Bill No. 1826 approved September 28, 2014. AB 1826 requires each jurisdiction, on and after January 1, 2016, to implement an organic waste recycling program to divert from the landfill organic waste from businesses. Each business generating 2 cubic yards or more of solid waste per week, and multi-family complexes of five units or more, is required to arrange for organic waste recycling services.

1.05 Agreement. "Agreement" means the written agreement between the City and the Contractor covering the work to be performed and all contract documents attached to the agreement and made a part thereof.

1.06 Agreement Administrator. The City Manager, or his or her designee, designated to administer and monitor the provisions of the Agreement.

1.07 Agreement Year. Agreement year means each twelve (12) month period from January 1st to December 31st during the term of this Agreement.

1.08 Applicable Law. "Applicable Law" means all laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirement of any federal, state, county, city, and local governmental agency having jurisdiction over the collection and disposition of Solid Waste, including Recyclable Materials, Organic Waste, and Construction and Demolition Waste.

1.09 Best Management Practice. Best Management Practice means the collection of written activities, practices, policies and procedures prepared and proposed by a responsible party, and then approved by the Director, to prevent or reduce, to the maximum extent that is technologically and

economically feasible, the discharge of pollutants to the storm drain system which might be generated from any site in the City.

1.10 Bin. "Bin" means a metal or plastic waste container designed or intended to be mechanically serviced by a commercial front-end loader vehicle. It shall be designed to hold from one (1) to six (6) cubic yards of material with the lid properly closed. The specifications for Contractor-provided Bins are set forth in Exhibit 4.

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

1.12 Brown Goods. Electronic equipment such as stereos, televisions, computers, VCR's and other similar items.

1.13 Business Day. Any Monday through Friday, excluding any holidays.

1.14 Calendar Year. Each twelve (12) month period from January 1 to December 31.

1.15 CERCLA. The Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sections 9601 and following, as may be amended and regulations promulgated thereunder.

1.16 Change in Law. Change in Law means any of the following events or conditions which has a material and adverse effect on the performance by the parties of their respective obligations under this Agreement (except for payment obligations), or providing the Temporary Collection Service or other matters to which Applicable Law applies:

A. the enactment, adoption, promulgation, issuance, modification, or written change of or in Applicable Law, including but not limited to new or increased fees and charges imposed by the State of California or the U.S. Federal government, directly related to the collection, handling, processing, recycling or disposal of Solid Waste, or the enactment, adoption, promulgation, issuance, modification, or written change in administrative or judicial interpretation on or after Effective Date of any Applicable Law;

B. the order or judgment of any Governmental Body, on or after the Effective Date, to the extent such order or judgment is not the result of willful or negligent action, error or omission or lack of reasonable diligence of the City or of the Contractor, whichever is asserting the occurrence of a Change in Law; provided, however, that the contesting in good faith or the failure in good faith to contest any such order or judgment shall not constitute or be construed as such a willful or negligent action, error or omission or lack of reasonable diligence; or

1.17 City. The City of Thousand Oaks, California.

1.18 City Manager. City Manager means the City Manager of the City of Thousand Oaks, or his or her designated representative, or any employee of the City who succeeds to the duties and responsibilities of the City Manager.

1.19 Code. Code means the City of Thousand Oaks Municipal Code.

1.20 Collection. The process whereby Solid Waste and Construction and Demolition Debris are removed and transported to a Disposal Facility, Organic Waste Processing Facility, Construction and Demolition Materials Processing Facility, or Materials Recycling (or Recovery) Facility as appropriate.

1.21 Collection Container. A Bin, or Roll-Off Container that is approved by the Agreement Administrator for use by Service Recipients for Temporary Collection Services under this Agreement.

1.22 Collection Vehicle. A licensed vehicle that is approved by the Agreement Administrator for use by Contractor for the transport, delivery, and collection of Solid Waste Bins and Roll-off Containers.

1.23 Compost. "Compost" means the product resulting from the controlled biological decomposition of Organic Wastes that are source separated from the municipal waste stream, or which are separated at a centralized facility. Compost may also include the product of anaerobic digestion or other conversion technologies.

1.24 Composting. "Composting" means the controlled and monitored process of converting Organic Waste into Compost.

1.25 Construction and Demolition waste. "Construction and Demolition waste" or "C&D" means Solid Waste consisting of building materials, packaging and rubble resulting from construction, remodeling, repair, and demolition operations on pavement, residential, commercial or industrial premises, buildings, and other structures, and land clearing operations.

1.26 Consumer Price Index (CPI). "CPI" means the index published by the United States Bureau of Labor Statistics and used to measure the variation in prices paid by typical consumers for goods and services. The CPI used to calculate the Maximum Service Rates is All Urban Consumers (CPI-U), Los Angeles-Long Beach-Anaheim.

1.27 Contaminant. Any material that is placed in a waste stream intended for recycling, including organics and C&D, that cannot be recycled or reclaimed within the waste stream in which it is placed.

A. A Contaminant of the Recycling stream is any material placed in that waste stream that cannot be recycled or reclaimed after processing.

B. A Contaminant of the C&D stream is any material placed in that waste stream that is not normally produced from construction and demolition activities such as, but not limited to, food waste, liquids, and hazardous waste.

C. A Contaminant of the Green Waste stream is any material not normally produced from gardens or landscapes such as, but not limited to, brick, rocks, gravel, large quantities of dirt, concrete, sod, non-organic wastes, oil and wood or wood products, including but not limited to, stumps, and diseased trees.

D. A Contaminant of the Food Waste stream is any non-Food Waste material placed in that waste stream.

1.28 Contractor. An entity that has obtained from the City this Agreement to provide Temporary Collection Services.

1.29 County. Ventura County, California.

1.30 Director. Director means the Public Works Director of the City or his or her designated representative, or any employee of the City who succeeds to the duties and responsibilities of the Public Works Director.

1.31 Dispose or Disposal. “Disposal” or “Dispose” means the final disposition of Solid Waste at a permitted Landfill or other permitted Solid Waste disposal facility, as defined in California Public Resources Code 40192.

1.32 Disposal Facility. “Disposal Facility” means the facility or such place or places specifically designated by the City for the disposal, or processing as appropriate, of Solid Waste, Construction and Demolition debris, and other materials as appropriate and acceptable.

1.33 Effective Date. “Effective Date of Agreement” means the date designated in the Agreement as the effective date. If no such date is indicated, it shall mean the date on which the Agreement is signed and delivered by the last of the parties to sign and deliver.

1.34 Exempt Waste. Biohazardous or Biomedical Waste, Hazardous Waste, Sludge, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, dead animals, and those wastes under the control of the Nuclear Regulatory Commission.

1.35 Food Waste. “Food Waste” means all putrescible solid, semisolid, and liquid food, such as, fruit, vegetables, cheese, meat, bones, poultry, seafood, bread, rice, pasta, and oils; coffee grounds and filters and tea bags; and any putrescible matter produced from human or animal food production, preparation, and consumption activities.

1.36 Franchise Fee. A fee established by resolution by City Council in consideration of the Limited Franchise.

1.37 Garbage. All putrescible and non-putrescible solid, semi-solid and associated liquid waste, as defined in California Public Resources Code section 40191. Garbage does not include Recyclable Materials, C&D, Organic Waste, Large Items, or Exempt Waste.

1.38 Green Waste. “Green Waste” means Solid Waste consisting of any vegetative waste generated from the maintenance or alteration of residential, commercial, or industrial premises including, but not limited to, grass clippings, leaves, tree trimmings, prunings, brush, weeds, flowers, herbs, and holiday trees

1.39 Gross Revenue. All monetary amounts actually collected or received by Contractor for the provision of Franchise services pursuant to this Agreement. Gross Revenue shall include all receipts from customers including late charges, contamination charges etc., including Solid Waste Management Fees and Franchise Fees. The term Gross Revenues, for purposes of this Agreement, does not include any revenues generated from the sale of Recyclable Material, compost product or energy, grants, cash awards or rebates resulting from the performance of this Agreement.

1.40 Hazardous Waste. “Hazardous Waste” means a waste, or combination of wastes as defined by Code of Federal Regulations, Title 40.

1.41 Large Items. “Large Items” or “Bulky Waste” means Solid Waste consisting of discarded white goods, furniture, tires, carpets, mattresses, and similar large items which do not fit in a regular

Collection Container and require special handling due to their size but can be collected and transported without the assistance of special loading equipment (such as forklifts or cranes) and without violating vehicle load limits. It does not include abandoned automobiles and other vehicles, nor does it include items defined as Exempt Waste.

1.42 Materials Recovery Facility. Materials Recovery Facility (MRF) means a facility to which Solid waste, Organic waste, Recyclable Materials, and Construction and Demolition Waste are brought for separation into marketable Recyclables.

1.43 Materials Recycling Facility. Same as Materials Recovery Facility.

1.44 Maximum Service Rate. The maximum amount that Contractor may charge Service Recipients for Collection Services, as listed in Exhibit 1, and as may be adjusted in accordance with the provisions of this Agreement.

1.45 Non-Collection Notice. A form developed and used by Contractor, as approved by City, to notify Service Recipients of the reason for non-collection of materials set out by the Service Recipient for Collection by Contractor pursuant to this Agreement.

1.46 Non-putrescible Material. "Non-putrescible Material" means Solid Waste consisting of waste which is not organic and not subject to decomposition by microorganisms.

1.47 Organic Waste. "Organic Waste" means Food Waste, Green Waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with Food Waste.

1.48 Organic Waste Processing Facility. "Organic Waste Processing Facility" means a State permitted commercial Solid Waste facility which accepts and processes Organic Materials.

1.49 Overage. Overage means excess Solid Waste, Organic Waste and Recyclable Materials (i) placed inside a Container that prevents the lid on the Container from being completely closed (i.e., lid remains open greater 45-degrees) or excess materials placed on top of or around a Container and (ii) could potentially result in excess materials spilling/dislodging during collection activity by Contractor's vehicles.

1.50 Premises. "Premises" means any land or building in the City where waste is generated or accumulated.

1.51 Putrescible Material. "Putrescible Material" means Solid Waste consisting of waste which is organic and subject to decomposition by microorganisms.

1.52 Quarter. Period of three (3) months with first quarter the months of January through March, second quarter April through June, third quarter July through September, and fourth quarter October through December.

1.53 Recyclable Materials. "Recyclable Materials" means Solid Waste consisting of any material which retains useful properties and can be reclaimed after the production or consumption process.

1.54 Recycling. "Recycling" means the process of collecting, sorting, cleansing, treating and/or marketing Recyclable Materials that would otherwise be disposed of in a landfill. The collection, transportation or disposal of Solid Waste not intended for, or capable of, reuse is not Recycling.

1.55 Residual or Residuals. Residual or Residuals means Solid Waste that is not diverted from landfill disposal after it has been delivered to an Organic Waste Processing Facility or a Recyclables Processing Facility for processing for diversion from landfill disposal. Residual does not include Recyclable Materials or Organic Material that is processed for diversion but has no available markets.

1.56 Roll-Off Container. A metal container with a capacity of ten (10) or more cubic yards that is normally loaded onto a specialized Collection Vehicle and transported to an appropriate facility.

1.57 SB 1383. "SB 1383" means State of California Senate Bill 1383, approved September 19, 2016, which mandates a fifty (50) percent reduction in disposal of Organic Materials from the 2014 levels by 2020 and seventy-five (75) percent reduction by 2025. Further, SB 1383 requires jurisdictions to implement Edible Food Recovery Programs designed to recover edible food that is currently landfilled by twenty (20) percent by 2025.

1.58 Service Area. That area within the city limits of the City of Thousand Oaks.

1.59 Service Recipient. An individual or entity receiving Temporary Collection Service from a Limited Franchise Contractor on a Temporary Basis using Bins or Roll-off Collection Containers.

1.60 Single-family Dwelling or SFD. "Single-family/duplex dwelling" or "SFD" means a single detached dwelling unit, and/or a duplex structure of two (2) single attached dwelling units, each designed for use by one bona fide housekeeping group.

1.61 Solid Waste. "Solid Waste" means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes, as set forth in California Public Resources Code Section 40191(a)(b), as amended from time to time, and includes Brown Goods, Construction and Demolition Debris, Food Waste, Garbage, Green Waste, Large Items, Organic Waste, Recyclable Materials, White Goods.

1.62 Solid Waste Management Fee. Administrative costs of managing the City's solid waste program paid for by Contractor.

1.63 Source separated. "Source separated" means the segregation, by the waste generator, of materials designated for separate collection for some form of materials recovery or special handling.

1.64 SRRE (Source Reduction and Recycling Element). A formal planning document prepared and adopted by a California jurisdiction, and submitted to the California Department of Resources Recycling and Recovery (CalRecycle), that demonstrates how the jurisdiction will comply with the California Integrated Waste Management Acts (AB 939) diversion goals. The jurisdiction's SRRE must include specific components, as defined in Public Resources Code sections 41003 and 41303.

1.65 Temporary Basis. "Temporary Basis" means the collection of solid waste for a temporary project or limited period of time, not a regular weekly collection service. Limited to no more than 30 consecutive days in a calendar year, or as long as an ongoing project has an active building permit.

1.66 Temporary Collection Services. “Temporary Collection Services” means collection of Solid Waste and Construction and Demolition debris using Bins and Roll-off Containers, on a Temporary Basis.

1.67 Term. “Term” means the time period or duration of the Limited Franchise.

1.68 Transfer station. “Transfer station” means those facilities utilized to receive Solid Waste, and temporarily store and transfer such waste directly from smaller to larger vehicles for transport

1.69 Universal Waste or U-Waste. E-Waste, dry-cell batteries, non-empty aerosol cans, fluorescent lamps, and fluorescent bulbs, mercury thermostats, and other mercury containing equipment.

1.70 Waste. “Waste” means the useless, unused, unwanted or discarded material and debris resulting from normal residential and commercial activity or materials which, by their presence, may injuriously affect the health, safety, and comfort of persons or depreciate property values in the vicinity thereof.

1.71 Waste diversion. “Waste diversion” means to divert Solid Waste, in accordance with all applicable Federal, State, and local requirements, from disposal at landfills or transformation facilities through source reduction, composting or recycling.

1.72 Waste generator. “Waste generator” means any person, as defined by the most current version of the Public Resources Code, whose act or process produces solid waste as defined in that same code, or whose act first causes solid waste to become subject to regulation.

1.73 Waste Reporting System (WRS). An online/digital data system designated by the City for recording and documenting receipts, revenue, outreach, customer service, site visits, weights and volumes by waste stream, and field issues for compliance, customer service, and reporting purposes.

1.74 White goods. “White goods” means enamel-coated major appliances, such as washing machines, clothes dryers, hot water heaters, stoves, and refrigerators.

1.75 Work Day. Any day, Monday through Saturday, that is not a holiday.

1.76 Wood waste. “Wood waste” means Solid Waste consisting of stumps, large branches, tree trunks, and wood pieces or particles that are generated from the manufacturing or production of wood products, harvesting, processing or storage of raw wood materials, or construction and demolition activities.

Article 2. Term of Agreement

2.01 Initial Term. The initial term of this Agreement will be for a three (3) year period beginning January 1, 2022 and terminating on December 31, 2024.

2.02 Extension of Term. Subject to the provisions of Section 2.03, at the end of the Initial Term, Contractor may be eligible to receive one, two (2) year term extension to the Initial Term, at the City’s sole discretion. Under no circumstances will City be obligated to extend the term.

2.03 Agreement Extension. In order to receive the Agreement term extension offer set forth in Section 2.02 of this Agreement, Contractor must meet or exceed the quarterly minimum performance and diversion standards set forth in Article 5. If either party elects to forego the Agreement extension, the party

wishing to forego the extension shall provide written notice to the other party prior to the applicable Extension Date. Upon delivery of such notice, this Agreement shall not be extended and shall terminate on the termination date.

Article 3. Conditions Governing Services Provided by Contractor

3.01 Grant of Limited Franchise for Temporary Solid Waste Collection In accordance with Title 6, Chapter 2 of the TOMC, City hereby grants to Contractor a Limited Franchise to provide Temporary Solid Waste Collection within the City, subject to the terms and conditions, and within the scope set forth in Exhibit 1, which provides the right and privilege to collect, remove and dispose of, in a lawful manner, Solid Waste, Recyclable Materials, Construction and Demolition debris, and Organic Materials on a Temporary Basis using Bins and Roll-off Containers.

3.02 Recyclable Materials Organic Waste, and Bulky Waste Discarded by Service Recipients. This Agreement shall not prohibit any person from selling Recyclable Materials or Organic Waste or giving Recyclable Materials or Organic Waste away to persons or entities other than Contractor. However, in either instance: (1) the Recyclable Materials or Organic Waste must be source separated from and not mixed with other Solid Waste; and (2) the seller/donor may not pay the buyer/donee any consideration for collecting, processing or transporting such Recyclable Materials or Organic Waste. A discount or reduction in the price for collection, disposal and/or recycling services for any form of un-segregated or segregated Solid Waste is not a sale or donation of Recyclable Materials or Organic Waste and such Solid Waste does not qualify for this exception. However, once the Recyclable Materials or Organic Waste have been placed in the Collection Container and the Container set out for Collection, the Recyclable Materials or Organic waste become the property of Contractor.

3.03 Responsibility for Service Billing and Collection. Contractor is responsible for the billing and collection of payments for Temporary Collection Services within the Service Area.

3.04 Contractor's Payments to City.

3.04.1 Franchise Fee. In consideration of the Limited Franchise provided for in Section 3.01 of this Agreement, Contractor shall pay the City a Franchise Fee as a percent of the Gross Revenue received by the Contractor from Limited Franchise services provided in the City pursuant to this Agreement. The Franchise Fee shall reflect a reasonable estimate of the value of the franchise and shall be established and adjusted as necessary by City Council by resolution. If adjusted during the term of this Agreement, Contractor shall be entitled to a rate adjustment as a City-directed change negotiated as part of the City's Exclusive Franchise Agreement for Solid Waste Collection Services. Any such adjustment will be reflected in the Maximum Service Rates under this Temporary Collection Services Agreement. The Franchise Fee for the Agreement Year and thereafter shall be nine (9) percent of Gross Revenue.

3.04.2 Solid Waste Management Fee. In consideration of the administrative costs of managing the City's solid waste program, Contractor shall pay City a Solid Waste Management Fee as a percent of the Gross Revenue received by the Contractor from Limited Franchise services provided in the City pursuant to this Agreement. The City Council may adjust the Solid Waste Management Fee by resolution, in which case Contractor shall be entitled to a rate adjustment as a City-directed change

negotiated as part of the City's Exclusive Franchise Agreement for Solid Waste Collection Services. Any such adjustment will be reflected in the Maximum Service Rates under this Temporary Collection Services Agreement. The Solid Waste Management Fee for the Agreement Year and thereafter shall be as follows:

- i. Eight and one-quarter (8.25 percent) percent of the Gross Revenues received during the reporting period, less Tipping or Facility Processing Fees, if the diversion rate for every waste stream during the reporting period meets or exceeds the Contractor's Diversion Requirements specified in Section 5.02;
- ii. Sixteen and one half percent (16.50 percent) of the Gross Revenues received during the reporting period, less Tipping or Facility Processing fees, if the diversion rate for any waste stream during the reporting period does not meet the Contractor's Diversion Requirements specified in Section 5.02.

3.04.3 Limited Franchise Construction and Demolition Tracking Fee. In consideration of the Limited Franchise provided for in this Agreement, and in consideration of annual operation costs of City's electronic construction and demolition waste tracking system, Contractor shall pay to City \$1,500 each year for the duration of this Agreement, and any extension thereof. Fee shall be adjusted based on annual operation costs of City's electronic construction and demolition waste tracking system. Payment of the Annual Fee shall be due by February 1st of each year.

3.04.4 Time and Method of Payment; Late Fees. Solid Waste Management Fees and Franchise Fees shall be computed and paid based on Gross Revenue received each calendar month for services rendered. Contractor shall prepare and submit such remittance on a quarterly basis to the Finance Director or designee in a manner specified by the City, and such remittance must be received no later than the last business day of the month following the end of each quarter. For hand-delivered remittance, the Contractor must request and receive a receipt or time stamp with the exact date remittance is received by the City Finance Director or designee.

3.04.5 The remittance will be accompanied by a report, prepared and submitted in an electronic format specified by the City, setting forth the basis, and calculations used for computing the amount due. The figures used shall be taken from the general books of account of the Contractor. All supporting documentation must be retained by the Contractor in accordance with the records retention requirements in Section 12.01.

3.04.6 If the Contractor fees to the City are not paid by the date set by this Agreement, Contractor shall also pay a penalty as specified in Exhibit 3, except to the extent that such lateness is due to extenuating circumstances.

3.04.7 In addition, Contractor shall pay interest on all unpaid fees at the rate of six (6) percent per annum or the prime (lending) rate, whichever is higher, but not to exceed the legal rate, from the date the fees were due and payable to the date actually paid.

3.04.8 If the delay is due to extenuating circumstances, Contractor must request approval in writing from the City Manager or designee at least five (5) business days prior to the date on which fees and reports are due. City shall contact Contractor within three (3) business days of receiving request for submission delay as to whether delay shall be permitted.

3.04.9 Taxes and Utility Charges. Contractor shall pay all Taxes lawfully levied or assessed upon or in respect of the Operating Assets or the Limited Franchise Services, or upon any part thereof or upon any revenues necessary for the operation of the Operating Assets and the provision of the Limited Franchise Services, when the same shall become due.

3.04.10 Disputes. In the event of any disputes between Contractor and City with respect to the fees described in Section 3, City shall provide Contractor with written objection within 180 days of the receipt of the report described in Section 3.04.5, indicating what is disputed and providing all reason then known to the City for its objection to or disagreement with such amount. If any such amount is adjusted in the City's favor pursuant to agreement, mediation, legal proceeding, or otherwise, Contractor shall pay the amount of such adjustment to City, with interest thereof at the Overdue Rate from the date such disputed amount was due City to date of payment in full of such amount. Nothing contained in this subsection shall limit the authority of any authorized office of the City or any other governmental agency to raise a further objection to any amount billed by Contractor pursuant to an audit conducted pursuant to Applicable Law. If Contractor prevails in the dispute, the Contractor shall have the right to recover from City its reasonable costs incurred in connection with the dispute resolution procedure.

3.05 Service Standards. Contractor must perform all Temporary Collection Services under this Agreement in a thorough and professional manner as described in Exhibit 1, while meeting the minimum performance and diversion standards listed in Article 5.

3.06 Labor and Equipment. Contractor must provide and maintain all labor, equipment, tools, facilities, and personnel supervision required for the performance of this Agreement.

3.07 Inspections. The City has the right to inspect Contractor's facilities or Collection Vehicles and their contents used to provide services pursuant to this Agreement at any reasonable time while operating inside or outside the City.

3.08 Commingling of Materials.

3.08.1 Solid Waste Materials Collected in Thousand Oaks. Contractor may commingle materials collected pursuant to this Agreement with other materials collected outside the City of Thousand Oaks, provided that Contractor tracks the tonnage of material collected inside the City of Thousand Oaks separately using a City-approved allocation methodology, and provided that Contractor transports the commingled materials to an appropriate processing facility for proper sorting and recycling. Changes to the allocation methodology may only be made with the express prior written authorization of the Agreement Administrator.

3.08.2 Spillage and Litter. Contractor may not litter premises in the process of providing Temporary Collection Services or while its vehicles are on the road. Contractor must transport all materials Collected under the terms of this Agreement in such a manner as to prevent the spilling or blowing of such materials from Contractor's vehicles. Contractor must exercise all reasonable care and diligence in providing Temporary Collection Services so as to prevent spilling or dropping of debris and must immediately, at the time of occurrence, clean up such spilled or dropped debris.

3.08.3 Except as provided in Article 3.08.2, Contractor is not responsible for cleaning up sanitary conditions caused by the carelessness of the Service Recipient; however, Contractor must clean up any material or residue that is spilled or scattered by Contractor or its employees.

3.08.4 Equipment oil, hydraulic fluids, spilled paint, or any other liquid or debris resulting from Contractor's operations or equipment must be covered immediately with an absorptive material and removed from the street surface. Contractor must document spillage in the Waste Reporting System and notify City's stormwater compliance coordinator within two (2) hours of any spills resulting from Contractor's operations or equipment. When necessary, Contractor must apply a suitable cleaning agent and cleaning technique to the street surface to provide adequate cleaning as approved by the City's stormwater compliance coordinator to be compliant with the City's stormwater permit.

3.08.5 The above paragraphs notwithstanding, Contractor must clean up any spillage or litter caused by Contractor within two (2) hours upon notice from the City. If City deems necessary, Contractor must engage third-party environmental clean-up specialist to remove any equipment oil, hydraulic fluids, or any other liquid or debris that remains on street after Contractor's own clean-up efforts. If clean-up is not conducted to satisfaction of City, City has right to engage environmental clean-up specialist to perform additional clean-up work at the expense of Contractor.

3.08.6 In the event where damage to City streets is caused by a hydraulic fluid spill (i.e., any physical damage in excess of a simple cosmetic stain caused by the spill), Contractor shall be responsible for all repairs to return the street to the same condition as that prior to the spill. Contractor shall be responsible for all clean-up activities related to the spill. Repairs and clean-up shall be performed in a manner satisfactory to the City and at no cost to the City.

3.08.7 To facilitate immediate cleanup, Contractor's vehicles must always carry sufficient quantities of petroleum absorbent materials along with a broom and shovel.

3.09 Regulations and Record Keeping. Contractor must comply with emergency notification procedures required by applicable laws and regulatory requirements. All records required by regulations must be maintained at Contractor's facility. These records must include waste manifests, waste inventories, waste characterization records, inspection records, incident reports, and training records.

Article 4. Billing, Charges and Rates

4.01 Temporary Collection Services. Contractor is responsible for the billing and collection of payments for all Temporary Collection Services. Contractor shall charge Service Recipients no more than the Maximum Service Rates established in Exhibit 2 and as such rates may be adjusted under this Agreement.

4.02 Production of Invoices. At the City's direction, Contractor shall prepare, mail or electronically transmit, and collect bills (or shall issue written receipts for cash payments) for Temporary Collection Services provided by Contractor under this Agreement. If made by mail, Billings shall be placed in an envelope at least 22 square inches in size and shall include a return envelope for each billing period. Contractor shall include an e-mail address on all billing notices and shall accept payment by check, credit card or ACH debit. Billings shall include sufficient space on the statement to accommodate up to 20 typed characters as specified by City. City shall have the right to revise the billing format, provided that reasonable notice is given. Where it has been determined that a Service Recipient has overpaid for service for any reason, Contractor must refund the Service Recipient the credit due within thirty (30) days of such determination.

4.03 Service Recipients and Payments. Through the Waste Reporting System, Contractor must report to the Agreement Administrator quarterly, the names, addresses, services rendered, and billing amounts of all Service Recipients who have received Collection Service. The provisions of Code Section 6-2.401(C) and Exhibit 2 shall apply to billing generally, including penalties for late payments and collection of delinquent accounts. For this purpose, delivery of the billing shall include the date such billing is deposited by Contractor into the U.S. Mail or delivered electronically.

4.04 Adjustments to Maximum Service Rates using Consumer Price Index (CPI). Beginning on January 1, 2023, and annually thereafter, Contractor shall, subject to compliance with all provisions of this Section, receive an annual adjustment to the Maximum Service Rates as set forth below.

4.04.1 Annual CPI Calculation. The Maximum Service Rate adjustment shall be calculated using the percentage change in the CPI between the base year, which shall be the prior preceding 12-month period ending July 31, and the preceding 12-month period ending July 31. Therefore, the first annual CPI adjustment (effective January 1, 2023) will be based on the percentage change between the CPI for the base year, August 1, 2020 through July 31, 2021 (the prior preceding 12-month period), and the CPI for the period of August 1, 2021 through July 31, 2022 (the preceding 12-month period).

4.04.2 Rounding. Adjustments to the overall Maximum Service Rates shall be made only in units of one cent (\$0.01). Fractions of less than one cent (\$0.01) shall not be considered in making adjustments. All CPI indices shall be rounded at two (2) decimal places for the adjustment calculations.

4.05 City Approval of Maximum Service Rates. On or before November 1, 2022, and annually thereafter during the term of this Agreement, City shall notify Contractor of the CPI adjustments to the affected Maximum Service rates to take place on the subsequent January 1st. City shall take action on any changes in the Maximum Service Rates in accordance with the City's Municipal Code.

4.06 Annual Rate Cap on Maximum Service Rates. In any Calendar year that the calculation of the CPI exceeds four percent (4.00%) or is between zero and one percent (1.00%), the total adjustment for that year will equal four percent (4.0%) or one percent (1.0%), respectively, and no rollover amount will be added to or subtracted from the rate adjustment percentage in the following year, or any subsequent year. If the CPI is negative there will be no CPI adjustment for that year.

4.07 Extraordinary Adjustment to Maximum Service Rates. If a material Change in Law occurs after the date hereof, an appropriate adjustment to Maximum Service Rates sufficient to offset the additional cost of solid waste service may be negotiated as part of the City's Exclusive Franchise Agreement for Solid Waste Collection Services. Any such adjustment will be reflected in the Maximum Service Rates under this Temporary Collection Services Agreement.

4.08 Performance Standards for Adjustments to Rates. To be eligible for a CPI adjustment under Article 4.04 or an extraordinary adjustment under Article 4.07, Contractor must cure any material default under Article 18 of this Agreement for which City has provided notice to Contractor.

Article 5. Diversion Requirements

5.01 Minimum Requirements. City requires Contractor to achieve a minimum quarterly diversion rate as described in Article 5.02 below. Contractor must provide diversion documentation to City in its quarterly reporting.

5.01.1 If Contractor fails to achieve a minimum Diversion Rate as described in Section 5.02, Contractor may be subject to an Administrative Penalty as specified in Exhibit 3. Contractor's failure to meet the minimum Diversion requirements for more than three quarters during the term of this Agreement shall constitute an event of default under this Agreement, and, at the sole determination of the City this Agreement shall be terminated.

5.01.2 If Contractor fails to meet Diversion requirements, the City may also direct Contractor to modify its disposal practices.

5.02 Contractor's Diversion Requirements. For purposes of Article 5, Contractor's Diversion requirements are:

5.02.1 For Construction and Demolition materials, the minimum Diversion Rate requirement will be sixty-five percent (65%), per California Green Building Code C&D Diversion standards.

5.02.2 For Organic waste, the minimum Diversion Rate requirement will be seventy-five percent (75%), per CalRecycle SB 1383 Diversion standards.

5.02.3 For all other non-organic and/or non-C&D waste materials, the minimum Diversion rate requirement will be fifty percent (50%), per CalRecycle AB 939 Diversion standards.

For purposes of determining whether Contractor has met its Diversion requirements under this Agreement, the Diversion rate will be calculated using the following formula: "the tons of materials Collected by Contractor from Temporary Collection Services in the City that counts as diversion under applicable CalRecycle regulations (in each case, net of all residue from processing and net of materials processed for diversion but landfilled as a result of unavailable markets), divided by the total tons of materials Collected in the City by Contractor."

5.03 Warranties and Representations. Contractor warrants that it has the ability to and will provide sufficient services to ensure it will meet or exceed the diversion requirements as set forth in this Article 5, as well as the diversion requirements of the Applicable Laws (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) (including AB 939, AB 341, AB 1826, AB 1594, SB 1016, and SB 1383, and all amendments and related subsequent legislation), and that it will do so without imposing any costs or fees other than those set forth on Exhibit 2.

5.04 Guarantee. Except for programs currently required by Applicable Law but not set forth in this Agreement, or programs Contractor is expressly instructed by City not to implement, Contractor shall implement the diversion programs set forth in this Agreement such that Contractor and City will at all times be in compliance with the requirements of the Applicable Laws applicable to them including specifically AB 939, AB 341, AB 1826, AB 1594, SB 1016, and SB 1383, and all amendments thereto (subject to Section 28.01.1). In this regard Contractor agrees that it will, in addition to any other Agreement requirement, at its sole cost and expense:

5.04.1 Assist City in responding to inquiries from CalRecycle or any other regulatory agency;

5.04.2 Assist City in any hearing conducted by CalRecycle, or any other regulatory agency, relating to City's compliance with the Applicable Laws including AB 939, AB 341, AB 1826, AB 1594, SB 1016, and SB 1383;

5.04.3 Be responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle, and indemnify and hold harmless City from and against any fines, penalties, or other liabilities, levied against it for violation of the diversion requirements, set forth in the Applicable Laws, including AB 939, AB 341, AB 1826, AB 1594, SB 1016, and SB 1383, or for violation of any other provision of the Applicable Laws, arising from or in any way related to Contractor's performance under this Agreement.

Article 6. Materials and Facilities

6.01 Construction and Demolition Debris Processing Facility. All C&D Debris collected as a result of performing Temporary Collection Services must be delivered to a C&D Debris Processing Facility certified by the City of Los Angeles and/or facilities that can verify diversion of no less than 65% and are approved by the City. Failure to comply with this provision will result in the levy of a penalty charge as specified in Exhibit 3 and may result in Contractor being in default under this Agreement.

6.02 Materials Recovery Facility. All Recyclable Materials Collected as a result of performing Temporary Collection Services must be delivered to a Materials Recovery Facility. Failure to comply with this provision will result in the levy of a penalty as specified in Exhibit 3 and may result in Contractor being in default under this Agreement.

6.03 Organic Waste Processing Facility. Contractor must deliver all Collected Organic Waste to a fully permitted Organic Waste Processing Facility or a fully permitted Organic Waste transfer station, that has been approved by the City. Failure to comply with this provision will result in the levy of a penalty charge as specified in Exhibit 3 and may result in Contractor being in default under this Agreement.

Article 7. Audits and Performance Reviews

7.01 Billing/Financial Audit and Performance Reviews

7.01.1 Selection and Cost. City may conduct billing audit, financial audit and performance reviews (together, "reviews") of Contractor's performance during the term of this Agreement. The reviews will be performed by the City or a qualified firm under contract to City. City will have the final responsibility for the selection of the firm. City may conduct reviews at any time during the term of the Agreement.

7.01.2 Purpose. The reviews will be designed to verify that customer billing rates have been properly calculated and they correspond to the service received by the customer, verify that Contractor is correctly billing for all services provided, Franchise Fees, Solid Waste Management Fees and other fees required under this Agreement have been properly calculated and paid to City, verify Contractor's compliance with the reporting requirements and performance standards of this Agreement, verify the diversion percentages reported by Contractor, and verify any other provisions of the Agreement.

7.01.3 Contractor's Cooperation. Contractor shall cooperate fully with the review and provide all requested data, including operational data, financial data of the type described in Article 12, and other data reasonably requested by City within fifteen (15) Work Days of the request.

7.01.4 Findings. In the event that the Billing/Financial Audit and Performance Review concludes that Contractor is not in compliance with all terms and conditions of this Agreement and such non-compliance is material, Contractor is subject to administrative fees and penalties as described in Exhibit 3 as well as reimbursement to the City for the full cost of the audit plus any underpayments discovered during the Audit. If findings include default under Agreement, City may, at its sole discretion, terminate Agreement.

Article 8. Collection Equipment

8.01 Equipment Specifications.

8.01.1 General Provisions. All equipment used by Contractor in the performance of services under this Agreement must be of a high quality and meet all Federal, State, and local regulations and air quality standards, including all applicable provisions of Ventura County Air Pollution Control District. Collection vehicles must be designed and operated so as to prevent collected materials from escaping from the vehicles. Hoppers must be closed on top and on all sides with screening material to prevent collected materials from leaking, blowing or falling from the vehicles.

8.01.2 Large Items. Vehicles used for Collection of Large Items may not use compactor mechanisms or mechanical handling equipment that may damage reusable goods or release Freon or other gases from pressurized appliances.

8.01.3 Collection Vehicles. Contractor may not use any Collection Vehicle that is more than fifteen (15) years old during the term of the Agreement. Collection Vehicles must utilize low carbon ("alternative") fuel, which must be compressed natural gas (CNG or RNG), renewable diesel or electric unless otherwise authorized by the City.

8.01.4 Collection Vehicle Size Limitations / Overweigh Vehicle Charge. Contractor may not use any Collection Vehicle in violation of weight limitations in Applicable Law. The Contractor may exceed the Collection Vehicle size limitation for a limited time due to extraordinary circumstances or conditions with the prior written consent of the Agreement Administrator. Contractor must report all instances of overweight vehicles to City monthly as part of its quarterly reports.

8.01.5 Registration; Inspection. All vehicles used by Contractor in providing Temporary Collection Services under this Agreement, except those vehicles used solely on Contractor's premises, are to be registered with the California Department of Motor Vehicles. In addition, each such vehicle must be inspected by the California Highway Patrol in accordance with Applicable Law. Within two (2) Work Days of a request from the Agreement Administrator, Contractor must provide City a copy of its vehicle maintenance log and any safety compliance report, including, but not limited to, any report issued under California Vehicle Code sections 34500 and following, as well as the biennial "BIT" inspections conducted by the California Highway Patrol.

8.01.6 Safety Markings. All Collection equipment used by Contractor must have appropriate safety markings including, but not limited to, highway lighting, flashing and warning lights,

clearance lights, and warning flags. All such safety markings must be in accordance with the requirements of the California Vehicle Code, as may be amended from time to time.

8.01.7 Vehicle Signage and Appearance. Collection Vehicles must have Contractor's name and customer service telephone number identified on each side of each vehicle. No advertising is permitted other than the name of Contractor, its logo and registered service marks. All Contractor Collection vehicles must be maintained in a clean and sanitary condition and appearance during the term of this Agreement on a frequency as necessary to maintain a positive public image as reasonably determined by the Agreement Administrator.

8.01.8 Bin and Roll-off Container Signage, Painting, and Cleaning. All metal Bins and Roll-off Containers of any service type furnished by Contractor must be either painted or galvanized. All metal or plastic Bins and Roll-off Containers must display Contractor's name, Contractor's customer service telephone number, and the number of the Bin or Roll-off on at least two (2) sides. Identification shall be visible from the street in letters a minimum of two (2") inches in height. Bins and Roll-off Containers should be freshly painted at the start of this Agreement, free of dents, and must be kept in a clean and sanitary condition throughout the term of this Agreement, and painted as needed to maintain an orderly appearance throughout the term of the Agreement. Bins and Roll-off Containers shall be adequately reflectorized with a minimum of ten (10) square inches of plastic or reflective sheeting on each corner at a height between fifteen (15") and sixty (60") inches from the ground. Contractor shall affix a list of acceptable materials to Collection Containers with text approved by the City Manager, per Exhibit 4 and Exhibit 5 of this Agreement. Bins and Roll-off Containers may be subject to periodic, unscheduled inspections by City and determination as to sanitary condition will be made by City.

8.02 Vehicle Certification. For each Collection Vehicle used in the performance of services under this Agreement, Contractor must obtain a certificate of compliance (smog check) issued pursuant to Part 5 of Division 26 of the California Health and Safety Code (Section 43000 and following) and regulations promulgated thereunder and/or a safety compliance report issued pursuant to Division 14.8 of the California Vehicle Code (Section 34500 and following) and the regulations promulgated thereunder, as applicable to the vehicle. Contractor must maintain copies of such certificates and reports and must make such certificates and reports available for inspection upon request by the Agreement Administrator.

8.02.1 No later than January 1, 2022, Contractor must submit to the Agreement Administrator verification that each of the Contractor's Collection Vehicles has passed the California Heavy Duty Vehicle Inspection. Thereafter, Contractor must cause each vehicle in Contractor's Collection fleet to be tested annually in the California Heavy Duty Inspection Program and must, upon request, submit written verification to City within ten (10) Work Days of the completion of such test. Contractor may not use any vehicle that does not pass such inspection.

8.03 Equipment Maintenance. Contractor must maintain Collection equipment in a clean condition and in good repair at all times. All parts and systems of the Collection equipment must operate properly and be maintained in a condition satisfactory to City.

8.04 Maintenance Log. Contractor must maintain a maintenance log for all Collection Vehicles. The log must at all times be accessible to City by physical inspection upon request of Agreement Administrator, and must show, at a minimum, each vehicle Contractor assigned identification number, date

purchased or initial lease, dates of performance of routine maintenance, dates of performance of any additional maintenance, and description of additional maintenance performed.

8.05 Equipment Inventory. On or before January 1, 2022 Contractor shall provide to City an inventory of Collection Vehicles and major equipment used by Contractor for Temporary Collection Services under this Agreement. The inventory must indicate each Collection Vehicle by Contractor assigned identification number, DMV license number, the age of the chassis and body, type of fuel used, the type and capacity of each vehicle, the number of vehicles by type, the date of acquisition, the decibel rating and the maintenance and rebuild status. Contractor must submit to the Agreement Administrator by e-mail, an updated inventory annually to the City or more often at the request of the Agreement Administrator. Each inventory must also include the tare weight of each vehicle as determined by weighing at a certified scale used by Contractor. Each vehicle inventory must be accompanied by a certification signed by Contractor that all Collection Vehicles meet the requirements of this Agreement.

8.06 Equipment Failure. In the event that Contractor's collection vehicles are unable to collect and transport Bin/Roll-off Containers due to equipment breakdown, and the Bin/Roll-off placement poses a safety hazard or exceeds the 30-day placement limit, the City may contract with a hauler to have the Bin/Roll-off Container removed and the Contractor shall be responsible for the cost of removal.

Article 9. Contractor's Office

9.01 Contractor's Office. Contractor shall maintain an office or call center within Ventura County or such other location as City approves where calls and complaints can be received. The office must have responsible persons in charge during Collection hours and must be open during normal business hours, 8:00 a.m. to 5:00 p.m. on Monday through Friday. Contractor must provide either local or toll-free service and emergency telephone numbers that connect to the call center, and a telephone answering service or mechanical device to receive Service Recipient inquiries during those times when the office is closed. The service telephone number(s) must be available through an online search and listed on the Contractor's website. Calls received after normal business hours must be addressed the next Work Day morning.

9.01.1 Emergency Contact. Contractor must provide the Agreement Administrator with an emergency phone number where the Contractor can be reached outside required office hours.

9.01.2 Multilingual/TDD Service. Contractor must at all times maintain the capability of responding to telephone calls in English and such other languages as City may direct. Contractor must at all times maintain the capability of responding to telephone calls through Telecommunications Device for the Deaf (TDD) Services.

9.01.3 All incoming calls will be answered at the local office or call center within 5 rings. Any call "on-hold" in excess of 1.5 minutes must have the option to remain "on-hold" or request a "call-back" from a customer service representative. Contractor's customer service representatives must return Service Recipient calls. For all messages left before 3:00 p.m., all "call backs" must be attempted a minimum of one time prior to 5:00 p.m. on the day of the call. For messages left after 3:00 p.m., all "call backs" must be attempted a minimum of one time prior to noon the next Work Day. Contractor must make a minimum of three (3) attempts within one (1) Work Day of the receipt of the call. Contractor must record all calls including any inquiries, service requests, and complaints into a customer service log.

Article 10. Contractor Support Services

10.01 Contractor website. Contractor shall maintain a business website that explains the Contractor's City-specific services and rates. Contractor will ensure that information provided on the website is regularly updated. Temporary Collection Services should be able to be reserved and paid for online using electronic payment through said website.

10.02 Recycling resources. Contractor shall maintain an accurate list of recyclable materials on its website, and promote proper recycling to all Service Recipients.

10.03 Weighing Containers and Tonnage Documentation. Contractor shall weigh all Bin and Roll-off Containers used for material collection, regardless of capacity, and provide verifiable documentation of tonnage to customers upon request for reporting purposes. Contractor shall report tonnage to City on a quarterly basis using reporting methods defined in Article 12.

10.04 Contamination and Overage Reporting. Contractor shall provide documentation of contamination and overage charges when requested by the City.

Article 11. Emergency Service

11.01 Disaster Recovery Support. In the event of a tornado, major storm, earthquake, fire, natural disaster, or other such event, Contractor agrees to provide disaster recovery support to a reasonable degree, upon request by Agreement Administrator. This may include additional hauling of debris, special handling such as burrito wrapping, temporary storage of debris where feasible, additional disposal, use of different transfer and disposal facilities, and documentation of debris type, weight, and diversion. Contractor should follow protocol laid out in the County of Ventura's Disaster Debris Plan (1999) and any subsequent County or City Disaster Debris Plans, as applied to solid waste hauling and handling.

Article 12. Record Keeping and Reporting Requirements

12.01 Record Keeping. Notwithstanding Article 35 herein:

12.01.1 Accounting Records. Contractor must maintain full, complete and separate financial, statistical and accounting records, pertaining to cash, billing, and provisions of all Temporary Collection Services, prepared on an accrual basis in accordance with generally accepted accounting principles. Such records will be subject to audit, copy, and inspection for the purposes set forth in Section 7.01.2. Gross receipts derived from provision of the Temporary Collection Services will be recorded as revenues in the accounts of Contractor. Contractor shall keep and preserve, during the Term of this Agreement, and for a period of not less than four (4) years following expiration or other termination hereof, full, complete and accurate records, including all cash, billing and disposal records, as indicated in the Agreement. City reserves the right to request audited, reviewed, or compiled financial statements prepared by an independent Certified Public Accountant, or as may be provided by Contractor or its parent company. In the event that Contractor does not maintain separate financial or accounting records prepared specifically for services provided under this Agreement, Contractor may use industry standard allocation methods to provide financial information as applicable to the service provided under this Agreement.

12.01.2 Agreement Materials Records. Contractor must maintain records of the quantities of (i) Solid Waste, (ii) C&D Debris, (iii) Recyclable Materials, and (iv) Organic Waste by type, that are collected, purchased, processed, sold, donated or given for no compensation, and residue disposed under the terms of this Agreement

12.01.3 Other Records. Contractor must maintain all other records reasonably related to provision of Temporary Collection Services, whether or not specified in this Agreement.

12.01.4 Report Format. All reports to be submitted electronically in the City's Waste Reporting System or in a format approved by the City.

12.02 Quarterly Reporting.

Quarterly reports must be submitted no later than 5 p.m. PT on the last day of the month following the end of Quarter in which the receipts are collected and must be provided electronically in a form and means as specified by the City. If the last day of the month falls on a day that City is closed or a holiday, then the report will be due on the next business day. Failure to submit complete quarterly reporting by the due date will result in penalties as specified in Exhibit 3.

Quarterly reports to City must include:

1. Franchise Fee and Solid Waste Management Fee Payment Reporting. The payment report must include an accounting of Contractor's Gross Revenues received during the preceding quarter, and the calculated Franchise Fee and Solid Waste Management Fee.
2. Tonnage and Service Data. Contractor must report the number of unique accounts serviced, individual tonnage of Solid Waste, C&D Debris, Recyclable Materials and Organic Waste loads collected and processed for diversion and/or landfill disposal, broken down by Container type.
3. Overweight Vehicle Reporting. The quarterly report must include a summary total of all instances of overweight Collection Vehicles. This summary must include the number of overweight vehicle instances expressed as a percentage of the total number of Collection Vehicle loads transported during the reported quarter.
4. Service Recipient Complaint Log. The quarterly report must include the Service Recipient call log collected from the previous quarter as required in Section 9.01.3 of this Agreement.

12.03 Diversion Rate Calculation and Data. Contractor must provide documentation, in the format specified by City, of the quarterly Diversion Rate, as calculated in accordance with the provisions of Article 5.

12.04 CalRecycle Reports. Contractor will provide reasonable assistance to City in preparing annual reports to CalRecycle (the "Electronic Annual Report" or EAR), including but not limited to supplying required data for preparation of the reports, and completing all required data input in the Waste Reporting System.

12.05 Additional Reporting. Contractor must furnish City with any additional reports as may reasonably be required, such reports to be prepared within a reasonable time following the reporting period.

Article 13. Nondiscrimination

13.01 Nondiscrimination. In the performance of all work and services under this Agreement, Contractor may not discriminate against any person based on such person's race, sex, color, national origin, religion, marital status or sexual orientation. Contractor must comply with all applicable local, State and Federal laws and regulations regarding nondiscrimination, including those prohibiting discrimination in employment.

Article 14. Service Inquiries and Complaints

14.01 Contractor's Customer Service. All service inquiries and complaints will be directed to Contractor. A representative of Contractor must be available to receive the complaints during normal business hours. All service complaints will be handled by Contractor in a prompt and efficient manner. In the case of a dispute between Contractor and a Service Recipient, the matter will be reviewed, and a decision made by the Agreement Administrator.

14.01.1 Contractor will utilize the Customer Service Log to maintain a record of all inquiries and complaints in a manner prescribed by City.

Article 15. Quality of Performance of Contractor

15.01 Intent. Contractor acknowledges and agrees that one of City's primary goals in entering into this Agreement is to ensure that the Temporary Collection Services are of the highest caliber, that customer satisfaction remains at the highest level, that maximum diversion levels are achieved, and that materials Collected are put to the highest and best use to the extent possible.

15.02 Contract Manager. Contractor must designate a Contract Manager and must provide the name of that person in writing to City within thirty (30) days prior to the effective date of this Agreement and annually by January 1st of each subsequent Calendar Year of this Agreement and any other time the person in that position changes. The Contract Manager must be available to the City by phone at all times that Contractor is providing Temporary Collection Services in the Service Area. The Contract Manager must provide City with an emergency phone number where the Contract Manager can be reached outside of normal business hours.

15.03 Administrative Penalties. Quality performance by the Contractor is of primary importance. In respect of this, Contractor agrees to pay City administrative penalties as detailed in Exhibit 3 should Contractor fail to meet its responsibilities under this Agreement. Should Contractor be in breach of the requirements set forth in this Agreement, City may exercise its right to terminate Agreement.

15.04 Procedure for Review of Administrative Charges. The Agreement Administrator may assess administrative penalties as specified in Exhibit 3 pursuant to this Agreement on a quarterly basis.

15.04.1 City's assessment or collection of administrative penalties will not prevent City from exercising any other right or remedy, including the right to terminate this Agreement, for Contractor's failure to perform the work and services in the manner set forth in this Agreement.

15.05 Uncontrollable Circumstances.

15.05.1 If either party is prevented from or delayed in performing its duties under this Agreement by circumstances beyond its control, whether or not foreseeable, including, without limitation, acts of terrorism, landslides, lightning, forest fires, storms, floods, severe weather, freezing, earthquakes, other natural disasters, the threat of such natural disasters, pandemics (or threat of same), quarantines, civil disturbances, acts of the public enemy, wars, blockades, public riots, strikes, lockouts, or other labor disturbances, acts of government or governmental restraint or other causes, whether of the kind enumerated or otherwise, that are not reasonably within the control of the affected party, then the affected party will be excused from performance hereunder during the period of such disability.

15.05.2 The party claiming excuse from performance must promptly notify the other party when it learns of the existence of such cause, including the facts constituting such cause, and when such cause has terminated.

15.05.3 The interruption or discontinuance of services by a party caused by circumstances outside of its control will not constitute a default under this Agreement.

Article 16. Insurance

16.01 Insurance Policies. Contractor must secure and maintain throughout the term of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with Contractor's performance of work or services under this Contract. Contractor's performance of work or services includes performance by Contractor's employees, agents, and representatives.

16.02 Minimum Scope of Insurance. Insurance coverage must be at least this broad:

16.02.1 Insurance Services Office Form No. GL 0002 (Ed. 1/20) covering Comprehensive General Liability and Insurance Services Office Form No. GL 0404 covering Broad Form Comprehensive General Liability; or Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 0001), including X, C, U where applicable.

16.02.2 Insurance Services Office Form No. CA 0001 (Ed. 1/20) covering Automobile Liability, code 1 "any auto", or code 2 "owned autos" and endorsement CA 0025. Coverage must also include code 8, "hired autos" and code 9 "non-owned autos".

16.02.3 Workers' Compensation insurance as required by the California Labor Code and Employers Liability Insurance.

16.02.4 Environmental Pollution Liability Insurance.

16.03 Minimum Limits of Insurance. Contractor must maintain insurance limits no less than:

16.03.1 Comprehensive General Liability: \$2,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability insurance with a general aggregate limit is used, either the general aggregate limit will apply separately to this Agreement or the general aggregate limit must be \$4,000,000.

16.03.2 Automobile Liability: \$3,000,000 combined single limit per accident for bodily injury and property damage.

16.03.3 Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of \$1,000,000 per accident.

16.03.4 Environmental Pollution Liability: \$3,000,000 per occurrence and \$5,000,000 aggregate, with five (5) years tail coverage. Coverage shall include bodily injury or property damage arising out of the actual, alleged, or threatened discharge, dispersal, seepage, migration, release or escape of pollutants resulting from Contractor's operations.

16.03.5 If Contractor maintains higher limits than the minimum shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Service Provider. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

16.04 Deductibles and Self-Insured Retention. Any deductibles or self-insured retention must be declared to City's risk manager. Should City form a reasonable belief that Contractor may be unable to pay any deductibles or self-insured retentions, Contractor must procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by City's risk manager.

16.05 Endorsements. The policies are to contain, or be endorsed to contain, the following provisions:

16.05.1 General Liability, Automobile and Environmental Liability Coverage.

1. City, its officers, employees, agents and contractors are to be covered as additional 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 automobiles owned, leased, hired or borrowed by Contractor. The coverage must contain no special limitations on the scope of protection afforded to City, its officers, employees, agents and contractors.

2. Contractor's insurance coverage must be primary insurance as respects City, its officers, employees, agents and contractors. Any insurance, or self-insurance maintained by City, its officers, employees, agents or contractors will be in excess of Contractor's insurance and will not contribute with it.

3. Any failure to comply with reporting provisions of the policies will not affect coverage provided to City, its officers, employees, agents, or contractors.

4. Coverage must State that Contractor's insurance will apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

16.05.2 All Coverage. Each insurance policy required by this Agreement must be endorsed to State that coverage may not be canceled except after thirty (30) calendar days (ten (10) days in the event of cancellation for non-payment) prior written notice has been given to City. Moreover, Contractor will not order the cancellation of any required insurance policy or change in insurance policy limits without thirty (30) days prior written notice to City by Contractor.

16.06 Acceptability of Insurers. Insurance is to be placed with insurers having an A.M. Best rating of A-/VII or better.

16.07 Verification of Coverage. Contractor must furnish City with certificates of insurance and with original endorsements affecting coverage required by this Agreement. The certificates and endorsement for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Contractor must furnish City with a new certificate of insurance and endorsements on each renewal of coverage or change of insurers.

16.07.1 Proof of insurance must be mailed to the following address or any subsequent address as may be directed by the City:

City of Thousand Oaks Public Works Department

Attn: Sustainability Division Manager

2100 Thousand Oaks Blvd.

Thousand Oaks, CA 91362

16.08 Modification of Insurance Requirements. The insurance requirements provided in this Agreement may be modified or waived by City's risk manager, in writing, upon the request of Contractor if City's risk manager determines such modification or waiver is in the best interest of City considering all relevant factors, including exposure to City.

16.09 Rights of Subrogation. All required insurance policies must preclude any underwriter's rights of recovery or subrogation against City with respect to matters related to Contractor's performance of its obligations under this Agreement, with the express intention of the parties being that the required insurance coverage protects both parties as the primary coverage for any and all losses covered by the above-described insurance. Contractor must ensure that any companies issuing insurance to cover the requirements contained in this Agreement agree that they will have no recourse against City for payment or assessments in any form on any policy of insurance. The clauses 'Other Insurance Provisions' and 'Insured Duties in the Event of an Occurrence, Claim or Suit' as it appears in any policy of insurance in which City is named as an additional insured will not apply to City.

16.10 Failure to maintain insurance. Should Contractor fail to obtain or maintain insurance as required by this Agreement, Contractor shall have 7 days to cure the defect, during which time City shall have the option, but not the obligation to, at Contractor's sole expense: (i) hire replacement waste hauler services to perform Contractor's tasks until insurance coverage is resumed; or (ii) obtain replacement insurance coverage during said cure period. Should Contractor fail to correct this defect, City shall have the option to terminate this Agreement immediately.

Article 17. Hold Harmless and Indemnification

17.01 Hold Harmless for Contractor's Damages. Contractor holds City, its elected officials, officers, agents, employees and volunteers, harmless from all of Contractor's claims, demands, lawsuits, judgments, damages, losses, injuries or liability to Contractor, to Contractor's employees, to Contractor's contractors, or to the owners of Contractor's firm, which damages, losses, injuries or liability occur during

the work or services required under this Agreement, or performance of any activity or work required under this Agreement.

17.02 Defense and Indemnity of Third Party Claims/Liability. Contractor shall indemnify, defend with legal counsel approved by City, and hold harmless City, its officers, officials, employees and volunteers from and against all liability including, but not limited to, loss, damage, expense, cost (including without limitation reasonable legal counsel fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with Contractor's negligence, recklessness or willful misconduct in the performance of work hereunder or its failure to comply with any of its obligations contained in the Agreement, except such loss or damage which is caused by the active negligence or willful misconduct of City. Should conflict of interest principles preclude a single legal counsel from representing both City and Contractor, or should City otherwise find Contractor's legal counsel unacceptable, then Contractor shall reimburse City its costs of defense, including without limitation reasonable legal counsel fees, expert fees and all other costs and fees of litigation. The Contractor shall promptly pay City any final judgment rendered against City (and its officers, officials, employees and volunteers) with respect to claims determined by a trier of fact to have been the result of Contractor's negligent, reckless or wrongful performance. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

17.02.1 Contractor's obligations under this section apply regardless of whether or not such claim, charge, damage, demand, action, proceeding, loss, stop notice, cost, expense, judgment, civil fine or penalty, or liability was caused in part or contributed to by an Indemnitee. However, without affecting the rights of City under any provision of this Agreement, Contractor shall not be required to indemnify and hold harmless City for liability attributable to the active negligence of City, provided such active negligence is determined by agreement between the parties or by findings of a court of competent jurisdiction. In instances where City is shown to have been actively negligent and where City's active negligence accounts for only a percentage of the liability involved, the obligation of the Contractor will be for that entire portion or percentage of liability not attributable to the active negligence of City.

17.03 Nonwaiver. City does not waive, nor shall be deemed to have waived, any indemnity, defense or hold harmless rights under this section because of the acceptance by City, or the deposit with City, of any insurance certificates or policies described in Section 16.

17.04 Diversion Indemnification. Subject to the requirements of Public Resources Code section 40059.1, which will control in the event of any conflict with the provisions of this Section, Contractor agrees to protect and defend City Indemnitees with counsel selected by Contractor and approved by City, to pay all attorneys' fees, and to indemnify and hold City Indemnitees harmless from and against all fines or penalties imposed by the California Integrated Waste Management Board if the diversion goals specified in California Public Resources Code section 41780, as it may be amended, are not met by City with respect to the Materials Collected by Contractor and if the inability to meet such goals is attributable in any way to Contractor's failure to undertake the related activities required by this Agreement. In the event CalRecycle provides an administrative process to challenge the imposition of a compliance order or a fine or fines,

Contractor will be responsible for engaging any consultants or attorneys necessary to represent City in any challenge. Contractor will be responsible for the retention of and payment to any consultants engaged to perform waste generation studies (diversion and disposal). All consultants and attorneys engaged hereunder are subject to the agreement of City and Contractor.

17.05 Hazardous Substances Indemnification. Contractor agrees to indemnify, defend (with counsel reasonably approved by City), protect and hold harmless the City Indemnitees from and against any and all Claims of any kind whatsoever paid, suffered or incurred by or against the City Indemnitees resulting from any repair, cleanup, removal action or response action undertaken pursuant to CERCLA, the Health & Safety Code or other similar Federal, State or local law or regulation, with respect to Solid Waste or Household Hazardous Waste Collected and Disposed of by Contractor. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of CERCLA and Section 25364 of the Health & Safety Code to defend, protect, hold harmless and indemnify the City Indemnitees from all forms of liability under CERCLA, the Health & Safety Code or other similar Federal, State or local law or regulation.

17.06 Consideration. It is specifically understood and agreed that the consideration inuring to Contractor for the execution of this Agreement consists of the promises, payments, covenants, rights and responsibilities contained in this Agreement.

17.07 Obligation. This Agreement obligates Contractor to comply with the foregoing indemnification and release provisions; however, the collateral obligation of providing insurance must also be complied with as set forth in this Agreement.

17.08 Exception. Notwithstanding other provisions of this Agreement, Contractor's obligation to indemnify, hold harmless and defend City, its officers and employees will not extend to any loss, liability, penalty, damage, action or suit arising or resulting solely from acts or omissions constituting active negligence, willful misconduct, breach of this Agreement, or violation of law on the part of City, its officers or employees.

17.09 Damage by Contractor. If Contractor's employees cause any injury, damage or loss to City property, including but not limited to City streets or curbs, excluding normal wear and tear, Contractor must reimburse City for City's cost of repairing or replacing such injury, damage or loss. Such reimbursement is not in derogation of any right of City to be indemnified by Contractor for any such injury, damage or loss. With the prior written approval of City, Contractor may repair the damage at Contractor's sole cost and expense. Any injury, damage or loss to private property caused by the negligent or willful acts or omissions of Contractor to private property must be repaired or replaced by Contractor at Contractor's sole expense. Disputes between Contractor and its Service Recipients or private property owners as to damage to private property are civil matters and complaints of damage will be referred to Contractor as a matter within its sole responsibility and as a matter within the scope of Section 17.01 [Indemnification].

Article 18. Default of Agreement

18.01 Termination. City may cancel this Agreement, except as otherwise provided below in this Section, by giving Contractor thirty (30) calendar days advance written notice, to be served as provided in this Agreement, upon the happening of any one of the following events:

18.01.1 By, or pursuant to, or under the authority of any legislative act, resolution or rule or any order or decree of any court or governmental board, agency or officer having jurisdiction, a receiver, trustee or liquidator takes possession or control of all or substantially all of the property of Contractor, and such possession or control continues in effect for a period of sixty (60) calendar days; or

18.01.2 Contractor has defaulted, by failing or refusing to pay in a timely manner the administrative charges or other monies due City and such default is not cured within thirty (30) calendar days of receipt of written notice by City to do so; or

18.01.3 Contractor has defaulted by allowing any final judgment for the payment of money owed to City to stand against it unsatisfied and such default is not cured within thirty (30) calendar days of receipt of written notice by City to do so; or

18.01.4 Contractor has defaulted, by failing or refusing to perform or observe the terms, conditions or covenants in this Agreement, or any of the rules and regulations promulgated by City pursuant thereto or has wrongfully failed or refused to comply with the instructions of the Agreement Administrator relative thereto and such default is not cured within thirty (30) calendar days of receipt of written notice by City to do so, or if by reason of the nature of such default, the same cannot be remedied within thirty (30) calendar days following receipt by Contractor of written demand from City to do so, Contractor fails to commence the remedy of such default within such thirty (30) calendar days following such written notice or having so commenced fails thereafter to continue with diligence the curing thereof (with Contractor having the burden of proof to demonstrate (a) that the default cannot be cured within thirty (30) calendar days, and (b) that it is proceeding with diligence to cure such default, and such default will be cured within a reasonable period of time).

18.02 Violations. Notwithstanding the foregoing and as supplemental and additional means of termination of this Agreement under this Article, in the event that Contractor's record of performance shows that Contractor has defaulted in the performance of any of the covenants and conditions required herein to be kept and performed by Contractor three (3) or more times in any twenty-four (24) month period, and regardless of whether the Contractor has corrected each individual condition of default, Contractor will be deemed a "habitual violator", will be deemed to have waived the right to any further notice or grace period to correct, and all such defaults will be considered cumulative and collectively will constitute a condition of irredeemable default. City will thereupon issue Contractor a final warning citing the circumstances therefore, and any single default by Contractor of whatever nature, subsequent to the occurrence of the last of such cumulative defaults, will be grounds for immediate termination of the Agreement. In the event of any such subsequent default, City may terminate this Agreement upon giving of written final notice to Contractor, such cancellation to be effective upon the date specified in City's written notice to Contractor, and all contractual fees due hereunder plus any and all charges and interest will be payable to such date, and Contractor will have no further rights hereunder. Immediately upon the specified date in such final notice Contractor must cease any further performance under this Agreement.

18.03 Effective Date. In the event of any the events specified above, and except as otherwise provided in such subsections, termination will be effective upon the date specified in City's written notice to Contractor and upon such date this Agreement will be deemed immediately terminated and upon such termination, except for payment of services rendered up to and including the date of termination, all liability of City under this Agreement to Contractor will cease.

18.04 Early Termination. Notwithstanding the provisions of Section 18.01 above, City may terminate this Agreement immediately upon notice to Contractor if Contractor offers or gives any gift to a City official or employee as prohibited by TOMC Section 1-10.12. For purposes of this section, a gift creating financial conflict shall be anything which would be considered reportable income under FPPC rules.

18.05 Termination Cumulative. City's right to terminate this Agreement is cumulative to any other rights and remedies provided by law or by this Agreement.

Article 19. Modifications to the Agreement

19.01 City-Directed Change. City has the power to make changes in this Agreement to impose new rules and regulations on Contractor under this Agreement relative to the scope and methods of providing Temporary Collection Services as may from time-to-time be necessary and desirable for the public welfare. The capabilities and capacities of Material Recovery Facilities, Disposal Facilities, and Organics Waste Processing facilities may change during the term of this Agreement; as such City reserves the right to redirect materials to alternate facilities in accordance with any such changes. When such modifications are made to this Agreement, City and Contractor will negotiate in good faith, a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of Contractor due to any modification in the Agreement under this Article. City and Contractor will not unreasonably withhold agreement to such compensation adjustment. Should agreement between City and Contractor on compensation adjustment not be reached within six months of the change request, or other period as agreed upon by both parties, City and Contractor agree to submit the compensation adjustment to binding arbitration as described in Section 19.03.

19.02 Change in Law. City and Contractor understand and agree that the California Legislature has the authority to make comprehensive changes in Solid Waste Collection legislation, and that these and other changes in Applicable Law in the future which mandate certain actions or programs for counties, municipalities or Contractor may require changes or modifications in some of the terms, conditions or obligations under this Agreement. Contractor agrees that the terms and provisions of the City of Thousand Oaks Municipal Code, as it now exists or as it may be amended in the future, will apply to all of the provisions of this Agreement and the Service Recipients of Contractor located within the Service Area. In the event any future change in Federal law or regulations, State or local law of regulation, or the City Code materially alters the obligations of Contractor, then the affected Maximum Service Rates, as established in Exhibit 2 of this Agreement will be adjusted in accordance with Section 4.04. Nothing contained in this Agreement will require any party to perform any act or function contrary to law. City and Contractor agree to enter into good faith negotiations regarding modifications to this Agreement which may be required in order to implement changes in the interest of the public welfare or due to Change in Law. When such modifications are made to this Agreement, City and Contractor will negotiate in good faith, a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of Contractor due to any Change in Law or modification in the Agreement under this Article. City and Contractor will not unreasonably withhold agreement to such compensation adjustment. Should agreement between City and Contractor on compensation adjustment not be reached within six months of the change

request, or other period as agreed upon by both parties, City and Contractor agree to submit the compensation adjustment to binding arbitration as described in Section 19.03.

19.03 Arbitration. Arbitration shall be conducted by a single arbitrator. If, within twenty (20) days from the receipt of a request to arbitrate (or such longer period mutually agreed to by the parties), the parties are unable to agree on an arbitrator, then a single arbitrator shall be appointed pursuant to the Commercial Arbitration Rules of the American Arbitration Association, which shall govern any arbitration requested under this provision. Each party shall bear its own costs and expenses of any arbitration. Each party shall pay one-half of the costs of the arbitrator.

Article 20. Legal Representation

Acknowledgement. It is acknowledged that each party was, or had the opportunity to be, represented by counsel in the preparation of and contributed equally to the terms and conditions of this Agreement and, accordingly, the rule that a contract will be interpreted strictly against the party preparing the same will not apply due to the joint contributions of both parties.

Article 21. Conflict of Interest

Financial Interest. Contractor is unaware of any City employee or official that has a financial interest in Contractor's business. During the term of this Agreement and/or as a result of being awarded this Agreement, Contractor shall not offer, encourage or accept any financial interest in Contractor's business by any City employee or official.

Article 22. Contractor's Personnel

22.01 Personnel Requirements. Contractor must employ and assign qualified personnel to perform all services required under this Agreement. Contractor is responsible for ensuring that its employees comply with all Applicable Laws related to their employment and position.

22.01.1 City may request the transfer of any employee of Contractor who materially violates any provision of this Agreement, or who is wanton, negligent, or discourteous in the performance of his or her duties under this Agreement.

22.01.2 Contractor's field operations personnel are required to wear a clean uniform shirt bearing Contractor's name. Contractor's employees, who normally come into direct contact with the public, including drivers, must bear some means of individual photographic identification such as a name tag or identification card.

22.01.3 Each driver of a Collection Vehicle must at all times carry a valid California driver's license and all other required licenses for the type of vehicle that is being operated.

22.01.4 Each driver of a Collection Vehicle must at all times comply with all applicable State and Federal laws, regulations and requirements.

22.01.5 Contractor's employees, officers, and agents may not identify themselves or in any way represent themselves as being employees or officials of City.

Article 23. Exempt Waste

Contractor is not required to Collect or dispose of Exempt Waste but may offer such services. Collection and disposal of Exempt Waste are not regulated under this Agreement, but if provided by Contractor must be in strict compliance with all Applicable Laws.

Article 24. Independent Contractor

In the performance of services pursuant to this Agreement, Contractor is an independent contractor and not an officer, agent, servant or employee of City. Contractor will have exclusive control of the details of the services and work performed and over all persons performing such services and work. Contractor is solely responsible for the acts and omissions of its officers, agents, and employees. Neither Contractor nor its officers, employees, or agents will obtain any right to retirement benefits, Workers Compensation benefits, or any other benefits which accrued to City employees and Contractor expressly waives any claim to such benefits.

Article 25. Laws to Govern

The law of the State of California governs the rights, obligations, duties and liabilities of City and Contractor under this Agreement and govern the interpretation of this Agreement.

Article 26. Consent to Jurisdiction

The parties agree that any litigation between City and Contractor concerning or arising out of this Contract must be filed and maintained exclusively in the Superior Courts of Ventura County, State of California, or in the United States District Court for the Central District of California to the fullest extent permissible by law. Each party consents to service of process in any manner authorized by California law.

Article 27. Assignment

27.01 No assignment of this Agreement or any right occurring under this Agreement may be made in whole or in part by Contractor without the express prior written consent of the City. City will have full discretion to approve or deny, with or without cause, any proposed or actual assignment by the Contractor. Any assignment of this Agreement made by Contractor without the express written consent of the City will be null and void and will be grounds for City to declare a default of this Agreement and immediately terminate this Agreement by giving written notice to Contractor.

27.02 The use of a subcontractor is prohibited under the terms of this Agreement.

Article 28. Compliance with Laws

28.01 In the performance of this Contractor, Contractor must comply with all Applicable Laws, including, without limitation, the Thousand Oaks Municipal Code.

28.02 City shall provide written notice to Contractor of any planned amendment of the Thousand Oaks Municipal Code that would substantially affect the performance of Contractor's services pursuant to this Agreement. Such notice must be provided at least thirty (30) calendar days prior to the City Council's approval of such an amendment.

Article 29. Permits and Licenses

Contractor shall obtain, at its own expense, all permits, certificates, and licenses required by law or ordinance and maintain same in full force and effect throughout the term of this Agreement. This includes, but is not limited to, City of Thousand Oaks Business Tax Certificate and annual City Blanket Encroachment Permit. Contractor must provide proof of such permits, licenses or approvals and must demonstrate compliance with the terms and conditions of such permits, licenses and approvals upon the request of the Agreement Administrator.

Article 30. Ownership of Written Materials

Contractor hereby grants City a non-exclusive license as to all reports, documents, brochures, public education materials, and other similar written, printed, electronic or photographic materials developed by Contractor at the request of City or as required under this Agreement, and intended for public use, without limitation or restrictions on the use of such materials by City. Contractor may not use such materials that specifically reference City for other purposes without the prior written consent of the Agreement Administrator. This Article 30 does not apply to ideas or concepts described in such materials and does not apply to the format of such materials.

Article 31. Waiver

Waiver by City or Contractor of any breach for violation of any term covenant or condition of this Agreement will not be deemed to be a waiver of any other term, covenant or condition or any subsequent breach or violation of the same or of any other term, covenant or condition. The subsequent acceptance by City of any fee, tax, or any other monies which may become due from Contractor to City will not be deemed to be a waiver by City of any breach for violation of any term, covenant or condition of this Agreement.

Article 32. Prohibition Against Gifts

Contractor represents that Contractor is familiar with City's prohibition against the acceptance of any gift by a City officer or designated employee. Contractor may not offer any City officer or designated employee any gifts prohibited by the City.

Article 33. Point of Contact

The day-to-day dealings between Contractor and City will be between Contractor and the Agreement Administrator.

Article 34. Notices

34.01 Except as provided in this Agreement, whenever either party desires to give notice to the other, it must be given by written notice addressed to the party for whom it is intended, and sent to the physical and email address last specified and to the place for giving of notice in compliance with the provisions of this Section. For the present, the parties designate the following as the respective persons and places for giving of notice:

As to the City:

Public Works Director
City of Thousand Oaks Public Works Dept.
2100 Thousand Oaks Blvd.
Thousand Oaks, CA 91362
Telephone: (805) 449-2399
email: cfinley@toaks.org

As to the Contractor:

Arakelian Enterprises, Inc., d/b/a Athens Services
14048 Valley Blvd.
City of Industry, CA 91746
Attn: Gary Clifford, EVP Governmental Affairs
Telephone: (888) 336-6100
Email: gclifford@athensservices.com

34.02 Notices will be effective when received at the physical address and email address as specified above. Changes in the respective address to which such notice is to be directed may be made by written notice.

34.03 Notice by City to Contractor of a Collection or other Service Recipient problem or complaint may be given to Contractor orally by telephone at Contractor's local office with confirmation sent to Contractor through the Customer Service System by the end of the Work Day.

Article 35. Contractor's Records

35.01 Contractor shall keep and preserve, during the Term of this Agreement, full, complete, and accurate financial and accounting records, pertaining to cash, billing and disposal transactions for the franchise area, prepared on an accrual basis in accordance with generally accepted accounting principles. These records and reports are necessary for the City to properly administer and monitor the Agreement and to assist the City in meeting the requirements of the Act. The Contractor shall keep and preserve, during the Term of this Agreement, and for a period of not less than four (4) years following expiration or other termination hereof or for any longer period required by law, full, complete and accurate records as indicated in the Agreement.

35.02 Any records or documents required to be maintained pursuant to this Agreement must be made available for inspection or audit for the purposes set forth in Section 7.01.2, at any time during regular business hours, upon written request by the Agreement Administrator, the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such documents will be provided to City electronically, available to City for inspection at the local Contractor office, or an alternate site if mutually agreed upon.

35.02.1 Contractor acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"). City acknowledges that Contractor may consider certain records, reports, or information contained therein, ("Records") which Contractor is required to provide to City under this Agreement, to be of a proprietary or confidential nature. In such instances, Contractor will inform City in

writing of which records are considered propriety or confidential and shall identify the statutory exceptions to disclosure provided under the CPRA that legally permit non-disclosure of the Records. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act ("FOIA") or a subpoena or other court order requesting disclosure of the Records, City will notify Contractor of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) calendar days. Contractor shall within five (5) calendar days either: (i) consent in writing to the disclosure of the Records; or (ii) seek and obtain, at Contractor's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the Records. If Contractor fails to timely respond, then City may proceed to disclose the Records in which event Contractor agrees waives and releases City of any liability for the disclosure of the Records

35.03 Where City has reason to believe that such records or documents may be lost or discarded in the event of the dissolution, disbandment or termination of Contractor's business, City may, by written request or demand of any of the above named officers, require that custody of the records be given to City and that the records and documents be maintained in City Hall. Access to such records and documents will be granted to any party authorized by Contractor, Contractor's representatives, or Contractor's successor-in-interest.

Article 36. Entire Agreement

This Agreement and the attached Exhibits constitute the entire Agreement and understanding between the parties, and the Agreement will not be considered modified, altered, changed or amended in any respect unless in writing and signed by the parties.

Article 37. Severability

If any provision of this Agreement or the application of it to any person or situation is to any extent held invalid or unenforceable, the remainder of this Agreement and the application of such provisions to persons or situations other than those as to which it is held invalid or unenforceable, will not be affected, will continue in full force and effect, and will be enforced to the fullest extent permitted by law.

Article 38. Right to Require Performance

The failure of City at any time to require performance by Contractor of any provision of this Agreement will in no way affect the right of City thereafter to enforce same. Nor will waiver by City of any breach of any provision of this Agreement be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

Article 39. All Prior Agreements Superseded

This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained in this Agreement and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms of this Agreement will be predicated upon any prior representations or agreements, whether oral or written.

Article 40. Headings

Headings in this document are for convenience of reference only and are not to be considered in any interpretation of this Agreement.

Article 41. Exhibits

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

Article 42. Attorney's Fees

In the event that litigation is brought by a party in connection with this Agreement, the prevailing party will be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies under this Agreement or the enforcement of any of the terms, conditions, or provisions of this Agreement.

Article 43. Effective Date

This Agreement will become effective when it is properly executed by City and Contractor and Contractor will begin Services under this Agreement as of January 1, 2022.

Article 44. Signatures

(a) **Counterparts.** This Agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument.

(b) **Scanned Signatures.** In the event that any signature is delivered by facsimile transmission or submitted electronically as a scanned image (i.e. files with .pdf, .tiff or .jpeg extensions), such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or scanned signature page were an original thereof.

(c) **Digital/Electronic Signatures.** This Agreement may be executed through the use of digital or electronic signatures provided they meet the requirements of the Electronic Signatures in Global and National Commerce (ESIGN) Act and the California Uniform Electronic Transactions Act (UETA) and are produced using a City-approved method. The presence of an electronic signature on this document shall be construed as the parties' consent to do business electronically.

IN CONCURRENCE AND WITNESS WHEREOF, City and Contractor have executed this Agreement on November 9, 2021.

Arakelian Enterprises, Inc. d/b/a/ Athens Services

Ron Arakelian, III, Executive Officer

Adam Arakelian, Executive Officer

CITY OF THOUSAND OAKS

Claudia Bill-de la Peña, Mayor

ATTEST:

Cynthia M. Rodriguez, City Clerk

APPROVED AS TO ADMINISTRATION:

Andrew P. Powers, City Manager

APPROVED BY DEPARTMENT HEAD:

Clifford G. Finley, Public Works Director

APPROVED AS TO FORM:

Office of the City Attorney

Tracy Friedl, Assistant City Attorney

EXHIBIT 1

Limited Franchise Scope of Services Summary

E1.0 Limited Franchise Collection Service

Limited Franchise Contractor is authorized to place Bins and/or Roll-off containers to collect Solid Waste on a Temporary Basis, where such Solid Waste originates from premises within City. Examples of such service include residential, commercial/industrial construction and demolition projects with or without a current City issued building and/or grading permit, cleanup and land clearing projects, and temporary green waste service for landscaping and tree removal projects.

E1.01 Time Limits of Service

Temporary Collection service for residential and/or commercial/industrial cleanup projects shall be provided on a Temporary Basis, i.e. no more than thirty (30) consecutive days per calendar year at a single location unless a time extension is granted by Agreement Administrator, or unless the Bin/Roll-off container is for the purpose of a Construction and Demolition project with an active City building and/or grading permit in which case Bin/Roll-off container may be left until construction activities have been completed and/or a certificate of occupancy has been issued by the City.

E1.02 Bin/Roll-off Container Placement

Per TOMC Sec. 6-2.602(c), Bin/Roll-off containers placed in the public right-of-way shall be restricted to the following:

- (i) Bin/Roll-off Container may only be placed where vehicles can legally park.
- (ii) Placement is restricted to any location on the street right-of-way which has a slope less than seven (7%) percent.
- (iii) Bin/Roll-off Container shall be identified by contractor's name and phone number on at least two (2) sides. Identification shall be visible from the street in letters a minimum of two (2") inches in height.
- (iv) Bin/Roll-off Container shall be adequately reflectorized with a minimum of ten (10) square inches of plastic or reflective sheeting on each corner at a height between fifteen (15") and sixty (60") inches from the ground.
- (v) Bin/Roll-off Container shall only be placed at locations permissible by the TOMC and with approval of the customer requesting said service.

E1.03 Bin/Roll-off Container Requirements

Bin and Roll-off Containers shall meet specifications and requirements defined in Article 8.01.8 and Exhibit 4 of this Agreement. Bins/Roll-off Containers must be freshly painted at the start of this Agreement and maintained in good repair and condition throughout the term of this Agreement. Contractor shall provide Bins having an approximate volume of 1, 2, 3, 4 and 6-cubic yards, and Roll-off containers shall be provided in sizes 10, 20, 30, and 40 cubic yards.

E1.04 Weighing

Contractor shall weigh all Bin/Roll-off containers used for collection of Solid Waste, regardless of capacity, and provide verifiable documentation of material tonnage to customers, per Article 10.3 of this Agreement. Contractor shall report tonnage to City on a quarterly basis using reporting methods defined in Article 12 of this Agreement.

E1.05 Collection Vehicle Requirements

Per Article 8 of this Agreement, Limited Franchise Contractor may not use any Collection Vehicle that is more than fifteen (15) years old during the term of the Agreement. Collection Vehicles must utilize low carbon ("alternative") fuel, which must be compressed natural gas (CNG or RNG), renewable diesel or electric unless otherwise authorized by the City. Collection Vehicles must have Contractor's name and customer service telephone number identified on each side of each vehicle. All Contractor Collection vehicles must be maintained in a clean and sanitary condition and appearance and in good repair at all times.

E1.06 Use of Certified C&D Facilities

Limited Franchise Contractor shall only transport and deposit Construction and Demolition materials at facilities certified by the City of Los Angeles and/or facilities that can verify diversion of no less than 65% and are approved by the City.

E1.07 Recyclable Materials Collection

Limited Franchise Contractor shall advise all Customers about source-separation/recyclable materials opportunities including, but not limited to, asphalt concrete, wood waste and other construction and demolition materials, green and organic waste, and mixed Recyclable Materials. Limited Franchise Contractor shall divert these materials from landfill disposal to the maximum extent possible.

E1.08 Organic Material Collection

Limited Franchise Contractor must deliver all Collected Organic Waste to a fully permitted Organic Waste Processing Facility or a fully permitted Organic Waste transfer station, that has been approved by the City. Failure to comply with this provision will result in the levy of a penalty charge as specified in Exhibit 3 and may result in Contractor being in default under this Agreement.

E1.09 Diversion Requirements

Limited Franchise Contractor shall achieve a minimum quarterly diversion rate as described in Article 5.02 of this Agreement. Contractor must provide diversion documentation to City in its quarterly reporting as described in Article 12 of this Agreement.

E1.10 Customer Quotes and Billing

Contractor shall clearly itemize and identify the following items in all service quotes and billing to customers for the provision of services under this Agreement.

- Bin/Roll-off Container service rate (not to exceed approved Maximum Service Rate as identified in Exhibit 2)
- Tipping or Processing Fees
- Any applicable Special Fees (allowable Special Fees identified in Exhibit 2)

Contractor shall cooperate with Agreement Administrator regarding the provision of records to the City upon request including copies of individual customer billing receipts and associated disposal receipts on request.

E1.11 Illicit Discharge and Stormwater Accumulation

Contractor shall apply industry-wide Best Management Practices to prevent both the accumulation of stormwater and non-stormwater in Bins and Roll-off containers and subsequent Illicit Discharge. Such measures are subject to review and approval of City Manager and may include lids and/or hard-top covers to prevent water intrusion. Contaminated accumulated water shall be disposed of in accordance with Applicable Law and shall not be discharged directly to the storm drain or sanitary sewer system.

E1.12 Container Content Information

For all Containers provided to the Customer by the Contractor, Contractor shall provide and affix to such Containers a list of acceptable materials with text approved by the Agreement Administrator, per Exhibit 4 and 5 of this Agreement.

EXHIBIT 2
Limited Franchise Solid Waste Collection Maximum Rates

Table 1: Temporary Roll-Off Rates (Solid Waste, Recycle, C&D, Green Waste, Food Waste)		
Roll-Off Containers billed per haul plus disposal fee*		
10 Cubic Yard Container per pull	per haul	\$210.00
20 Cubic Yard Container per pull	per haul	\$210.00
30 Cubic Yard Container per pull	per haul	\$210.00
40 Cubic Yard Container per pull	per haul	\$210.00

Table 2: Temporary Bin Rates (Solid Waste, Recycle, C&D, Green Waste, Food Waste)		
Includes seven day bin rental plus one dump (at the time of removal)		
Temporary Bin	per occurrence	\$180.00
Temporary Bin: Dead Run	per occurrence	\$50.00
Temporary Bin: Demurrage (in excess of 7 day rental)	per day	\$7.50
Temporary Bin: Extra Dump	per lift	\$50.00

Table 3: Other Services and charges		
Delinquency Charge for Non-Payment of Account	% of service charge	5.00%
Returned Check Fee	per occurrence	\$30.00
Damaged Bin (Caused by Service Recipient)	per occurrence	\$195.00
Damaged Roll-Off (Caused by Service Recipient)	per occurrence	\$495.00
Overage Fee	per occurrence	\$50.00
Excess of Posted Weight	per ton	\$75.00
Recyclable Materials Contamination Fee (Bins), 3+ occurrence/year	per occurrence	\$100.00
Organic Waste Contamination Fee (Bins), 3+ occurrence/year	per occurrence	\$175.00
Return Fee for Blocked Roll-Off	per run	\$75.00
Trip Charge/Dry Run	per occurrence	\$150.00
Roll-Off "Rocket Launcher" Service (one hour minimum)	per hour	\$165.00
Roll-Off Dead-Run, Go-Back, or Box Relocation	per occurrence	\$180.00
Roll-Off Same-Day Priority Service	per occurrence	\$75.00
Roll-Off Overweight Penalty (in addition to disposal charges)	per occurrence	\$250.00

* Disposal/recycling processing fees (gate fees) are charged per ton and vary depending on the type of material and the facility where the material is taken.

EXHIBIT 3

Administrative Penalties

Item		Penalty Amount
a.	Failure to respond to each complaint within three (3) Work Days of receipt of complaint.	\$100 per incident
b.	Failure to maintain call center hours as required by this Agreement.	\$100 per day.
c.	Failure to submit to City all reports by the deadlines required under the provisions of this Agreement.	\$100 per day.
d.	Failure to include all parts of quarterly reports specified in Article 12 of this Agreement.	\$100 per day.
e.	Failure to submit to City all payments by the deadlines required under the provisions of this Agreement.	1% of the total amount due if fees are 1 – 10 days late; and 10% of the total amount due if fees are more than 10 days late.
f.	Failure to deliver collected C&D materials to a City of Los Angeles-certified C&D Debris processing facility, or other facility, that can verify 65% diversion or more, as specified in Article 6 of this Agreement.	\$100 per incident.
g.	Failure to deliver collected Recyclable materials to a proper Material Recovery Facility, as specified in Article 6 of this Agreement.	\$100 per incident.
h.	Failure to deliver collected Organic materials to a fully permitted Organics Processing Facility or Organic Waste transfer station, that has been approved by the City, as specified in Article 6 of this Agreement.	\$100 per incident.
i.	Failure to meet diversion requirements for collected materials as specified in Article 5 of this Agreement in any quarter	\$500 per quarter per waste stream.
j.	Failure for Collection Containers to be compliant with specifications of Exhibit 4.	\$50.00/each Collection Container not compliant.
k.	Failure to display Contractor's name and customer service phone number on Collection Vehicles.	\$100 per incident per day.

Item		Penalty Amount
i.	Failure to maintain collection hours as required by this Agreement.	\$100 per day.
m.	Failure to have Contractor personnel in Contractor-provided uniforms.	\$25 per day per employee.
n.	Vehicle mechanic fluid leak (e.g. hydraulic fluid or oil) incidents from Contractor Collection Vehicles in excess of three (3) during a calendar year.	\$1000 per incident in excess of three (3)
o.	Failure of Contractor to provide proof of insurance as required by this Agreement	Agreement Default
p.	Failure to report customer data in quarterly report.	\$500 per occurrence.
q.	Failure to report tonnages, diversion, and revenue in quarterly report.	\$500 per occurrence.
r.	Failure to comply with City Municipal Code requirements.	Agreement Default.
s.	Failure to comply with State of California or Federal regulatory requirements.	Agreement Default.

EXHIBIT 4
Collection Bin Specifications

E4.01 Bin Specifications.

E4.01.1 Bins must be constructed of heavy metal or heavy plastic and must be watertight, well painted, in good condition and without rust or dents.

E4.01.2 Wheels, forklift slots, and other appurtenances, which are designed for movement, loading, or unloading of the container, must be maintained in good repair.

E4.01.3 Contractor may provide Bins having an approximate volume of 1, 2, 3, 4 and 6-cubic yards.

E4.01.4 Bins must have the name and phone number of Contractor on the exterior so as to be visible when the Bin is placed for use.

E4.01.5 Each Bin must be labeled with a listing of materials that may and may not be placed in a particular Bin type, and each Bin must include a conspicuous warning: "Not to be used for the disposal of hazardous, electronic, or universal waste." Bins must be labelled in English and Spanish.

E4.01.6 Bin lids must be constructed of metal or heavy plastic, so as to minimize the intrusion of rainwater and minimize odors.

E4.01.7 Bins shall be adequately reflectorized with a minimum of ten (10) square inches of plastic or reflective sheeting on each corner at a height between fifteen (15") and sixty (60") inches from the ground.

E4.01.8 Bins must be capable of being lifted into the Collection Vehicle without damage under normal usage.

E4.02 Roll-off Container Specifications.

Roll-off specifications shall be the same as Bin specifications E4.01.1 through E4.01.8, with the exception of E4.01.3 and E4.01.6. Roll-offs may be provided in sizes 10, 20, 30, 40 cubic yards.

E4.03 Containers End of Life

Collection Containers must be recycled at the end of their useful life.

EXHIBIT 5
Recyclable Materials

This list will be updated annually on or before November 22 each year. Recyclable Materials currently being Collected in Recycling Collection Containers under this Agreement include all plastics #s 1 through 5, and #7, except where specifically excluded in list below:

Material	Type	Recyclable (Diversion)	Non- recyclable¹
Aluminum	Metal	X	
Foil	Metal	X	
Steel	Metal	X	
Tin	Metal	X	
Bimetal	Metal		X
Ferrous Scrap Metal	Metal	X	
Non-Ferrous	Metal	X	
PET	Plastic	X	
HDPE Natural	Plastic	X	
HDPE Color	Plastic	X	
PVC	Plastic	X	
LDPE	Plastic	X	
Polypropylene	Plastic	X	
Polystyrene	Plastic		X
Film Plastics/Plastic Bags	Plastic		X
Expanded Polystyrene (Foam & Rigid)	Plastic		X
Bioplastic	Plastic		X
Glass Flint	Glass	X	
Glass Amber	Glass	X	
Glass Green	Glass	X	
Mixed Glass	Glass	X	
Mixed Paper	Paper	X	
Newspaper	Paper	X	
Corrugated Cardboard	Paper	X	

Tetra Pak, Aseptic Containers	Paper	X	
Clothes	Textiles		X
Nylon/Polyester/Wool/etc.	Carpet		X
Concrete/Rock/Soil/Fines/Dry wall/etc.	Building		X
Wood/Lumber	Building		X
Electronic Waste	E-waste		X

¹Not recycled under this Agreement. May not be placed in Recycling Container.

List of acceptable organic materials:

- Food waste
- Green Waste
- Landscape and pruning waste
- Non-hazardous wood waste
- Food-soiled paper that is mixed in with food waste
- Compostable food containers
- Compostable foodware

List of materials which Contractor should explore means and markets to recycle but which Service Recipient may seek, and pay for, alternative recycling markets. Also included are all materials listed as “Non-recyclable” in table above.

- Plastics #6 and #7
- Plastic bags, wrap and film
- Laboratory ware (plastics, glass etc.)
- Mirrors
- Porcelain and ceramics
- Glass and metal cookware/bakeware
- Hoses, cords, wires
- Paper less than 4 inches in size in any dimension
- Microwaveable trays
- Window or auto glass
- Coated cardboard
- Coat hangers
- White goods (household appliances)
- Needles, syringes, IV bags or other medical supplies
- Textiles, cloth or any fabric
- Propane tanks
- Universal waste (u-waste)
- Electronic waste (e-waste)

LIMITED FRANCHISE AGREEMENT
FOR THE PROVISION OF
LIMITED FRANCHISE SOLID WASTE HAULER

Executed Between the
City of Thousand Oaks and E.J. Harrison and Sons, Inc.

This 1st day of January 2022

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This Agreement is effective as of January 1, 2022 ("Effective Date"), and is between the City of Thousand Oaks, a general law city of the State of California, referred to as "City" and E.J. Harrison and Sons, Inc., referred to as "Contractor".

Now, therefore, in consideration of the mutual covenants, agreements and consideration contained in this Agreement, City and Contractor agree as follows:

Article 1. Definitions

For the purpose of this Limited Franchise Agreement, referred to as "Agreement", the definitions contained in this Article apply unless otherwise specifically stated. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Use of the masculine gender includes the feminine gender. The meaning of terms or words not defined in this Article will be as commonly understood in the solid waste collection services industry when the common understanding is uncertain.

1.01 AB 341. "AB 341" means State of California Assembly Bill No. 341 approved October 5, 2011. AB 341 requires businesses, defined to include commercial or public entities that generate more than 4 cubic yards of commercial solid waste per week or multifamily residential dwellings of 5 units or more, to arrange for recycling services and requires jurisdictions to implement a commercial solid waste recycling program.

1.02 AB 939. "AB 939" or "The Act" means "The California Integrated Waste Management Act of 1989" codified in part in Public Resources Code §§ 40000 et seq, as it may be amended and as implemented by the regulations of the California Department of Resources Recycling and Recovery (CalRecycle), or its successor agency.

1.03 AB 1594. "AB 1594" means State of California Assembly Bill No. 1594 approved September 28, 2014. AB 1594 provides that as of January 1, 2020, the use of green material as Alternative Daily Cover does not constitute diversion through recycling and would be considered disposal.

1.04 AB 1826. "AB 1826" means State of California Assembly Bill No. 1826 approved September 28, 2014. AB 1826 requires each jurisdiction, on and after January 1, 2016, to implement an organic waste recycling program to divert from the landfill organic waste from businesses. Each business generating 2 cubic yards or more of solid waste per week, and multi-family complexes of five units or more, is required to arrange for organic waste recycling services.

1.05 Agreement. "Agreement" means the written agreement between the City and the Contractor covering the work to be performed and all contract documents attached to the agreement and made a part thereof.

1.06 Agreement Administrator. The City Manager, or his or her designee, designated to administer and monitor the provisions of the Agreement.

1.07 Agreement Year. Agreement year means each twelve (12) month period from January 1st to December 31st during the term of this Agreement.

1.08 Applicable Law. "Applicable Law" means all laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirement of any federal, state, county, city, and local governmental agency having jurisdiction over the collection and disposition of Solid Waste, including Recyclable Materials, Organic Waste, and Construction and Demolition Waste.

1.09 Best Management Practice. Best Management Practice means the collection of written activities, practices, policies and procedures prepared and proposed by a responsible party, and then approved by the Director, to prevent or reduce, to the maximum extent that is technologically and

economically feasible, the discharge of pollutants to the storm drain system which might be generated from any site in the City.

1.10 Bin. "Bin" means a metal or plastic waste container designed or intended to be mechanically serviced by a commercial front-end loader vehicle. It shall be designed to hold from one (1) to six (6) cubic yards of material with the lid properly closed. The specifications for Contractor-provided Bins are set forth in Exhibit 4.

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

1.12 Brown Goods. Electronic equipment such as stereos, televisions, computers, VCR's and other similar items.

1.13 Business Day. Any Monday through Friday, excluding any holidays.

1.14 Calendar Year. Each twelve (12) month period from January 1 to December 31.

1.15 CERCLA. The Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sections 9601 and following, as may be amended and regulations promulgated thereunder.

1.16 Change in Law. Change in Law means any of the following events or conditions which has a material and adverse effect on the performance by the parties of their respective obligations under this Agreement (except for payment obligations), or providing the Temporary Collection Service or other matters to which Applicable Law applies:

A. the enactment, adoption, promulgation, issuance, modification, or written change of or in Applicable Law, including but not limited to new or increased fees and charges imposed by the State of California or the U.S. Federal government, directly related to the collection, handling, processing, recycling or disposal of Solid Waste, or the enactment, adoption, promulgation, issuance, modification, or written change in administrative or judicial interpretation on or after Effective Date of any Applicable Law;

B. the order or judgment of any Governmental Body, on or after the Effective Date, to the extent such order or judgment is not the result of willful or negligent action, error or omission or lack of reasonable diligence of the City or of the Contractor, whichever is asserting the occurrence of a Change in Law; provided, however, that the contesting in good faith or the failure in good faith to contest any such order or judgment shall not constitute or be construed as such a willful or negligent action, error or omission or lack of reasonable diligence; or

1.17 City. The City of Thousand Oaks, California.

1.18 City Manager. City Manager means the City Manager of the City of Thousand Oaks, or his or her designated representative, or any employee of the City who succeeds to the duties and responsibilities of the City Manager.

1.19 Code. Code means the City of Thousand Oaks Municipal Code.

1.20 Collection. The process whereby Solid Waste and Construction and Demolition Debris are removed and transported to a Disposal Facility, Organic Waste Processing Facility, Construction and Demolition Materials Processing Facility, or Materials Recycling (or Recovery) Facility as appropriate.

1.21 Collection Container. A Bin, or Roll-Off Container that is approved by the Agreement Administrator for use by Service Recipients for Temporary Collection Services under this Agreement.

1.22 Collection Vehicle. A licensed vehicle that is approved by the Agreement Administrator for use by Contractor for the transport, delivery, and collection of Solid Waste Bins and Roll-off Containers.

1.23 Compost. "Compost" means the product resulting from the controlled biological decomposition of Organic Wastes that are source separated from the municipal waste stream, or which are separated at a centralized facility. Compost may also include the product of anaerobic digestion or other conversion technologies.

1.24 Composting. "Composting" means the controlled and monitored process of converting Organic Waste into Compost.

1.25 Construction and Demolition waste. "Construction and Demolition waste" or "C&D" means Solid Waste consisting of building materials, packaging and rubble resulting from construction, remodeling, repair, and demolition operations on pavement, residential, commercial or industrial premises, buildings, and other structures, and land clearing operations.

1.26 Consumer Price Index (CPI). "CPI" means the index published by the United States Bureau of Labor Statistics and used to measure the variation in prices paid by typical consumers for goods and services. The CPI used to calculate the Maximum Service Rates is All Urban Consumers (CPI-U), Los Angeles-Long Beach-Anaheim.

1.27 Contaminant. Any material that is placed in a waste stream intended for recycling, including organics and C&D, that cannot be recycled or reclaimed within the waste stream in which it is placed.

A. A Contaminant of the Recycling stream is any material placed in that waste stream that cannot be recycled or reclaimed after processing.

B. A Contaminant of the C&D stream is any material placed in that waste stream that is not normally produced from construction and demolition activities such as, but not limited to, food waste, liquids, and hazardous waste.

C. A Contaminant of the Green Waste stream is any material not normally produced from gardens or landscapes such as, but not limited to, brick, rocks, gravel, large quantities of dirt, concrete, sod, non-organic wastes, oil and wood or wood products, including but not limited to, stumps, and diseased trees.

D. A Contaminant of the Food Waste stream is any non-Food Waste material placed in that waste stream.

1.28 Contractor. An entity that has obtained from the City this Agreement to provide Temporary Collection Services.

1.29 County. Ventura County, California.

1.30 Director. Director means the Public Works Director of the City or his or her designated representative, or any employee of the City who succeeds to the duties and responsibilities of the Public Works Director.

1.31 Dispose or Disposal. “Disposal” or “Dispose” means the final disposition of Solid Waste at a permitted Landfill or other permitted Solid Waste disposal facility, as defined in California Public Resources Code 40192.

1.32 Disposal Facility. “Disposal Facility” means the facility or such place or places specifically designated by the City for the disposal, or processing as appropriate, of Solid Waste, Construction and Demolition debris, and other materials as appropriate and acceptable.

1.33 Effective Date. “Effective Date of Agreement” means the date designated in the Agreement as the effective date. If no such date is indicated, it shall mean the date on which the Agreement is signed and delivered by the last of the parties to sign and deliver.

1.34 Exempt Waste. Biohazardous or Biomedical Waste, Hazardous Waste, Sludge, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, dead animals, and those wastes under the control of the Nuclear Regulatory Commission.

1.35 Food Waste. “Food Waste” means all putrescible solid, semisolid, and liquid food, such as, fruit, vegetables, cheese, meat, bones, poultry, seafood, bread, rice, pasta, and oils; coffee grounds and filters and tea bags; and any putrescible matter produced from human or animal food production, preparation, and consumption activities.

1.36 Franchise Fee. A fee established by resolution by City Council in consideration of the Limited Franchise.

1.37 Garbage. All putrescible and non-putrescible solid, semi-solid and associated liquid waste, as defined in California Public Resources Code section 40191. Garbage does not include Recyclable Materials, C&D, Organic Waste, Large Items, or Exempt Waste.

1.38 Green Waste. “Green Waste” means Solid Waste consisting of any vegetative waste generated from the maintenance or alteration of residential, commercial, or industrial premises including, but not limited to, grass clippings, leaves, tree trimmings, prunings, brush, weeds, flowers, herbs, and holiday trees

1.39 Gross Revenue. All monetary amounts actually collected or received by Contractor for the provision of Franchise services pursuant to this Agreement. Gross Revenue shall include all receipts from customers including late charges, contamination charges etc., including Solid Waste Management Fees and Franchise Fees. The term Gross Revenues, for purposes of this Agreement, does not include any revenues generated from the sale of Recyclable Material, compost product or energy, grants, cash awards or rebates resulting from the performance of this Agreement.

1.40 Hazardous Waste. “Hazardous Waste” means a waste, or combination of wastes as defined by Code of Federal Regulations, Title 40.

1.41 Large Items. “Large Items” or “Bulky Waste” means Solid Waste consisting of discarded white goods, furniture, tires, carpets, mattresses, and similar large items which do not fit in a regular

Collection Container and require special handling due to their size but can be collected and transported without the assistance of special loading equipment (such as forklifts or cranes) and without violating vehicle load limits. It does not include abandoned automobiles and other vehicles, nor does it include items defined as Exempt Waste.

1.42 Materials Recovery Facility. Materials Recovery Facility (MRF) means a facility to which Solid waste, Organic waste, Recyclable Materials, and Construction and Demolition Waste are brought for separation into marketable Recyclables.

1.43 Materials Recycling Facility. Same as Materials Recovery Facility.

1.44 Maximum Service Rate. The maximum amount that Contractor may charge Service Recipients for Collection Services, as listed in Exhibit 1, and as may be adjusted in accordance with the provisions of this Agreement.

1.45 Non-Collection Notice. A form developed and used by Contractor, as approved by City, to notify Service Recipients of the reason for non-collection of materials set out by the Service Recipient for Collection by Contractor pursuant to this Agreement.

1.46 Non-putrescible Material. "Non-putrescible Material" means Solid Waste consisting of waste which is not organic and not subject to decomposition by microorganisms.

1.47 Organic Waste. "Organic Waste" means Food Waste, Green Waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with Food Waste.

1.48 Organic Waste Processing Facility. "Organic Waste Processing Facility" means a State permitted commercial Solid Waste facility which accepts and processes Organic Materials.

1.49 Overage. Overage means excess Solid Waste, Organic Waste and Recyclable Materials (i) placed inside a Container that prevents the lid on the Container from being completely closed (i.e., lid remains open greater 45-degrees) or excess materials placed on top of or around a Container and (ii) could potentially result in excess materials spilling/dislodging during collection activity by Contractor's vehicles.

1.50 Premises. "Premises" means any land or building in the City where waste is generated or accumulated.

1.51 Putrescible Material. "Putrescible Material" means Solid Waste consisting of waste which is organic and subject to decomposition by microorganisms.

1.52 Quarter. Period of three (3) months with first quarter the months of January through March, second quarter April through June, third quarter July through September, and fourth quarter October through December.

1.53 Recyclable Materials. "Recyclable Materials" means Solid Waste consisting of any material which retains useful properties and can be reclaimed after the production or consumption process.

1.54 Recycling. "Recycling" means the process of collecting, sorting, cleansing, treating and/or marketing Recyclable Materials that would otherwise be disposed of in a landfill. The collection, transportation or disposal of Solid Waste not intended for, or capable of, reuse is not Recycling.

1.55 Residual or Residuals. Residual or Residuals means Solid Waste that is not diverted from landfill disposal after it has been delivered to an Organic Waste Processing Facility or a Recyclables Processing Facility for processing for diversion from landfill disposal. Residual does not include Recyclable Materials or Organic Material that is processed for diversion but has no available markets.

1.56 Roll-Off Container. A metal container with a capacity of ten (10) or more cubic yards that is normally loaded onto a specialized Collection Vehicle and transported to an appropriate facility.

1.57 SB 1383. "SB 1383" means State of California Senate Bill 1383, approved September 19, 2016, which mandates a fifty (50) percent reduction in disposal of Organic Materials from the 2014 levels by 2020 and seventy-five (75) percent reduction by 2025. Further, SB 1383 requires jurisdictions to implement Edible Food Recovery Programs designed to recover edible food that is currently landfilled by twenty (20) percent by 2025.

1.58 Service Area. That area within the city limits of the City of Thousand Oaks.

1.59 Service Recipient. An individual or entity receiving Temporary Collection Service from a Limited Franchise Contractor on a Temporary Basis using Bins or Roll-off Collection Containers.

1.60 Single-family Dwelling or SFD. "Single-family/duplex dwelling" or "SFD" means a single detached dwelling unit, and/or a duplex structure of two (2) single attached dwelling units, each designed for use by one bona fide housekeeping group.

1.61 Solid Waste. "Solid Waste" means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes, as set forth in California Public Resources Code Section 40191(a)(b), as amended from time to time, and includes Brown Goods, Construction and Demolition Debris, Food Waste, Garbage, Green Waste, Large Items, Organic Waste, Recyclable Materials, White Goods.

1.62 Solid Waste Management Fee. Administrative costs of managing the City's solid waste program paid for by Contractor.

1.63 Source separated. "Source separated" means the segregation, by the waste generator, of materials designated for separate collection for some form of materials recovery or special handling.

1.64 SRRE (Source Reduction and Recycling Element). A formal planning document prepared and adopted by a California jurisdiction, and submitted to the California Department of Resources Recycling and Recovery (CalRecycle), that demonstrates how the jurisdiction will comply with the California Integrated Waste Management Acts (AB 939) diversion goals. The jurisdiction's SRRE must include specific components, as defined in Public Resources Code sections 41003 and 41303.

1.65 Temporary Basis. "Temporary Basis" means the collection of solid waste for a temporary project or limited period of time, not a regular weekly collection service. Limited to no more than 30 consecutive days in a calendar year, or as long as an ongoing project has an active building permit.

1.66 Temporary Collection Services. “Temporary Collection Services” means collection of Solid Waste and Construction and Demolition debris using Bins and Roll-off Containers, on a Temporary Basis.

1.67 Term. “Term” means the time period or duration of the Limited Franchise.

1.68 Transfer station. “Transfer station” means those facilities utilized to receive Solid Waste, and temporarily store and transfer such waste directly from smaller to larger vehicles for transport

1.69 Universal Waste or U-Waste. E-Waste, dry-cell batteries, non-empty aerosol cans, fluorescent lamps, and fluorescent bulbs, mercury thermostats, and other mercury containing equipment.

1.70 Waste. “Waste” means the useless, unused, unwanted or discarded material and debris resulting from normal residential and commercial activity or materials which, by their presence, may injuriously affect the health, safety, and comfort of persons or depreciate property values in the vicinity thereof.

1.71 Waste diversion. “Waste diversion” means to divert Solid Waste, in accordance with all applicable Federal, State, and local requirements, from disposal at landfills or transformation facilities through source reduction, composting or recycling.

1.72 Waste generator. “Waste generator” means any person, as defined by the most current version of the Public Resources Code, whose act or process produces solid waste as defined in that same code, or whose act first causes solid waste to become subject to regulation.

1.73 Waste Reporting System (WRS). An online/digital data system designated by the City for recording and documenting receipts, revenue, outreach, customer service, site visits, weights and volumes by waste stream, and field issues for compliance, customer service, and reporting purposes.

1.74 White goods. “White goods” means enamel-coated major appliances, such as washing machines, clothes dryers, hot water heaters, stoves, and refrigerators.

1.75 Work Day. Any day, Monday through Saturday, that is not a holiday.

1.76 Wood waste. “Wood waste” means Solid Waste consisting of stumps, large branches, tree trunks, and wood pieces or particles that are generated from the manufacturing or production of wood products, harvesting, processing or storage of raw wood materials, or construction and demolition activities.

Article 2. Term of Agreement

2.01 Initial Term. The initial term of this Agreement will be for a three (3) year period beginning January 1, 2022 and terminating on December 31, 2024.

2.02 Extension of Term. Subject to the provisions of Section 2.03, at the end of the Initial Term, Contractor may be eligible to receive one, two (2) year term extension to the Initial Term, at the City’s sole discretion. Under no circumstances will City be obligated to extend the term.

2.03 Agreement Extension. In order to receive the Agreement term extension offer set forth in Section 2.02 of this Agreement, Contractor must meet or exceed the quarterly minimum performance and diversion standards set forth in Article 5. If either party elects to forego the Agreement extension, the party

wishing to forego the extension shall provide written notice to the other party prior to the applicable Extension Date. Upon delivery of such notice, this Agreement shall not be extended and shall terminate on the termination date.

Article 3. Conditions Governing Services Provided by Contractor

3.01 Grant of Limited Franchise for Temporary Solid Waste Collection In accordance with Title 6, Chapter 2 of the TOMC, City hereby grants to Contractor a Limited Franchise to provide Temporary Solid Waste Collection within the City, subject to the terms and conditions, and within the scope set forth in Exhibit 1, which provides the right and privilege to collect, remove and dispose of, in a lawful manner, Solid Waste, Recyclable Materials, Construction and Demolition debris, and Organic Materials on a Temporary Basis using Bins and Roll-off Containers.

3.02 Recyclable Materials Organic Waste, and Bulky Waste Discarded by Service Recipients. This Agreement shall not prohibit any person from selling Recyclable Materials or Organic Waste or giving Recyclable Materials or Organic Waste away to persons or entities other than Contractor. However, in either instance: (1) the Recyclable Materials or Organic Waste must be source separated from and not mixed with other Solid Waste; and (2) the seller/donor may not pay the buyer/donee any consideration for collecting, processing or transporting such Recyclable Materials or Organic Waste. A discount or reduction in the price for collection, disposal and/or recycling services for any form of un-segregated or segregated Solid Waste is not a sale or donation of Recyclable Materials or Organic Waste and such Solid Waste does not qualify for this exception. However, once the Recyclable Materials or Organic Waste have been placed in the Collection Container and the Container set out for Collection, the Recyclable Materials or Organic waste become the property of Contractor.

3.03 Responsibility for Service Billing and Collection. Contractor is responsible for the billing and collection of payments for Temporary Collection Services within the Service Area.

3.04 Contractor's Payments to City.

3.04.1 Franchise Fee. In consideration of the Limited Franchise provided for in Section 3.01 of this Agreement, Contractor shall pay the City a Franchise Fee as a percent of the Gross Revenue received by the Contractor from Limited Franchise services provided in the City pursuant to this Agreement. The Franchise Fee shall reflect a reasonable estimate of the value of the franchise and shall be established and adjusted as necessary by City Council by resolution. If adjusted during the term of this Agreement, Contractor shall be entitled to a rate adjustment as a City-directed change negotiated as part of the City's Exclusive Franchise Agreement for Solid Waste Collection Services. Any such adjustment will be reflected in the Maximum Service Rates under this Temporary Collection Services Agreement. The Franchise Fee for the Agreement Year and thereafter shall be nine (9) percent of Gross Revenue.

3.04.2 Solid Waste Management Fee. In consideration of the administrative costs of managing the City's solid waste program, Contractor shall pay City a Solid Waste Management Fee as a percent of the Gross Revenue received by the Contractor from Limited Franchise services provided in the City pursuant to this Agreement. The City Council may adjust the Solid Waste Management Fee by resolution, in which case Contractor shall be entitled to a rate adjustment as a City-directed change

negotiated as part of the City's Exclusive Franchise Agreement for Solid Waste Collection Services. Any such adjustment will be reflected in the Maximum Service Rates under this Temporary Collection Services Agreement. The Solid Waste Management Fee for the Agreement Year and thereafter shall be as follows:

- i. Eight and one-quarter (8.25 percent) percent of the Gross Revenues received during the reporting period, less Tipping or Facility Processing Fees, if the diversion rate for every waste stream during the reporting period meets or exceeds the Contractor's Diversion Requirements specified in Section 5.02;
- ii. Sixteen and one half percent (16.50 percent) of the Gross Revenues received during the reporting period, less Tipping or Facility Processing fees, if the diversion rate for any waste stream during the reporting period does not meet the Contractor's Diversion Requirements specified in Section 5.02.

3.04.3 Limited Franchise Construction and Demolition Tracking Fee. In consideration of the Limited Franchise provided for in this Agreement, and in consideration of annual operation costs of City's electronic construction and demolition waste tracking system, Contractor shall pay to City \$1,500 each year for the duration of this Agreement, and any extension thereof. Fee shall be adjusted based on annual operation costs of City's electronic construction and demolition waste tracking system. Payment of the Annual Fee shall be due by February 1st of each year.

3.04.4 Time and Method of Payment; Late Fees. Solid Waste Management Fees and Franchise Fees shall be computed and paid based on Gross Revenue received each calendar month for services rendered. Contractor shall prepare and submit such remittance on a quarterly basis to the Finance Director or designee in a manner specified by the City, and such remittance must be received no later than the last business day of the month following the end of each quarter. For hand-delivered remittance, the Contractor must request and receive a receipt or time stamp with the exact date remittance is received by the City Finance Director or designee.

3.04.5 The remittance will be accompanied by a report, prepared and submitted in an electronic format specified by the City, setting forth the basis, and calculations used for computing the amount due. The figures used shall be taken from the general books of account of the Contractor. All supporting documentation must be retained by the Contractor in accordance with the records retention requirements in Section 12.01.

3.04.6 If the Contractor fees to the City are not paid by the date set by this Agreement, Contractor shall also pay a penalty as specified in Exhibit 3, except to the extent that such lateness is due to extenuating circumstances.

3.04.7 In addition, Contractor shall pay interest on all unpaid fees at the rate of six (6) percent per annum or the prime (lending) rate, whichever is higher, but not to exceed the legal rate, from the date the fees were due and payable to the date actually paid.

3.04.8 If the delay is due to extenuating circumstances, Contractor must request approval in writing from the City Manager or designee at least five (5) business days prior to the date on which fees and reports are due. City shall contact Contractor within three (3) business days of receiving request for submission delay as to whether delay shall be permitted.

3.04.9 Taxes and Utility Charges. Contractor shall pay all Taxes lawfully levied or assessed upon or in respect of the Operating Assets or the Limited Franchise Services, or upon any part thereof or upon any revenues necessary for the operation of the Operating Assets and the provision of the Limited Franchise Services, when the same shall become due.

3.04.10 Disputes. In the event of any disputes between Contractor and City with respect to the fees described in Section 3, City shall provide Contractor with written objection within 180 days of the receipt of the report described in Section 3.04.5, indicating what is disputed and providing all reason then known to the City for its objection to or disagreement with such amount. If any such amount is adjusted in the City's favor pursuant to agreement, mediation, legal proceeding, or otherwise, Contractor shall pay the amount of such adjustment to City, with interest thereof at the Overdue Rate from the date such disputed amount was due City to date of payment in full of such amount. Nothing contained in this subsection shall limit the authority of any authorized office of the City or any other governmental agency to raise a further objection to any amount billed by Contractor pursuant to an audit conducted pursuant to Applicable Law. If Contractor prevails in the dispute, the Contractor shall have the right to recover from City its reasonable costs incurred in connection with the dispute resolution procedure.

3.05 Service Standards. Contractor must perform all Temporary Collection Services under this Agreement in a thorough and professional manner as described in Exhibit 1, while meeting the minimum performance and diversion standards listed in Article 5.

3.06 Labor and Equipment. Contractor must provide and maintain all labor, equipment, tools, facilities, and personnel supervision required for the performance of this Agreement.

3.07 Inspections. The City has the right to inspect Contractor's facilities or Collection Vehicles and their contents used to provide services pursuant to this Agreement at any reasonable time while operating inside or outside the City.

3.08 Commingling of Materials.

3.08.1 Solid Waste Materials Collected in Thousand Oaks. Contractor may commingle materials collected pursuant to this Agreement with other materials collected outside the City of Thousand Oaks, provided that Contractor tracks the tonnage of material collected inside the City of Thousand Oaks separately using a City-approved allocation methodology, and provided that Contractor transports the commingled materials to an appropriate processing facility for proper sorting and recycling. Changes to the allocation methodology may only be made with the express prior written authorization of the Agreement Administrator.

3.08.2 Spillage and Litter. Contractor may not litter premises in the process of providing Temporary Collection Services or while its vehicles are on the road. Contractor must transport all materials Collected under the terms of this Agreement in such a manner as to prevent the spilling or blowing of such materials from Contractor's vehicles. Contractor must exercise all reasonable care and diligence in providing Temporary Collection Services so as to prevent spilling or dropping of debris and must immediately, at the time of occurrence, clean up such spilled or dropped debris.

3.08.3 Except as provided in Article 3.08.2, Contractor is not responsible for cleaning up sanitary conditions caused by the carelessness of the Service Recipient; however, Contractor must clean up any material or residue that is spilled or scattered by Contractor or its employees.

3.08.4 Equipment oil, hydraulic fluids, spilled paint, or any other liquid or debris resulting from Contractor's operations or equipment must be covered immediately with an absorptive material and removed from the street surface. Contractor must document spillage in the Waste Reporting System and notify City's stormwater compliance coordinator within two (2) hours of any spills resulting from Contractor's operations or equipment. When necessary, Contractor must apply a suitable cleaning agent and cleaning technique to the street surface to provide adequate cleaning as approved by the City's stormwater compliance coordinator to be compliant with the City's stormwater permit.

3.08.5 The above paragraphs notwithstanding, Contractor must clean up any spillage or litter caused by Contractor within two (2) hours upon notice from the City. If City deems necessary, Contractor must engage third-party environmental clean-up specialist to remove any equipment oil, hydraulic fluids, or any other liquid or debris that remains on street after Contractor's own clean-up efforts. If clean-up is not conducted to satisfaction of City, City has right to engage environmental clean-up specialist to perform additional clean-up work at the expense of Contractor.

3.08.6 In the event where damage to City streets is caused by a hydraulic fluid spill (i.e., any physical damage in excess of a simple cosmetic stain caused by the spill), Contractor shall be responsible for all repairs to return the street to the same condition as that prior to the spill. Contractor shall be responsible for all clean-up activities related to the spill. Repairs and clean-up shall be performed in a manner satisfactory to the City and at no cost to the City.

3.08.7 To facilitate immediate cleanup, Contractor's vehicles must always carry sufficient quantities of petroleum absorbent materials along with a broom and shovel.

3.09 Regulations and Record Keeping. Contractor must comply with emergency notification procedures required by applicable laws and regulatory requirements. All records required by regulations must be maintained at Contractor's facility. These records must include waste manifests, waste inventories, waste characterization records, inspection records, incident reports, and training records.

Article 4. Billing, Charges and Rates

4.01 Temporary Collection Services. Contractor is responsible for the billing and collection of payments for all Temporary Collection Services. Contractor shall charge Service Recipients no more than the Maximum Service Rates established in Exhibit 2 and as such rates may be adjusted under this Agreement.

4.02 Production of Invoices. At the City's direction, Contractor shall prepare, mail or electronically transmit, and collect bills (or shall issue written receipts for cash payments) for Temporary Collection Services provided by Contractor under this Agreement. If made by mail, Billings shall be placed in an envelope at least 22 square inches in size and shall include a return envelope for each billing period. Contractor shall include an e-mail address on all billing notices and shall accept payment by check, credit card or ACH debit. Billings shall include sufficient space on the statement to accommodate up to 20 typed characters as specified by City. City shall have the right to revise the billing format, provided that reasonable notice is given. Where it has been determined that a Service Recipient has overpaid for service for any reason, Contractor must refund the Service Recipient the credit due within thirty (30) days of such determination.

4.03 Service Recipients and Payments. Through the Waste Reporting System, Contractor must report to the Agreement Administrator quarterly, the names, addresses, services rendered, and billing amounts of all Service Recipients who have received Collection Service. The provisions of Code Section 6-2.401(C) and Exhibit 2 shall apply to billing generally, including penalties for late payments and collection of delinquent accounts. For this purpose, delivery of the billing shall include the date such billing is deposited by Contractor into the U.S. Mail or delivered electronically.

4.04 Adjustments to Maximum Service Rates using Consumer Price Index (CPI). Beginning on January 1, 2023, and annually thereafter, Contractor shall, subject to compliance with all provisions of this Section, receive an annual adjustment to the Maximum Service Rates as set forth below.

4.04.1 Annual CPI Calculation. The Maximum Service Rate adjustment shall be calculated using the percentage change in the CPI between the base year, which shall be the prior preceding 12-month period ending July 31, and the preceding 12-month period ending July 31. Therefore, the first annual CPI adjustment (effective January 1, 2023) will be based on the percentage change between the CPI for the base year, August 1, 2020 through July 31, 2021 (the prior preceding 12-month period), and the CPI for the period of August 1, 2021 through July 31, 2022 (the preceding 12-month period).

4.04.2 Rounding. Adjustments to the overall Maximum Service Rates shall be made only in units of one cent (\$0.01). Fractions of less than one cent (\$0.01) shall not be considered in making adjustments. All CPI indices shall be rounded at two (2) decimal places for the adjustment calculations.

4.05 City Approval of Maximum Service Rates. On or before November 1, 2022, and annually thereafter during the term of this Agreement, City shall notify Contractor of the CPI adjustments to the affected Maximum Service rates to take place on the subsequent January 1st. City shall take action on any changes in the Maximum Service Rates in accordance with the City's Municipal Code.

4.06 Annual Rate Cap on Maximum Service Rates. In any Calendar year that the calculation of the CPI exceeds four percent (4.00%) or is between zero and one percent (1.00%), the total adjustment for that year will equal four percent (4.0%) or one percent (1.0%), respectively, and no rollover amount will be added to or subtracted from the rate adjustment percentage in the following year, or any subsequent year. If the CPI is negative there will be no CPI adjustment for that year.

4.07 Extraordinary Adjustment to Maximum Service Rates. If a material Change in Law occurs after the date hereof, an appropriate adjustment to Maximum Service Rates sufficient to offset the additional cost of solid waste service may be negotiated as part of the City's Exclusive Franchise Agreement for Solid Waste Collection Services. Any such adjustment will be reflected in the Maximum Service Rates under this Temporary Collection Services Agreement.

4.08 Performance Standards for Adjustments to Rates. To be eligible for a CPI adjustment under Article 4.04 or an extraordinary adjustment under Article 4.07, Contractor must cure any material default under Article 18 of this Agreement for which City has provided notice to Contractor.

Article 5. Diversion Requirements

5.01 Minimum Requirements. City requires Contractor to achieve a minimum quarterly diversion rate as described in Article 5.02 below. Contractor must provide diversion documentation to City in its quarterly reporting.

5.01.1 If Contractor fails to achieve a minimum Diversion Rate as described in Section 5.02, Contractor may be subject to an Administrative Penalty as specified in Exhibit 3. Contractor's failure to meet the minimum Diversion requirements for more than three quarters during the term of this Agreement shall constitute an event of default under this Agreement, and, at the sole determination of the City this Agreement shall be terminated.

5.01.2 If Contractor fails to meet Diversion requirements, the City may also direct Contractor to modify its disposal practices.

5.02 Contractor's Diversion Requirements. For purposes of Article 5, Contractor's Diversion requirements are:

5.02.1 For Construction and Demolition materials, the minimum Diversion Rate requirement will be sixty-five percent (65%), per California Green Building Code C&D Diversion standards.

5.02.2 For Organic waste, the minimum Diversion Rate requirement will be seventy-five percent (75%), per CalRecycle SB 1383 Diversion standards.

5.02.3 For all other non-organic and/or non-C&D waste materials, the minimum Diversion rate requirement will be fifty percent (50%), per CalRecycle AB 939 Diversion standards.

For purposes of determining whether Contractor has met its Diversion requirements under this Agreement, the Diversion rate will be calculated using the following formula: "the tons of materials Collected by Contractor from Temporary Collection Services in the City that counts as diversion under applicable CalRecycle regulations (in each case, net of all residue from processing and net of materials processed for diversion but landfilled as a result of unavailable markets), divided by the total tons of materials Collected in the City by Contractor."

5.03 Warranties and Representations. Contractor warrants that it has the ability to and will provide sufficient services to ensure it will meet or exceed the diversion requirements as set forth in this Article 5, as well as the diversion requirements of the Applicable Laws (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) (including AB 939, AB 341, AB 1826, AB 1594, SB 1016, and SB 1383, and all amendments and related subsequent legislation), and that it will do so without imposing any costs or fees other than those set forth on Exhibit 2.

5.04 Guarantee. Except for programs currently required by Applicable Law but not set forth in this Agreement, or programs Contractor is expressly instructed by City not to implement, Contractor shall implement the diversion programs set forth in this Agreement such that Contractor and City will at all times be in compliance with the requirements of the Applicable Laws applicable to them including specifically AB 939, AB 341, AB 1826, AB 1594, SB 1016, and SB 1383, and all amendments thereto (subject to Section 28.01.1). In this regard Contractor agrees that it will, in addition to any other Agreement requirement, at its sole cost and expense:

5.04.1 Assist City in responding to inquiries from CalRecycle or any other regulatory agency;

5.04.2 Assist City in any hearing conducted by CalRecycle, or any other regulatory agency, relating to City's compliance with the Applicable Laws including AB 939, AB 341, AB 1826, AB 1594, SB 1016, and SB 1383;

5.04.3 Be responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle, and indemnify and hold harmless City from and against any fines, penalties, or other liabilities, levied against it for violation of the diversion requirements, set forth in the Applicable Laws, including AB 939, AB 341, AB 1826, AB 1594, SB 1016, and SB 1383, or for violation of any other provision of the Applicable Laws, arising from or in any way related to Contractor's performance under this Agreement.

Article 6. Materials and Facilities

6.01 Construction and Demolition Debris Processing Facility. All C&D Debris collected as a result of performing Temporary Collection Services must be delivered to a C&D Debris Processing Facility certified by the City of Los Angeles and/or facilities that can verify diversion of no less than 65% and are approved by the City. Failure to comply with this provision will result in the levy of a penalty charge as specified in Exhibit 3 and may result in Contractor being in default under this Agreement.

6.02 Materials Recovery Facility. All Recyclable Materials Collected as a result of performing Temporary Collection Services must be delivered to a Materials Recovery Facility. Failure to comply with this provision will result in the levy of a penalty as specified in Exhibit 3 and may result in Contractor being in default under this Agreement.

6.03 Organic Waste Processing Facility. Contractor must deliver all Collected Organic Waste to a fully permitted Organic Waste Processing Facility or a fully permitted Organic Waste transfer station, that has been approved by the City. Failure to comply with this provision will result in the levy of a penalty charge as specified in Exhibit 3 and may result in Contractor being in default under this Agreement.

Article 7. Audits and Performance Reviews

7.01 Billing/Financial Audit and Performance Reviews

7.01.1 Selection and Cost. City may conduct billing audit, financial audit and performance reviews (together, "reviews") of Contractor's performance during the term of this Agreement. The reviews will be performed by the City or a qualified firm under contract to City. City will have the final responsibility for the selection of the firm. City may conduct reviews at any time during the term of the Agreement.

7.01.2 Purpose. The reviews will be designed to verify that customer billing rates have been properly calculated and they correspond to the service received by the customer, verify that Contractor is correctly billing for all services provided, Franchise Fees, Solid Waste Management Fees and other fees required under this Agreement have been properly calculated and paid to City, verify Contractor's compliance with the reporting requirements and performance standards of this Agreement, verify the diversion percentages reported by Contractor, and verify any other provisions of the Agreement.

7.01.3 Contractor's Cooperation. Contractor shall cooperate fully with the review and provide all requested data, including operational data, financial data of the type described in Article 12, and other data reasonably requested by City within fifteen (15) Work Days of the request.

7.01.4 Findings. In the event that the Billing/Financial Audit and Performance Review concludes that Contractor is not in compliance with all terms and conditions of this Agreement and such non-compliance is material, Contractor is subject to administrative fees and penalties as described in Exhibit 3 as well as reimbursement to the City for the full cost of the audit plus any underpayments discovered during the Audit. If findings include default under Agreement, City may, at its sole discretion, terminate Agreement.

Article 8. Collection Equipment

8.01 Equipment Specifications.

8.01.1 General Provisions. All equipment used by Contractor in the performance of services under this Agreement must be of a high quality and meet all Federal, State, and local regulations and air quality standards, including all applicable provisions of Ventura County Air Pollution Control District. Collection vehicles must be designed and operated so as to prevent collected materials from escaping from the vehicles. Hoppers must be closed on top and on all sides with screening material to prevent collected materials from leaking, blowing or falling from the vehicles.

8.01.2 Large Items. Vehicles used for Collection of Large Items may not use compactor mechanisms or mechanical handling equipment that may damage reusable goods or release Freon or other gases from pressurized appliances.

8.01.3 Collection Vehicles. Contractor may not use any Collection Vehicle that is more than fifteen (15) years old during the term of the Agreement. Collection Vehicles must utilize low carbon ("alternative") fuel, which must be compressed natural gas (CNG or RNG), renewable diesel or electric unless otherwise authorized by the City.

8.01.4 Collection Vehicle Size Limitations / Overweigh Vehicle Charge. Contractor may not use any Collection Vehicle in violation of weight limitations in Applicable Law. The Contractor may exceed the Collection Vehicle size limitation for a limited time due to extraordinary circumstances or conditions with the prior written consent of the Agreement Administrator. Contractor must report all instances of overweight vehicles to City monthly as part of its quarterly reports.

8.01.5 Registration; Inspection. All vehicles used by Contractor in providing Temporary Collection Services under this Agreement, except those vehicles used solely on Contractor's premises, are to be registered with the California Department of Motor Vehicles. In addition, each such vehicle must be inspected by the California Highway Patrol in accordance with Applicable Law. Within two (2) Work Days of a request from the Agreement Administrator, Contractor must provide City a copy of its vehicle maintenance log and any safety compliance report, including, but not limited to, any report issued under California Vehicle Code sections 34500 and following, as well as the biennial "BIT" inspections conducted by the California Highway Patrol.

8.01.6 Safety Markings. All Collection equipment used by Contractor must have appropriate safety markings including, but not limited to, highway lighting, flashing and warning lights,

clearance lights, and warning flags. All such safety markings must be in accordance with the requirements of the California Vehicle Code, as may be amended from time to time.

8.01.7 Vehicle Signage and Appearance. Collection Vehicles must have Contractor's name and customer service telephone number identified on each side of each vehicle. No advertising is permitted other than the name of Contractor, its logo and registered service marks. All Contractor Collection vehicles must be maintained in a clean and sanitary condition and appearance during the term of this Agreement on a frequency as necessary to maintain a positive public image as reasonably determined by the Agreement Administrator.

8.01.8 Bin and Roll-off Container Signage, Painting, and Cleaning. All metal Bins and Roll-off Containers of any service type furnished by Contractor must be either painted or galvanized. All metal or plastic Bins and Roll-off Containers must display Contractor's name, Contractor's customer service telephone number, and the number of the Bin or Roll-off on at least two (2) sides. Identification shall be visible from the street in letters a minimum of two (2") inches in height. Bins and Roll-off Containers should be freshly painted at the start of this Agreement, free of dents, and must be kept in a clean and sanitary condition throughout the term of this Agreement, and painted as needed to maintain an orderly appearance throughout the term of the Agreement. Bins and Roll-off Containers shall be adequately reflectorized with a minimum of ten (10) square inches of plastic or reflective sheeting on each corner at a height between fifteen (15") and sixty (60") inches from the ground. Contractor shall affix a list of acceptable materials to Collection Containers with text approved by the City Manager, per Exhibit 4 and Exhibit 5 of this Agreement. Bins and Roll-off Containers may be subject to periodic, unscheduled inspections by City and determination as to sanitary condition will be made by City.

8.02 Vehicle Certification. For each Collection Vehicle used in the performance of services under this Agreement, Contractor must obtain a certificate of compliance (smog check) issued pursuant to Part 5 of Division 26 of the California Health and Safety Code (Section 43000 and following) and regulations promulgated thereunder and/or a safety compliance report issued pursuant to Division 14.8 of the California Vehicle Code (Section 34500 and following) and the regulations promulgated thereunder, as applicable to the vehicle. Contractor must maintain copies of such certificates and reports and must make such certificates and reports available for inspection upon request by the Agreement Administrator.

8.02.1 No later than January 1, 2022, Contractor must submit to the Agreement Administrator verification that each of the Contractor's Collection Vehicles has passed the California Heavy Duty Vehicle Inspection. Thereafter, Contractor must cause each vehicle in Contractor's Collection fleet to be tested annually in the California Heavy Duty Inspection Program and must, upon request, submit written verification to City within ten (10) Work Days of the completion of such test. Contractor may not use any vehicle that does not pass such inspection.

8.03 Equipment Maintenance. Contractor must maintain Collection equipment in a clean condition and in good repair at all times. All parts and systems of the Collection equipment must operate properly and be maintained in a condition satisfactory to City.

8.04 Maintenance Log. Contractor must maintain a maintenance log for all Collection Vehicles. The log must at all times be accessible to City by physical inspection upon request of Agreement Administrator, and must show, at a minimum, each vehicle Contractor assigned identification number, date

purchased or initial lease, dates of performance of routine maintenance, dates of performance of any additional maintenance, and description of additional maintenance performed.

8.05 Equipment Inventory. On or before January 1, 2022 Contractor shall provide to City an inventory of Collection Vehicles and major equipment used by Contractor for Temporary Collection Services under this Agreement. The inventory must indicate each Collection Vehicle by Contractor assigned identification number, DMV license number, the age of the chassis and body, type of fuel used, the type and capacity of each vehicle, the number of vehicles by type, the date of acquisition, the decibel rating and the maintenance and rebuild status. Contractor must submit to the Agreement Administrator by e-mail, an updated inventory annually to the City or more often at the request of the Agreement Administrator. Each inventory must also include the tare weight of each vehicle as determined by weighing at a certified scale used by Contractor. Each vehicle inventory must be accompanied by a certification signed by Contractor that all Collection Vehicles meet the requirements of this Agreement.

8.06 Equipment Failure. In the event that Contractor's collection vehicles are unable to collect and transport Bin/Roll-off Containers due to equipment breakdown, and the Bin/Roll-off placement poses a safety hazard or exceeds the 30-day placement limit, the City may contract with a hauler to have the Bin/Roll-off Container removed and the Contractor shall be responsible for the cost of removal.

Article 9. Contractor's Office

9.01 Contractor's Office. Contractor shall maintain an office or call center within Ventura County or such other location as City approves where calls and complaints can be received. The office must have responsible persons in charge during Collection hours and must be open during normal business hours, 8:00 a.m. to 5:00 p.m. on Monday through Friday. Contractor must provide either local or toll-free service and emergency telephone numbers that connect to the call center, and a telephone answering service or mechanical device to receive Service Recipient inquiries during those times when the office is closed. The service telephone number(s) must be available through an online search and listed on the Contractor's website. Calls received after normal business hours must be addressed the next Work Day morning.

9.01.1 Emergency Contact. Contractor must provide the Agreement Administrator with an emergency phone number where the Contractor can be reached outside required office hours.

9.01.2 Multilingual/TDD Service. Contractor must at all times maintain the capability of responding to telephone calls in English and such other languages as City may direct. Contractor must at all times maintain the capability of responding to telephone calls through Telecommunications Device for the Deaf (TDD) Services.

9.01.3 All incoming calls will be answered at the local office or call center within 5 rings. Any call "on-hold" in excess of 1.5 minutes must have the option to remain "on-hold" or request a "call-back" from a customer service representative. Contractor's customer service representatives must return Service Recipient calls. For all messages left before 3:00 p.m., all "call backs" must be attempted a minimum of one time prior to 5:00 p.m. on the day of the call. For messages left after 3:00 p.m., all "call backs" must be attempted a minimum of one time prior to noon the next Work Day. Contractor must make a minimum of three (3) attempts within one (1) Work Day of the receipt of the call. Contractor must record all calls including any inquiries, service requests, and complaints into a customer service log.

Article 10. Contractor Support Services

10.01 Contractor website. Contractor shall maintain a business website that explains the Contractor's City-specific services and rates. Contractor will ensure that information provided on the website is regularly updated. Temporary Collection Services should be able to be reserved and paid for online using electronic payment through said website.

10.02 Recycling resources. Contractor shall maintain an accurate list of recyclable materials on its website, and promote proper recycling to all Service Recipients.

10.03 Weighing Containers and Tonnage Documentation. Contractor shall weigh all Bin and Roll-off Containers used for material collection, regardless of capacity, and provide verifiable documentation of tonnage to customers upon request for reporting purposes. Contractor shall report tonnage to City on a quarterly basis using reporting methods defined in Article 12.

10.04 Contamination and Overage Reporting. Contractor shall provide documentation of contamination and overage charges when requested by the City.

Article 11. Emergency Service

11.01 Disaster Recovery Support. In the event of a tornado, major storm, earthquake, fire, natural disaster, or other such event, Contractor agrees to provide disaster recovery support to a reasonable degree, upon request by Agreement Administrator. This may include additional hauling of debris, special handling such as burrito wrapping, temporary storage of debris where feasible, additional disposal, use of different transfer and disposal facilities, and documentation of debris type, weight, and diversion. Contractor should follow protocol laid out in the County of Ventura's Disaster Debris Plan (1999) and any subsequent County or City Disaster Debris Plans, as applied to solid waste hauling and handling.

Article 12. Record Keeping and Reporting Requirements

12.01 Record Keeping. Notwithstanding Article 35 herein:

12.01.1 Accounting Records. Contractor must maintain full, complete and separate financial, statistical and accounting records, pertaining to cash, billing, and provisions of all Temporary Collection Services, prepared on an accrual basis in accordance with generally accepted accounting principles. Such records will be subject to audit, copy, and inspection for the purposes set forth in Section 7.01.2. Gross receipts derived from provision of the Temporary Collection Services will be recorded as revenues in the accounts of Contractor. Contractor shall keep and preserve, during the Term of this Agreement, and for a period of not less than four (4) years following expiration or other termination hereof, full, complete and accurate records, including all cash, billing and disposal records, as indicated in the Agreement. City reserves the right to request audited, reviewed, or compiled financial statements prepared by an independent Certified Public Accountant, or as may be provided by Contractor or its parent company. In the event that Contractor does not maintain separate financial or accounting records prepared specifically for services provided under this Agreement, Contractor may use industry standard allocation methods to provide financial information as applicable to the service provided under this Agreement.

12.01.2 Agreement Materials Records. Contractor must maintain records of the quantities of (i) Solid Waste, (ii) C&D Debris, (iii) Recyclable Materials, and (iv) Organic Waste by type, that are collected, purchased, processed, sold, donated or given for no compensation, and residue disposed under the terms of this Agreement

12.01.3 Other Records. Contractor must maintain all other records reasonably related to provision of Temporary Collection Services, whether or not specified in this Agreement.

12.01.4 Report Format. All reports to be submitted electronically in the City's Waste Reporting System or in a format approved by the City.

12.02 Quarterly Reporting.

Quarterly reports must be submitted no later than 5 p.m. PT on the last day of the month following the end of Quarter in which the receipts are collected and must be provided electronically in a form and means as specified by the City. If the last day of the month falls on a day that City is closed or a holiday, then the report will be due on the next business day. Failure to submit complete quarterly reporting by the due date will result in penalties as specified in Exhibit 3.

Quarterly reports to City must include:

1. Franchise Fee and Solid Waste Management Fee Payment Reporting. The payment report must include an accounting of Contractor's Gross Revenues received during the preceding quarter, and the calculated Franchise Fee and Solid Waste Management Fee.
2. Tonnage and Service Data. Contractor must report the number of unique accounts serviced, individual tonnage of Solid Waste, C&D Debris, Recyclable Materials and Organic Waste loads collected and processed for diversion and/or landfill disposal, broken down by Container type.
3. Overweight Vehicle Reporting. The quarterly report must include a summary total of all instances of overweight Collection Vehicles. This summary must include the number of overweight vehicle instances expressed as a percentage of the total number of Collection Vehicle loads transported during the reported quarter.
4. Service Recipient Complaint Log. The quarterly report must include the Service Recipient call log collected from the previous quarter as required in Section 9.01.3 of this Agreement.

12.03 Diversion Rate Calculation and Data. Contractor must provide documentation, in the format specified by City, of the quarterly Diversion Rate, as calculated in accordance with the provisions of Article 5.

12.04 CalRecycle Reports. Contractor will provide reasonable assistance to City in preparing annual reports to CalRecycle (the "Electronic Annual Report" or EAR), including but not limited to supplying required data for preparation of the reports, and completing all required data input in the Waste Reporting System.

12.05 Additional Reporting. Contractor must furnish City with any additional reports as may reasonably be required, such reports to be prepared within a reasonable time following the reporting period.

Article 13. Nondiscrimination

13.01 Nondiscrimination. In the performance of all work and services under this Agreement, Contractor may not discriminate against any person based on such person's race, sex, color, national origin, religion, marital status or sexual orientation. Contractor must comply with all applicable local, State and Federal laws and regulations regarding nondiscrimination, including those prohibiting discrimination in employment.

Article 14. Service Inquiries and Complaints

14.01 Contractor's Customer Service. All service inquiries and complaints will be directed to Contractor. A representative of Contractor must be available to receive the complaints during normal business hours. All service complaints will be handled by Contractor in a prompt and efficient manner. In the case of a dispute between Contractor and a Service Recipient, the matter will be reviewed, and a decision made by the Agreement Administrator.

14.01.1 Contractor will utilize the Customer Service Log to maintain a record of all inquiries and complaints in a manner prescribed by City.

Article 15. Quality of Performance of Contractor

15.01 Intent. Contractor acknowledges and agrees that one of City's primary goals in entering into this Agreement is to ensure that the Temporary Collection Services are of the highest caliber, that customer satisfaction remains at the highest level, that maximum diversion levels are achieved, and that materials Collected are put to the highest and best use to the extent possible.

15.02 Contract Manager. Contractor must designate a Contract Manager and must provide the name of that person in writing to City within thirty (30) days prior to the effective date of this Agreement and annually by January 1st of each subsequent Calendar Year of this Agreement and any other time the person in that position changes. The Contract Manager must be available to the City by phone at all times that Contractor is providing Temporary Collection Services in the Service Area. The Contract Manager must provide City with an emergency phone number where the Contract Manager can be reached outside of normal business hours.

15.03 Administrative Penalties. Quality performance by the Contractor is of primary importance. In respect of this, Contractor agrees to pay City administrative penalties as detailed in Exhibit 3 should Contractor fail to meet its responsibilities under this Agreement. Should Contractor be in breach of the requirements set forth in this Agreement, City may exercise its right to terminate Agreement.

15.04 Procedure for Review of Administrative Charges. The Agreement Administrator may assess administrative penalties as specified in Exhibit 3 pursuant to this Agreement on a quarterly basis.

15.04.1 City's assessment or collection of administrative penalties will not prevent City from exercising any other right or remedy, including the right to terminate this Agreement, for Contractor's failure to perform the work and services in the manner set forth in this Agreement.

15.05 Uncontrollable Circumstances.

15.05.1 If either party is prevented from or delayed in performing its duties under this Agreement by circumstances beyond its control, whether or not foreseeable, including, without limitation, acts of terrorism, landslides, lightning, forest fires, storms, floods, severe weather, freezing, earthquakes, other natural disasters, the threat of such natural disasters, pandemics (or threat of same), quarantines, civil disturbances, acts of the public enemy, wars, blockades, public riots, strikes, lockouts, or other labor disturbances, acts of government or governmental restraint or other causes, whether of the kind enumerated or otherwise, that are not reasonably within the control of the affected party, then the affected party will be excused from performance hereunder during the period of such disability.

15.05.2 The party claiming excuse from performance must promptly notify the other party when it learns of the existence of such cause, including the facts constituting such cause, and when such cause has terminated.

15.05.3 The interruption or discontinuance of services by a party caused by circumstances outside of its control will not constitute a default under this Agreement.

Article 16. Insurance

16.01 Insurance Policies. Contractor must secure and maintain throughout the term of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with Contractor's performance of work or services under this Contract. Contractor's performance of work or services includes performance by Contractor's employees, agents, and representatives.

16.02 Minimum Scope of Insurance. Insurance coverage must be at least this broad:

16.02.1 Insurance Services Office Form No. GL 0002 (Ed. 1/20) covering Comprehensive General Liability and Insurance Services Office Form No. GL 0404 covering Broad Form Comprehensive General Liability; or Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 0001), including X, C, U where applicable.

16.02.2 Insurance Services Office Form No. CA 0001 (Ed. 1/20) covering Automobile Liability, code 1 "any auto", or code 2 "owned autos" and endorsement CA 0025. Coverage must also include code 8, "hired autos" and code 9 "non-owned autos".

16.02.3 Workers' Compensation insurance as required by the California Labor Code and Employers Liability Insurance.

16.02.4 Environmental Pollution Liability Insurance.

16.03 Minimum Limits of Insurance. Contractor must maintain insurance limits no less than:

16.03.1 Comprehensive General Liability: \$2,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability insurance with a general aggregate limit is used, either the general aggregate limit will apply separately to this Agreement or the general aggregate limit must be \$4,000,000.

16.03.2 Automobile Liability: \$3,000,000 combined single limit per accident for bodily injury and property damage.

16.03.3 Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of \$1,000,000 per accident.

16.03.4 Environmental Pollution Liability: \$3,000,000 per occurrence and \$5,000,000 aggregate, with five (5) years tail coverage. Coverage shall include bodily injury or property damage arising out of the actual, alleged, or threatened discharge, dispersal, seepage, migration, release or escape of pollutants resulting from Contractor's operations.

16.03.5 If Contractor maintains higher limits than the minimum shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Service Provider. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

16.04 Deductibles and Self-Insured Retention. Any deductibles or self-insured retention must be declared to City's risk manager. Should City form a reasonable belief that Contractor may be unable to pay any deductibles or self-insured retentions, Contractor must procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by City's risk manager.

16.05 Endorsements. The policies are to contain, or be endorsed to contain, the following provisions:

16.05.1 General Liability, Automobile and Environmental Liability Coverage.

1. City, its officers, employees, agents and contractors are to be covered as additional 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 automobiles owned, leased, hired or borrowed by Contractor. The coverage must contain no special limitations on the scope of protection afforded to City, its officers, employees, agents and contractors.

2. Contractor's insurance coverage must be primary insurance as respects City, its officers, employees, agents and contractors. Any insurance, or self-insurance maintained by City, its officers, employees, agents or contractors will be in excess of Contractor's insurance and will not contribute with it.

3. Any failure to comply with reporting provisions of the policies will not affect coverage provided to City, its officers, employees, agents, or contractors.

4. Coverage must State that Contractor's insurance will apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

16.05.2 All Coverage. Each insurance policy required by this Agreement must be endorsed to State that coverage may not be canceled except after thirty (30) calendar days (ten (10) days in the event of cancellation for non-payment) prior written notice has been given to City. Moreover, Contractor will not order the cancellation of any required insurance policy or change in insurance policy limits without thirty (30) days prior written notice to City by Contractor.

16.06 Acceptability of Insurers. Insurance is to be placed with insurers having an A.M. Best rating of A-/VII or better.

16.07 Verification of Coverage. Contractor must furnish City with certificates of insurance and with original endorsements affecting coverage required by this Agreement. The certificates and endorsement for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Contractor must furnish City with a new certificate of insurance and endorsements on each renewal of coverage or change of insurers.

16.07.1 Proof of insurance must be mailed to the following address or any subsequent address as may be directed by the City:

City of Thousand Oaks Public Works Department

Attn: Sustainability Division Manager

2100 Thousand Oaks Blvd.

Thousand Oaks, CA 91362

16.08 Modification of Insurance Requirements. The insurance requirements provided in this Agreement may be modified or waived by City's risk manager, in writing, upon the request of Contractor if City's risk manager determines such modification or waiver is in the best interest of City considering all relevant factors, including exposure to City.

16.09 Rights of Subrogation. All required insurance policies must preclude any underwriter's rights of recovery or subrogation against City with respect to matters related to Contractor's performance of its obligations under this Agreement, with the express intention of the parties being that the required insurance coverage protects both parties as the primary coverage for any and all losses covered by the above-described insurance. Contractor must ensure that any companies issuing insurance to cover the requirements contained in this Agreement agree that they will have no recourse against City for payment or assessments in any form on any policy of insurance. The clauses 'Other Insurance Provisions' and 'Insured Duties in the Event of an Occurrence, Claim or Suit' as it appears in any policy of insurance in which City is named as an additional insured will not apply to City.

16.10 Failure to maintain insurance. Should Contractor fail to obtain or maintain insurance as required by this Agreement, Contractor shall have 7 days to cure the defect, during which time City shall have the option, but not the obligation to, at Contractor's sole expense: (i) hire replacement waste hauler services to perform Contractor's tasks until insurance coverage is resumed; or (ii) obtain replacement insurance coverage during said cure period. Should Contractor fail to correct this defect, City shall have the option to terminate this Agreement immediately.

Article 17. Hold Harmless and Indemnification

17.01 Hold Harmless for Contractor's Damages. Contractor holds City, its elected officials, officers, agents, employees and volunteers, harmless from all of Contractor's claims, demands, lawsuits, judgments, damages, losses, injuries or liability to Contractor, to Contractor's employees, to Contractor's contractors, or to the owners of Contractor's firm, which damages, losses, injuries or liability occur during

the work or services required under this Agreement, or performance of any activity or work required under this Agreement.

17.02 Defense and Indemnity of Third Party Claims/Liability. Contractor shall indemnify, defend with legal counsel approved by City, and hold harmless City, its officers, officials, employees and volunteers from and against all liability including, but not limited to, loss, damage, expense, cost (including without limitation reasonable legal counsel fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with Contractor's negligence, recklessness or willful misconduct in the performance of work hereunder or its failure to comply with any of its obligations contained in the Agreement, except such loss or damage which is caused by the active negligence or willful misconduct of City. Should conflict of interest principles preclude a single legal counsel from representing both City and Contractor, or should City otherwise find Contractor's legal counsel unacceptable, then Contractor shall reimburse City its costs of defense, including without limitation reasonable legal counsel fees, expert fees and all other costs and fees of litigation. The Contractor shall promptly pay City any final judgment rendered against City (and its officers, officials, employees and volunteers) with respect to claims determined by a trier of fact to have been the result of Contractor's negligent, reckless or wrongful performance. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

17.02.1 Contractor's obligations under this section apply regardless of whether or not such claim, charge, damage, demand, action, proceeding, loss, stop notice, cost, expense, judgment, civil fine or penalty, or liability was caused in part or contributed to by an Indemnitee. However, without affecting the rights of City under any provision of this Agreement, Contractor shall not be required to indemnify and hold harmless City for liability attributable to the active negligence of City, provided such active negligence is determined by agreement between the parties or by findings of a court of competent jurisdiction. In instances where City is shown to have been actively negligent and where City's active negligence accounts for only a percentage of the liability involved, the obligation of the Contractor will be for that entire portion or percentage of liability not attributable to the active negligence of City.

17.03 Nonwaiver. City does not waive, nor shall be deemed to have waived, any indemnity, defense or hold harmless rights under this section because of the acceptance by City, or the deposit with City, of any insurance certificates or policies described in Section 16.

17.04 Diversion Indemnification. Subject to the requirements of Public Resources Code section 40059.1, which will control in the event of any conflict with the provisions of this Section, Contractor agrees to protect and defend City Indemnitees with counsel selected by Contractor and approved by City, to pay all attorneys' fees, and to indemnify and hold City Indemnitees harmless from and against all fines or penalties imposed by the California Integrated Waste Management Board if the diversion goals specified in California Public Resources Code section 41780, as it may be amended, are not met by City with respect to the Materials Collected by Contractor and if the inability to meet such goals is attributable in any way to Contractor's failure to undertake the related activities required by this Agreement. In the event CalRecycle provides an administrative process to challenge the imposition of a compliance order or a fine or fines,

Contractor will be responsible for engaging any consultants or attorneys necessary to represent City in any challenge. Contractor will be responsible for the retention of and payment to any consultants engaged to perform waste generation studies (diversion and disposal). All consultants and attorneys engaged hereunder are subject to the agreement of City and Contractor.

17.05 Hazardous Substances Indemnification. Contractor agrees to indemnify, defend (with counsel reasonably approved by City), protect and hold harmless the City Indemnitees from and against any and all Claims of any kind whatsoever paid, suffered or incurred by or against the City Indemnitees resulting from any repair, cleanup, removal action or response action undertaken pursuant to CERCLA, the Health & Safety Code or other similar Federal, State or local law or regulation, with respect to Solid Waste or Household Hazardous Waste Collected and Disposed of by Contractor. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of CERCLA and Section 25364 of the Health & Safety Code to defend, protect, hold harmless and indemnify the City Indemnitees from all forms of liability under CERCLA, the Health & Safety Code or other similar Federal, State or local law or regulation.

17.06 Consideration. It is specifically understood and agreed that the consideration inuring to Contractor for the execution of this Agreement consists of the promises, payments, covenants, rights and responsibilities contained in this Agreement.

17.07 Obligation. This Agreement obligates Contractor to comply with the foregoing indemnification and release provisions; however, the collateral obligation of providing insurance must also be complied with as set forth in this Agreement.

17.08 Exception. Notwithstanding other provisions of this Agreement, Contractor's obligation to indemnify, hold harmless and defend City, its officers and employees will not extend to any loss, liability, penalty, damage, action or suit arising or resulting solely from acts or omissions constituting active negligence, willful misconduct, breach of this Agreement, or violation of law on the part of City, its officers or employees.

17.09 Damage by Contractor. If Contractor's employees cause any injury, damage or loss to City property, including but not limited to City streets or curbs, excluding normal wear and tear, Contractor must reimburse City for City's cost of repairing or replacing such injury, damage or loss. Such reimbursement is not in derogation of any right of City to be indemnified by Contractor for any such injury, damage or loss. With the prior written approval of City, Contractor may repair the damage at Contractor's sole cost and expense. Any injury, damage or loss to private property caused by the negligent or willful acts or omissions of Contractor to private property must be repaired or replaced by Contractor at Contractor's sole expense. Disputes between Contractor and its Service Recipients or private property owners as to damage to private property are civil matters and complaints of damage will be referred to Contractor as a matter within its sole responsibility and as a matter within the scope of Section 17.01 [Indemnification].

Article 18. Default of Agreement

18.01 Termination. City may cancel this Agreement, except as otherwise provided below in this Section, by giving Contractor thirty (30) calendar days advance written notice, to be served as provided in this Agreement, upon the happening of any one of the following events:

18.01.1 By, or pursuant to, or under the authority of any legislative act, resolution or rule or any order or decree of any court or governmental board, agency or officer having jurisdiction, a receiver, trustee or liquidator takes possession or control of all or substantially all of the property of Contractor, and such possession or control continues in effect for a period of sixty (60) calendar days; or

18.01.2 Contractor has defaulted, by failing or refusing to pay in a timely manner the administrative charges or other monies due City and such default is not cured within thirty (30) calendar days of receipt of written notice by City to do so; or

18.01.3 Contractor has defaulted by allowing any final judgment for the payment of money owed to City to stand against it unsatisfied and such default is not cured within thirty (30) calendar days of receipt of written notice by City to do so; or

18.01.4 Contractor has defaulted, by failing or refusing to perform or observe the terms, conditions or covenants in this Agreement, or any of the rules and regulations promulgated by City pursuant thereto or has wrongfully failed or refused to comply with the instructions of the Agreement Administrator relative thereto and such default is not cured within thirty (30) calendar days of receipt of written notice by City to do so, or if by reason of the nature of such default, the same cannot be remedied within thirty (30) calendar days following receipt by Contractor of written demand from City to do so, Contractor fails to commence the remedy of such default within such thirty (30) calendar days following such written notice or having so commenced fails thereafter to continue with diligence the curing thereof (with Contractor having the burden of proof to demonstrate (a) that the default cannot be cured within thirty (30) calendar days, and (b) that it is proceeding with diligence to cure such default, and such default will be cured within a reasonable period of time).

18.02 Violations. Notwithstanding the foregoing and as supplemental and additional means of termination of this Agreement under this Article, in the event that Contractor's record of performance shows that Contractor has defaulted in the performance of any of the covenants and conditions required herein to be kept and performed by Contractor three (3) or more times in any twenty-four (24) month period, and regardless of whether the Contractor has corrected each individual condition of default, Contractor will be deemed a "habitual violator", will be deemed to have waived the right to any further notice or grace period to correct, and all such defaults will be considered cumulative and collectively will constitute a condition of irredeemable default. City will thereupon issue Contractor a final warning citing the circumstances therefore, and any single default by Contractor of whatever nature, subsequent to the occurrence of the last of such cumulative defaults, will be grounds for immediate termination of the Agreement. In the event of any such subsequent default, City may terminate this Agreement upon giving of written final notice to Contractor, such cancellation to be effective upon the date specified in City's written notice to Contractor, and all contractual fees due hereunder plus any and all charges and interest will be payable to such date, and Contractor will have no further rights hereunder. Immediately upon the specified date in such final notice Contractor must cease any further performance under this Agreement.

18.03 Effective Date. In the event of any the events specified above, and except as otherwise provided in such subsections, termination will be effective upon the date specified in City's written notice to Contractor and upon such date this Agreement will be deemed immediately terminated and upon such termination, except for payment of services rendered up to and including the date of termination, all liability of City under this Agreement to Contractor will cease.

18.04 Early Termination. Notwithstanding the provisions of Section 18.01 above, City may terminate this Agreement immediately upon notice to Contractor if Contractor offers or gives any gift to a City official or employee as prohibited by TOMC Section 1-10.12. For purposes of this section, a gift creating financial conflict shall be anything which would be considered reportable income under FPPC rules.

18.05 Termination Cumulative. City's right to terminate this Agreement is cumulative to any other rights and remedies provided by law or by this Agreement.

Article 19. Modifications to the Agreement

19.01 City-Directed Change. City has the power to make changes in this Agreement to impose new rules and regulations on Contractor under this Agreement relative to the scope and methods of providing Temporary Collection Services as may from time-to-time be necessary and desirable for the public welfare. The capabilities and capacities of Material Recovery Facilities, Disposal Facilities, and Organics Waste Processing facilities may change during the term of this Agreement; as such City reserves the right to redirect materials to alternate facilities in accordance with any such changes. When such modifications are made to this Agreement, City and Contractor will negotiate in good faith, a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of Contractor due to any modification in the Agreement under this Article. City and Contractor will not unreasonably withhold agreement to such compensation adjustment. Should agreement between City and Contractor on compensation adjustment not be reached within six months of the change request, or other period as agreed upon by both parties, City and Contractor agree to submit the compensation adjustment to binding arbitration as described in Section 19.03.

19.02 Change in Law. City and Contractor understand and agree that the California Legislature has the authority to make comprehensive changes in Solid Waste Collection legislation, and that these and other changes in Applicable Law in the future which mandate certain actions or programs for counties, municipalities or Contractor may require changes or modifications in some of the terms, conditions or obligations under this Agreement. Contractor agrees that the terms and provisions of the City of Thousand Oaks Municipal Code, as it now exists or as it may be amended in the future, will apply to all of the provisions of this Agreement and the Service Recipients of Contractor located within the Service Area. In the event any future change in Federal law or regulations, State or local law of regulation, or the City Code materially alters the obligations of Contractor, then the affected Maximum Service Rates, as established in Exhibit 2 of this Agreement will be adjusted in accordance with Section 4.04. Nothing contained in this Agreement will require any party to perform any act or function contrary to law. City and Contractor agree to enter into good faith negotiations regarding modifications to this Agreement which may be required in order to implement changes in the interest of the public welfare or due to Change in Law. When such modifications are made to this Agreement, City and Contractor will negotiate in good faith, a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of Contractor due to any Change in Law or modification in the Agreement under this Article. City and Contractor will not unreasonably withhold agreement to such compensation adjustment. Should agreement between City and Contractor on compensation adjustment not be reached within six months of the change

request, or other period as agreed upon by both parties, City and Contractor agree to submit the compensation adjustment to binding arbitration as described in Section 19.03.

19.03 Arbitration. Arbitration shall be conducted by a single arbitrator. If, within twenty (20) days from the receipt of a request to arbitrate (or such longer period mutually agreed to by the parties), the parties are unable to agree on an arbitrator, then a single arbitrator shall be appointed pursuant to the Commercial Arbitration Rules of the American Arbitration Association, which shall govern any arbitration requested under this provision. Each party shall bear its own costs and expenses of any arbitration. Each party shall pay one-half of the costs of the arbitrator.

Article 20. Legal Representation

Acknowledgement. It is acknowledged that each party was, or had the opportunity to be, represented by counsel in the preparation of and contributed equally to the terms and conditions of this Agreement and, accordingly, the rule that a contract will be interpreted strictly against the party preparing the same will not apply due to the joint contributions of both parties.

Article 21. Conflict of Interest

Financial Interest. Contractor is unaware of any City employee or official that has a financial interest in Contractor's business. During the term of this Agreement and/or as a result of being awarded this Agreement, Contractor shall not offer, encourage or accept any financial interest in Contractor's business by any City employee or official.

Article 22. Contractor's Personnel

22.01 Personnel Requirements. Contractor must employ and assign qualified personnel to perform all services required under this Agreement. Contractor is responsible for ensuring that its employees comply with all Applicable Laws related to their employment and position.

22.01.1 City may request the transfer of any employee of Contractor who materially violates any provision of this Agreement, or who is wanton, negligent, or discourteous in the performance of his or her duties under this Agreement.

22.01.2 Contractor's field operations personnel are required to wear a clean uniform shirt bearing Contractor's name. Contractor's employees, who normally come into direct contact with the public, including drivers, must bear some means of individual photographic identification such as a name tag or identification card.

22.01.3 Each driver of a Collection Vehicle must at all times carry a valid California driver's license and all other required licenses for the type of vehicle that is being operated.

22.01.4 Each driver of a Collection Vehicle must at all times comply with all applicable State and Federal laws, regulations and requirements.

22.01.5 Contractor's employees, officers, and agents may not identify themselves or in any way represent themselves as being employees or officials of City.

Article 23. Exempt Waste

Contractor is not required to Collect or dispose of Exempt Waste but may offer such services. Collection and disposal of Exempt Waste are not regulated under this Agreement, but if provided by Contractor must be in strict compliance with all Applicable Laws.

Article 24. Independent Contractor

In the performance of services pursuant to this Agreement, Contractor is an independent contractor and not an officer, agent, servant or employee of City. Contractor will have exclusive control of the details of the services and work performed and over all persons performing such services and work. Contractor is solely responsible for the acts and omissions of its officers, agents, and employees. Neither Contractor nor its officers, employees, or agents will obtain any right to retirement benefits, Workers Compensation benefits, or any other benefits which accrued to City employees and Contractor expressly waives any claim to such benefits.

Article 25. Laws to Govern

The law of the State of California governs the rights, obligations, duties and liabilities of City and Contractor under this Agreement and govern the interpretation of this Agreement.

Article 26. Consent to Jurisdiction

The parties agree that any litigation between City and Contractor concerning or arising out of this Contract must be filed and maintained exclusively in the Superior Courts of Ventura County, State of California, or in the United States District Court for the Central District of California to the fullest extent permissible by law. Each party consents to service of process in any manner authorized by California law.

Article 27. Assignment

27.01 No assignment of this Agreement or any right occurring under this Agreement may be made in whole or in part by Contractor without the express prior written consent of the City. City will have full discretion to approve or deny, with or without cause, any proposed or actual assignment by the Contractor. Any assignment of this Agreement made by Contractor without the express written consent of the City will be null and void and will be grounds for City to declare a default of this Agreement and immediately terminate this Agreement by giving written notice to Contractor.

27.02 The use of a subcontractor is prohibited under the terms of this Agreement.

Article 28. Compliance with Laws

28.01 In the performance of this Contractor, Contractor must comply with all Applicable Laws, including, without limitation, the Thousand Oaks Municipal Code.

28.02 City shall provide written notice to Contractor of any planned amendment of the Thousand Oaks Municipal Code that would substantially affect the performance of Contractor's services pursuant to this Agreement. Such notice must be provided at least thirty (30) calendar days prior to the City Council's approval of such an amendment.

Article 29. Permits and Licenses

Contractor shall obtain, at its own expense, all permits, certificates, and licenses required by law or ordinance and maintain same in full force and effect throughout the term of this Agreement. This includes, but is not limited to, City of Thousand Oaks Business Tax Certificate and annual City Blanket Encroachment Permit. Contractor must provide proof of such permits, licenses or approvals and must demonstrate compliance with the terms and conditions of such permits, licenses and approvals upon the request of the Agreement Administrator.

Article 30. Ownership of Written Materials

Contractor hereby grants City a non-exclusive license as to all reports, documents, brochures, public education materials, and other similar written, printed, electronic or photographic materials developed by Contractor at the request of City or as required under this Agreement, and intended for public use, without limitation or restrictions on the use of such materials by City. Contractor may not use such materials that specifically reference City for other purposes without the prior written consent of the Agreement Administrator. This Article 30 does not apply to ideas or concepts described in such materials and does not apply to the format of such materials.

Article 31. Waiver

Waiver by City or Contractor of any breach for violation of any term covenant or condition of this Agreement will not be deemed to be a waiver of any other term, covenant or condition or any subsequent breach or violation of the same or of any other term, covenant or condition. The subsequent acceptance by City of any fee, tax, or any other monies which may become due from Contractor to City will not be deemed to be a waiver by City of any breach for violation of any term, covenant or condition of this Agreement.

Article 32. Prohibition Against Gifts

Contractor represents that Contractor is familiar with City's prohibition against the acceptance of any gift by a City officer or designated employee. Contractor may not offer any City officer or designated employee any gifts prohibited by the City.

Article 33. Point of Contact

The day-to-day dealings between Contractor and City will be between Contractor and the Agreement Administrator.

Article 34. Notices

34.01 Except as provided in this Agreement, whenever either party desires to give notice to the other, it must be given by written notice addressed to the party for whom it is intended, and sent to the physical and email address last specified and to the place for giving of notice in compliance with the provisions of this Section. For the present, the parties designate the following as the respective persons and places for giving of notice:

As to the City:

Public Works Director
City of Thousand Oaks Public Works Dept.
2100 Thousand Oaks Blvd.
Thousand Oaks, CA 91362
Telephone: (805) 449-2399
email: cfinley@toaks.org

As to the Contractor:

E.J. Harrison and Sons, Inc.
5275 Colt Street
Ventura, CA 93003
Attn: Ralph E. Harrison
Telephone: (805) 647-1414
Email: ralphh@ejharrison.com

34.02 Notices will be effective when received at the physical address and email address as specified above. Changes in the respective address to which such notice is to be directed may be made by written notice.

34.03 Notice by City to Contractor of a Collection or other Service Recipient problem or complaint may be given to Contractor orally by telephone at Contractor's local office with confirmation sent to Contractor through the Customer Service System by the end of the Work Day.

Article 35. Contractor's Records

35.01 Contractor shall keep and preserve, during the Term of this Agreement, full, complete, and accurate financial and accounting records, pertaining to cash, billing and disposal transactions for the franchise area, prepared on an accrual basis in accordance with generally accepted accounting principles. These records and reports are necessary for the City to properly administer and monitor the Agreement and to assist the City in meeting the requirements of the Act. The Contractor shall keep and preserve, during the Term of this Agreement, and for a period of not less than four (4) years following expiration or other termination hereof or for any longer period required by law, full, complete and accurate records as indicated in the Agreement.

35.02 Any records or documents required to be maintained pursuant to this Agreement must be made available for inspection or audit for the purposes set forth in Section 7.01.2, at any time during regular business hours, upon written request by the Agreement Administrator, the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such documents will be provided to City electronically, available to City for inspection at the local Contractor office, or an alternate site if mutually agreed upon.

35.02.1 Contractor acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"). City acknowledges that Contractor may consider certain records, reports, or information contained therein, ("Records") which Contractor is required to provide to City under this

Agreement, to be of a proprietary or confidential nature. In such instances, Contractor will inform City in writing of which records are considered propriety or confidential and shall identify the statutory exceptions to disclosure provided under the CPRA that legally permit non-disclosure of the Records. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act ("FOIA") or a subpoena or other court order requesting disclosure of the Records, City will notify Contractor of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) calendar days. Contractor shall within five (5) calendar days either: (i) consent in writing to the disclosure of the Records; or (ii) seek and obtain, at Contractor's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the Records. If Contractor fails to timely respond, then City may proceed to disclosure the Records in which event Contractor agrees waives and releases City of any liability for the disclosure of the Records

35.03 Where City has reason to believe that such records or documents may be lost or discarded in the event of the dissolution, disbandment or termination of Contractor's business, City may, by written request or demand of any of the above named officers, require that custody of the records be given to City and that the records and documents be maintained in City Hall. Access to such records and documents will be granted to any party authorized by Contractor, Contractor's representatives, or Contractor's successor-in-interest.

Article 36. Entire Agreement

This Agreement and the attached Exhibits constitute the entire Agreement and understanding between the parties, and the Agreement will not be considered modified, altered, changed or amended in any respect unless in writing and signed by the parties.

Article 37. Severability

If any provision of this Agreement or the application of it to any person or situation is to any extent held invalid or unenforceable, the remainder of this Agreement and the application of such provisions to persons or situations other than those as to which it is held invalid or unenforceable, will not be affected, will continue in full force and effect, and will be enforced to the fullest extent permitted by law.

Article 38. Right to Require Performance

The failure of City at any time to require performance by Contractor of any provision of this Agreement will in no way affect the right of City thereafter to enforce same. Nor will waiver by City of any breach of any provision of this Agreement be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

Article 39. All Prior Agreements Superseded

This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained in this Agreement and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms of this Agreement will be predicated upon any prior representations or agreements, whether oral or written.

Article 40. Headings

Headings in this document are for convenience of reference only and are not to be considered in any interpretation of this Agreement.

Article 41. Exhibits

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

Article 42. Attorney's Fees

In the event that litigation is brought by a party in connection with this Agreement, the prevailing party will be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies under this Agreement or the enforcement of any of the terms, conditions, or provisions of this Agreement.

Article 43. Effective Date

This Agreement will become effective when it is properly executed by City and Contractor and Contractor will begin Services under this Agreement as of January 1, 2022.

Article 44. Signatures

(a) **Counterparts.** This Agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument.

(b) **Scanned Signatures.** In the event that any signature is delivered by facsimile transmission or submitted electronically as a scanned image (i.e. files with .pdf, .tiff or .jpeg extensions), such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or scanned signature page were an original thereof.

(c) **Digital/Electronic Signatures.** This Agreement may be executed through the use of digital or electronic signatures provided they meet the requirements of the Electronic Signatures in Global and National Commerce (ESIGN) Act and the California Uniform Electronic Transactions Act (UETA) and are produced using a City-approved method. The presence of an electronic signature on this document shall be construed as the parties' consent to do business electronically.

IN CONCURRENCE AND WITNESS WHEREOF, City and Contractor have executed this Agreement on November 9, 2021.

EJ Harrison and Sons, Inc.

Ralph E. Harrison, President

Myron G. Harrison, Vice President

CITY OF THOUSAND OAKS

Claudia Bill-de la Peña, Mayor

ATTEST:

Cynthia M. Rodriguez, City Clerk

APPROVED AS TO ADMINISTRATION:

Andrew P. Powers, City Manager

APPROVED BY DEPARTMENT HEAD:

Clifford G. Finley, Public Works Director

APPROVED AS TO FORM:

Office of the City Attorney

Tracy Friedl, Assistant City Attorney

EXHIBIT 1

Limited Franchise Scope of Services Summary

E1.0 Limited Franchise Collection Service

Limited Franchise Contractor is authorized to place Bins and/or Roll-off containers to collect Solid Waste on a Temporary Basis, where such Solid Waste originates from premises within City. Examples of such service include residential, commercial/industrial construction and demolition projects with or without a current City issued building and/or grading permit, cleanup and land clearing projects, and temporary green waste service for landscaping and tree removal projects.

E1.01 Time Limits of Service

Temporary Collection service for residential and/or commercial/industrial cleanup projects shall be provided on a Temporary Basis, i.e. no more than thirty (30) consecutive days per calendar year at a single location unless a time extension is granted by Agreement Administrator, or unless the Bin/Roll-off container is for the purpose of a Construction and Demolition project with an active City building and/or grading permit in which case Bin/Roll-off container may be left until construction activities have been completed and/or a certificate of occupancy has been issued by the City.

E1.02 Bin/Roll-off Container Placement

Per TOMC Sec. 6-2.602(c), Bin/Roll-off containers placed in the public right-of-way shall be restricted to the following:

- (i) Bin/Roll-off Container may only be placed where vehicles can legally park.
- (ii) Placement is restricted to any location on the street right-of-way which has a slope less than seven (7%) percent.
- (iii) Bin/Roll-off Container shall be identified by contractor's name and phone number on at least two (2) sides. Identification shall be visible from the street in letters a minimum of two (2") inches in height.
- (iv) Bin/Roll-off Container shall be adequately reflectorized with a minimum of ten (10) square inches of plastic or reflective sheeting on each corner at a height between fifteen (15") and sixty (60") inches from the ground.
- (v) Bin/Roll-off Container shall only be placed at locations permissible by the TOMC and with approval of the customer requesting said service.

E1.03 Bin/Roll-off Container Requirements

Bin and Roll-off Containers shall meet specifications and requirements defined in Article 8.01.8 and Exhibit 4 of this Agreement. Bins/Roll-off Containers must be freshly painted at the start of this Agreement and maintained in good repair and condition throughout the term of this Agreement. Contractor shall provide Bins having an approximate volume of 1, 2, 3, 4 and 6-cubic yards, and Roll-off containers shall be provided in sizes 10, 20, 30, and 40 cubic yards.

E1.04 Weighing

Contractor shall weigh all Bin/Roll-off containers used for collection of Solid Waste, regardless of capacity, and provide verifiable documentation of material tonnage to customers, per Article 10.3 of this Agreement. Contractor shall report tonnage to City on a quarterly basis using reporting methods defined in Article 12 of this Agreement.

E1.05 Collection Vehicle Requirements

Per Article 8 of this Agreement, Limited Franchise Contractor may not use any Collection Vehicle that is more than fifteen (15) years old during the term of the Agreement. Collection Vehicles must utilize low carbon ("alternative") fuel, which must be compressed natural gas (CNG or RNG), renewable diesel or electric unless otherwise authorized by the City. Collection Vehicles must have Contractor's name and customer service telephone number identified on each side of each vehicle. All Contractor Collection vehicles must be maintained in a clean and sanitary condition and appearance and in good repair at all times.

E1.06 Use of Certified C&D Facilities

Limited Franchise Contractor shall only transport and deposit Construction and Demolition materials at facilities certified by the City of Los Angeles and/or facilities that can verify diversion of no less than 65% and are approved by the City.

E1.07 Recyclable Materials Collection

Limited Franchise Contractor shall advise all Customers about source-separation/recyclable materials opportunities including, but not limited to, asphalt concrete, wood waste and other construction and demolition materials, green and organic waste, and mixed Recyclable Materials. Limited Franchise Contractor shall divert these materials from landfill disposal to the maximum extent possible..

E1.08 Organic Material Collection

Limited Franchise Contractor must deliver all Collected Organic Waste to a fully permitted Organic Waste Processing Facility or a fully permitted Organic Waste transfer station, that has been approved by the City. Failure to comply with this provision will result in the levy of a penalty charge as specified in Exhibit 3 and may result in Contractor being in default under this Agreement.

E1.09 Diversion Requirements

Limited Franchise Contractor shall achieve a minimum quarterly diversion rate as described in Article 5.02 of this Agreement. Contractor must provide diversion documentation to City in its quarterly reporting as described in Article 12 of this Agreement.

E1.10 Customer Quotes and Billing

Contractor shall clearly itemize and identify the following items in all service quotes and billing to customers for the provision of services under this Agreement.

- Bin/Roll-off Container service rate (not to exceed approved Maximum Service Rate as identified in Exhibit 2)
- Tipping or Processing Fees
- Any applicable Special Fees (allowable Special Fees identified in Exhibit 2)

Contractor shall cooperate with Agreement Administrator regarding the provision of records to the City upon request including copies of individual customer billing receipts and associated disposal receipts on request.

E1.11 Illicit Discharge and Stormwater Accumulation

Contractor shall apply industry-wide Best Management Practices to prevent both the accumulation of stormwater and non-stormwater in Bins and Roll-off containers and subsequent Illicit Discharge. Such measures are subject to review and approval of City Manager and may include lids and/or hard-top covers to prevent water intrusion. Contaminated accumulated water shall be disposed of in accordance with Applicable Law and shall not be discharged directly to the storm drain or sanitary sewer system.

E1.12 Container Content Information

For all Containers provided to the Customer by the Contractor, Contractor shall provide and affix to such Containers a list of acceptable materials with text approved by the Agreement Administrator, per Exhibit 4 and 5 of this Agreement.

EXHIBIT 2
Limited Franchise Solid Waste Collection Maximum Rates

Table 1: Temporary Roll-Off Rates (Solid Waste, Recycle, C&D, Green Waste, Food Waste)		
Roll-Off Containers billed per haul plus disposal fee*		
10 Cubic Yard Container per pull	per haul	\$210.00
20 Cubic Yard Container per pull	per haul	\$210.00
30 Cubic Yard Container per pull	per haul	\$210.00
40 Cubic Yard Container per pull	per haul	\$210.00

Table 2: Temporary Bin Rates (Solid Waste, Recycle, C&D, Green Waste, Food Waste)		
Includes seven day bin rental plus one dump (at the time of removal)		
Temporary Bin	per occurrence	\$180.00
Temporary Bin: Dead Run	per occurrence	\$50.00
Temporary Bin: Demurrage (in excess of 7 day rental)	per day	\$7.50
Temporary Bin: Extra Dump	per lift	\$50.00

Table 3: Other Services and charges		
Delinquency Charge for Non-Payment of Account	% of service charge	5.00%
Returned Check Fee	per occurrence	\$30.00
Damaged Bin (Caused by Service Recipient)	per occurrence	\$195.00
Damaged Roll-Off (Caused by Service Recipient)	per occurrence	\$495.00
Overage Fee	per occurrence	\$50.00
Excess of Posted Weight	per ton	\$75.00
Recyclable Materials Contamination Fee (Bins), 3+ occurrence/year	per occurrence	\$100.00
Organic Waste Contamination Fee (Bins), 3+ occurrence/year	per occurrence	\$175.00
Return Fee for Blocked Roll-Off	per run	\$75.00
Trip Charge/Dry Run	per occurrence	\$150.00
Roll-Off "Rocket Launcher" Service (one hour minimum)	per hour	\$165.00
Roll-Off Dead-Run, Go-Back, or Box Relocation	per occurrence	\$180.00
Roll-Off Same-Day Priority Service	per occurrence	\$75.00
Roll-Off Overweight Penalty (in addition to disposal charges)	per occurrence	\$250.00

* Disposal/recycling processing fees (gate fees) are charged per ton and vary depending on the type of material and the facility where the material is taken.

EXHIBIT 3

Administrative Penalties

Item		Penalty Amount
a.	Failure to respond to each complaint within three (3) Work Days of receipt of complaint.	\$100 per incident
b.	Failure to maintain call center hours as required by this Agreement.	\$100 per day.
c.	Failure to submit to City all reports by the deadlines required under the provisions of this Agreement.	\$100 per day.
d.	Failure to include all parts of quarterly reports specified in Article 12 of this Agreement.	\$100 per day.
e.	Failure to submit to City all payments by the deadlines required under the provisions of this Agreement.	1% of the total amount due if fees are 1 – 10 days late; and 10% of the total amount due if fees are more than 10 days late.
f.	Failure to deliver collected C&D materials to a City of Los Angeles-certified C&D Debris processing facility, or other facility, that can verify 65% diversion or more, as specified in Article 6 of this Agreement.	\$100 per incident.
g.	Failure to deliver collected Recyclable materials to a proper Material Recovery Facility, as specified in Article 6 of this Agreement.	\$100 per incident.
h.	Failure to deliver collected Organic materials to a fully permitted Organics Processing Facility or Organic Waste transfer station, that has been approved by the City, as specified in Article 6 of this Agreement.	\$100 per incident.
i.	Failure to meet diversion requirements for collected materials as specified in Article 5 of this Agreement in any quarter	\$500 per quarter per waste stream.
j.	Failure for Collection Containers to be compliant with specifications of Exhibit 4.	\$50.00/each Collection Container not compliant.
k.	Failure to display Contractor's name and customer service phone number on Collection Vehicles.	\$100 per incident per day.
l.	Failure to maintain collection hours as required by this Agreement.	\$100 per day.

Item		Penalty Amount
m.	Failure to have Contractor personnel in Contractor-provided uniforms.	\$25 per day per employee.
n.	Vehicle mechanic fluid leak (e.g. hydraulic fluid or oil) incidents from Contractor Collection Vehicles in excess of three (3) during a calendar year.	\$1000 per incident in excess of three (3)
o.	Failure of Contractor to provide proof of insurance as required by this Agreement	Agreement Default
p.	Failure to report customer data in quarterly report.	\$500 per occurrence.
q.	Failure to report tonnages, diversion, and revenue in quarterly report.	\$500 per occurrence.
r.	Failure to comply with City Municipal Code requirements.	Agreement Default.
s.	Failure to comply with State of California or Federal regulatory requirements.	Agreement Default.

Exhibit 4
Collection Bin Specifications

E4.01 Bin Specifications.

E4.01.1 Bins must be constructed of heavy metal or heavy plastic and must be watertight, well painted, in good condition and without rust or dents.

E4.01.2 Wheels, forklift slots, and other appurtenances, which are designed for movement, loading, or unloading of the container, must be maintained in good repair.

E4.01.3 Contractor may provide Bins having an approximate volume of 1, 2, 3, 4 and 6-cubic yards.

E4.01.4 Bins must have the name and phone number of Contractor on the exterior so as to be visible when the Bin is placed for use.

E4.01.5 Each Bin must be labeled with a listing of materials that may and may not be placed in a particular Bin type, and each Bin must include a conspicuous warning: "Not to be used for the disposal of hazardous, electronic, or universal waste." Bins must be labelled in English and Spanish.

E4.01.6 Bin lids must be constructed of metal or heavy plastic, so as to minimize the intrusion of rainwater and minimize odors.

E4.01.7 Bins shall be adequately reflectorized with a minimum of ten (10) square inches of plastic or reflective sheeting on each corner at a height between fifteen (15") and sixty (60") inches from the ground.

E4.01.8 Bins must be capable of being lifted into the Collection Vehicle without damage under normal usage.

E4.02 Roll-off Container Specifications.

Roll-off specifications shall be the same as Bin specifications E4.01.1 through E4.01.8, with the exception of E4.01.3 and E4.01.6. Roll-offs may be provided in sizes 10, 20, 30, 40 cubic yards.

E4.03 Containers End of Life

Collection Containers must be recycled at the end of their useful life.

Exhibit 5
Recyclable Materials

This list will be updated annually on or before November 22 each year. Recyclable Materials currently being Collected in Recycling Collection Containers under this Agreement include all plastics #s 1 through 5, and #7, except where specifically excluded in list below:

Material	Type	Recyclable (Diversion)	Non- recyclable¹
Aluminum	Metal	X	
Foil	Metal	X	
Steel	Metal	X	
Tin	Metal	X	
Bimetal	Metal		X
Ferrous Scrap Metal	Metal	X	
Non-Ferrous	Metal	X	
PET	Plastic	X	
HDPE Natural	Plastic	X	
HDPE Color	Plastic	X	
PVC	Plastic	X	
LDPE	Plastic	X	
Polypropylene	Plastic	X	
Polystyrene	Plastic		X
Film Plastics/Plastic Bags	Plastic		X
Expanded Polystyrene (Foam & Rigid)	Plastic		X
Bioplastic	Plastic		X
Glass Flint	Glass	X	
Glass Amber	Glass	X	
Glass Green	Glass	X	
Mixed Glass	Glass	X	
Mixed Paper	Paper	X	
Newspaper	Paper	X	
Corrugated Cardboard	Paper	X	

Tetra Pak, Aseptic Containers	Paper	X	
Clothes	Textiles		X
Nylon/Polyester/Wool/etc.	Carpet		X
Concrete/Rock/Soil/Fines/Dry wall/etc.	Building		X
Wood/Lumber	Building		X
Electronic Waste	E-waste		X

¹Not recycled under this Agreement. May not be placed in Recycling Container.

List of acceptable organic materials:

- Food waste
- Green Waste
- Landscape and pruning waste
- Non-hazardous wood waste
- Food-soiled paper that is mixed in with food waste
- Compostable food containers
- Compostable foodware

List of materials which Contractor should explore means and markets to recycle but which Service Recipient may seek, and pay for, alternative recycling markets. Also included are all materials listed as “Non-recyclable” in table above.

- Plastics #6 and #7
- Plastic bags, wrap and film
- Laboratory ware (plastics, glass etc.)
- Mirrors
- Porcelain and ceramics
- Glass and metal cookware/bakeware
- Hoses, cords, wires
- Paper less than 4 inches in size in any dimension
- Microwaveable trays
- Window or auto glass
- Coated cardboard
- Coat hangers
- White goods (household appliances)
- Needles, syringes, IV bags or other medical supplies
- Textiles, cloth or any fabric
- Propane tanks
- Universal waste (u-waste)
- Electronic waste (e-waste)

LIMITED FRANCHISE AGREEMENT

FOR THE PROVISION OF

LIMITED FRANCHISE SOLID WASTE HAULER

Executed Between the

City of Thousand Oaks and Ware Disposal, Inc.

This 1st day of January 2022

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This Agreement is effective as of January 1, 2022 ("Effective Date"), and is between the City of Thousand Oaks, a general law city of the State of California, referred to as "City" and Ware Disposal, Inc., referred to as "Contractor".

Now, therefore, in consideration of the mutual covenants, agreements and consideration contained in this Agreement, City and Contractor agree as follows:

Article 1. Definitions

For the purpose of this Limited Franchise Agreement, referred to as "Agreement", the definitions contained in this Article apply unless otherwise specifically stated. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Use of the masculine gender includes the feminine gender. The meaning of terms or words not defined in this Article will be as commonly understood in the solid waste collection services industry when the common understanding is uncertain.

1.01 AB 341. "AB 341" means State of California Assembly Bill No. 341 approved October 5, 2011. AB 341 requires businesses, defined to include commercial or public entities that generate more than 4 cubic yards of commercial solid waste per week or multifamily residential dwellings of 5 units or more, to arrange for recycling services and requires jurisdictions to implement a commercial solid waste recycling program.

1.02 AB 939. "AB 939" or "The Act" means "The California Integrated Waste Management Act of 1989" codified in part in Public Resources Code §§ 40000 et seq, as it may be amended and as implemented by the regulations of the California Department of Resources Recycling and Recovery (CalRecycle), or its successor agency.

1.03 AB 1594. "AB 1594" means State of California Assembly Bill No. 1594 approved September 28, 2014. AB 1594 provides that as of January 1, 2020, the use of green material as Alternative Daily Cover does not constitute diversion through recycling and would be considered disposal.

1.04 AB 1826. "AB 1826" means State of California Assembly Bill No. 1826 approved September 28, 2014. AB 1826 requires each jurisdiction, on and after January 1, 2016, to implement an organic waste recycling program to divert from the landfill organic waste from businesses. Each business generating 2 cubic yards or more of solid waste per week, and multi-family complexes of five units or more, is required to arrange for organic waste recycling services.

1.05 Agreement. "Agreement" means the written agreement between the City and the Contractor covering the work to be performed and all contract documents attached to the agreement and made a part thereof.

1.06 Agreement Administrator. The City Manager, or his or her designee, designated to administer and monitor the provisions of the Agreement.

1.07 Agreement Year. Agreement year means each twelve (12) month period from January 1st to December 31st during the term of this Agreement.

1.08 Applicable Law. "Applicable Law" means all laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirement of any federal, state, county, city, and local governmental agency having jurisdiction over the collection and disposition of Solid Waste, including Recyclable Materials, Organic Waste, and Construction and Demolition Waste.

1.09 Best Management Practice. Best Management Practice means the collection of written activities, practices, policies and procedures prepared and proposed by a responsible party, and then approved by the Director, to prevent or reduce, to the maximum extent that is technologically and

economically feasible, the discharge of pollutants to the storm drain system which might be generated from any site in the City.

1.10 Bin. "Bin" means a metal or plastic waste container designed or intended to be mechanically serviced by a commercial front-end loader vehicle. It shall be designed to hold from one (1) to six (6) cubic yards of material with the lid properly closed. The specifications for Contractor-provided Bins are set forth in Exhibit 4.

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

1.12 Brown Goods. Electronic equipment such as stereos, televisions, computers, VCR's and other similar items.

1.13 Business Day. Any Monday through Friday, excluding any holidays.

1.14 Calendar Year. Each twelve (12) month period from January 1 to December 31.

1.15 CERCLA. The Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sections 9601 and following, as may be amended and regulations promulgated thereunder.

1.16 Change in Law. Change in Law means any of the following events or conditions which has a material and adverse effect on the performance by the parties of their respective obligations under this Agreement (except for payment obligations), or providing the Temporary Collection Service or other matters to which Applicable Law applies:

A. the enactment, adoption, promulgation, issuance, modification, or written change of or in Applicable Law, including but not limited to new or increased fees and charges imposed by the State of California or the U.S. Federal government, directly related to the collection, handling, processing, recycling or disposal of Solid Waste, or the enactment, adoption, promulgation, issuance, modification, or written change in administrative or judicial interpretation on or after Effective Date of any Applicable Law;

B. the order or judgment of any Governmental Body, on or after the Effective Date, to the extent such order or judgment is not the result of willful or negligent action, error or omission or lack of reasonable diligence of the City or of the Contractor, whichever is asserting the occurrence of a Change in Law; provided, however, that the contesting in good faith or the failure in good faith to contest any such order or judgment shall not constitute or be construed as such a willful or negligent action, error or omission or lack of reasonable diligence; or

1.17 City. The City of Thousand Oaks, California.

1.18 City Manager. City Manager means the City Manager of the City of Thousand Oaks, or his or her designated representative, or any employee of the City who succeeds to the duties and responsibilities of the City Manager.

1.19 Code. Code means the City of Thousand Oaks Municipal Code.

1.20 Collection. The process whereby Solid Waste and Construction and Demolition Debris are removed and transported to a Disposal Facility, Organic Waste Processing Facility, Construction and Demolition Materials Processing Facility, or Materials Recycling (or Recovery) Facility as appropriate.

1.21 Collection Container. A Bin, or Roll-Off Container that is approved by the Agreement Administrator for use by Service Recipients for Temporary Collection Services under this Agreement.

1.22 Collection Vehicle. A licensed vehicle that is approved by the Agreement Administrator for use by Contractor for the transport, delivery, and collection of Solid Waste Bins and Roll-off Containers.

1.23 Compost. "Compost" means the product resulting from the controlled biological decomposition of Organic Wastes that are source separated from the municipal waste stream, or which are separated at a centralized facility. Compost may also include the product of anaerobic digestion or other conversion technologies.

1.24 Composting. "Composting" means the controlled and monitored process of converting Organic Waste into Compost.

1.25 Construction and Demolition waste. "Construction and Demolition waste" or "C&D" means Solid Waste consisting of building materials, packaging and rubble resulting from construction, remodeling, repair, and demolition operations on pavement, residential, commercial or industrial premises, buildings, and other structures, and land clearing operations.

1.26 Consumer Price Index (CPI). "CPI" means the index published by the United States Bureau of Labor Statistics and used to measure the variation in prices paid by typical consumers for goods and services. The CPI used to calculate the Maximum Service Rates is All Urban Consumers (CPI-U), Los Angeles-Long Beach-Anaheim.

1.27 Contaminant. Any material that is placed in a waste stream intended for recycling, including organics and C&D, that cannot be recycled or reclaimed within the waste stream in which it is placed.

A. A Contaminant of the Recycling stream is any material placed in that waste stream that cannot be recycled or reclaimed after processing.

B. A Contaminant of the C&D stream is any material placed in that waste stream that is not normally produced from construction and demolition activities such as, but not limited to, food waste, liquids, and hazardous waste.

C. A Contaminant of the Green Waste stream is any material not normally produced from gardens or landscapes such as, but not limited to, brick, rocks, gravel, large quantities of dirt, concrete, sod, non-organic wastes, oil and wood or wood products, including but not limited to, stumps, and diseased trees.

D. A Contaminant of the Food Waste stream is any non-Food Waste material placed in that waste stream.

1.28 Contractor. An entity that has obtained from the City this Agreement to provide Temporary Collection Services.

1.29 County. Ventura County, California.

1.30 Director. Director means the Public Works Director of the City or his or her designated representative, or any employee of the City who succeeds to the duties and responsibilities of the Public Works Director.

1.31 Dispose or Disposal. "Disposal" or "Dispose" means the final disposition of Solid Waste at a permitted Landfill or other permitted Solid Waste disposal facility, as defined in California Public Resources Code 40192.

1.32 Disposal Facility. "Disposal Facility" means the facility or such place or places specifically designated by the City for the disposal, or processing as appropriate, of Solid Waste, Construction and Demolition debris, and other materials as appropriate and acceptable.

1.33 Effective Date. "Effective Date of Agreement" means the date designated in the Agreement as the effective date. If no such date is indicated, it shall mean the date on which the Agreement is signed and delivered by the last of the parties to sign and deliver.

1.34 Exempt Waste. Biohazardous or Biomedical Waste, Hazardous Waste, Sludge, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, dead animals, and those wastes under the control of the Nuclear Regulatory Commission.

1.35 Food Waste. "Food Waste" means all putrescible solid, semisolid, and liquid food, such as, fruit, vegetables, cheese, meat, bones, poultry, seafood, bread, rice, pasta, and oils; coffee grounds and filters and tea bags; and any putrescible matter produced from human or animal food production, preparation, and consumption activities.

1.36 Franchise Fee. A fee established by resolution by City Council in consideration of the Limited Franchise.

1.37 Garbage. All putrescible and non-putrescible solid, semi-solid and associated liquid waste, as defined in California Public Resources Code section 40191. Garbage does not include Recyclable Materials, C&D, Organic Waste, Large Items, or Exempt Waste.

1.38 Green Waste. "Green Waste" means Solid Waste consisting of any vegetative waste generated from the maintenance or alteration of residential, commercial, or industrial premises including, but not limited to, grass clippings, leaves, tree trimmings, prunings, brush, weeds, flowers, herbs, and holiday trees

1.39 Gross Revenue. All monetary amounts actually collected or received by Contractor for the provision of Franchise services pursuant to this Agreement. Gross Revenue shall include all receipts from customers including late charges, contamination charges etc., including Solid Waste Management Fees and Franchise Fees. The term Gross Revenues, for purposes of this Agreement, does not include any revenues generated from the sale of Recyclable Material, compost product or energy, grants, cash awards or rebates resulting from the performance of this Agreement.

1.40 Hazardous Waste. "Hazardous Waste" means a waste, or combination of wastes as defined by Code of Federal Regulations, Title 40.

1.41 Large Items. "Large Items" or "Bulky Waste" means Solid Waste consisting of discarded white goods, furniture, tires, carpets, mattresses, and similar large items which do not fit in a regular

Collection Container and require special handling due to their size but can be collected and transported without the assistance of special loading equipment (such as forklifts or cranes) and without violating vehicle load limits. It does not include abandoned automobiles and other vehicles, nor does it include items defined as Exempt Waste.

1.42 Materials Recovery Facility. Materials Recovery Facility (MRF) means a facility to which Solid waste, Organic waste, Recyclable Materials, and Construction and Demolition Waste are brought for separation into marketable Recyclables.

1.43 Materials Recycling Facility. Same as Materials Recovery Facility.

1.44 Maximum Service Rate. The maximum amount that Contractor may charge Service Recipients for Collection Services, as listed in Exhibit 1, and as may be adjusted in accordance with the provisions of this Agreement.

1.45 Non-Collection Notice. A form developed and used by Contractor, as approved by City, to notify Service Recipients of the reason for non-collection of materials set out by the Service Recipient for Collection by Contractor pursuant to this Agreement.

1.46 Non-putrescible Material. "Non-putrescible Material" means Solid Waste consisting of waste which is not organic and not subject to decomposition by microorganisms.

1.47 Organic Waste. "Organic Waste" means Food Waste, Green Waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with Food Waste.

1.48 Organic Waste Processing Facility. "Organic Waste Processing Facility" means a State permitted commercial Solid Waste facility which accepts and processes Organic Materials.

1.49 Overage. Overage means excess Solid Waste, Organic Waste and Recyclable Materials (i) placed inside a Container that prevents the lid on the Container from being completely closed (i.e., lid remains open greater 45-degrees) or excess materials placed on top of or around a Container and (ii) could potentially result in excess materials spilling/dislodging during collection activity by Contractor's vehicles.

1.50 Premises. "Premises" means any land or building in the City where waste is generated or accumulated.

1.51 Putrescible Material. "Putrescible Material" means Solid Waste consisting of waste which is organic and subject to decomposition by microorganisms.

1.52 Quarter. Period of three (3) months with first quarter the months of January through March, second quarter April through June, third quarter July through September, and fourth quarter October through December.

1.53 Recyclable Materials. "Recyclable Materials" means Solid Waste consisting of any material which retains useful properties and can be reclaimed after the production or consumption process.

1.54 Recycling. "Recycling" means the process of collecting, sorting, cleansing, treating and/or marketing Recyclable Materials that would otherwise be disposed of in a landfill. The collection, transportation or disposal of Solid Waste not intended for, or capable of, reuse is not Recycling.

1.55 Residual or Residuals. Residual or Residuals means Solid Waste that is not diverted from landfill disposal after it has been delivered to an Organic Waste Processing Facility or a Recyclables Processing Facility for processing for diversion from landfill disposal. Residual does not include Recyclable Materials or Organic Material that is processed for diversion but has no available markets.

1.56 Roll-Off Container. A metal container with a capacity of ten (10) or more cubic yards that is normally loaded onto a specialized Collection Vehicle and transported to an appropriate facility.

1.57 SB 1383. "SB 1383" means State of California Senate Bill 1383, approved September 19, 2016, which mandates a fifty (50) percent reduction in disposal of Organic Materials from the 2014 levels by 2020 and seventy-five (75) percent reduction by 2025. Further, SB 1383 requires jurisdictions to implement Edible Food Recovery Programs designed to recover edible food that is currently landfilled by twenty (20) percent by 2025.

1.58 Service Area. That area within the city limits of the City of Thousand Oaks.

1.59 Service Recipient. An individual or entity receiving Temporary Collection Service from a Limited Franchise Contractor on a Temporary Basis using Bins or Roll-off Collection Containers.

1.60 Single-family Dwelling or SFD. "Single-family/duplex dwelling" or "SFD" means a single detached dwelling unit, and/or a duplex structure of two (2) single attached dwelling units, each designed for use by one bona fide housekeeping group.

1.61 Solid Waste. "Solid Waste" means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes, as set forth in California Public Resources Code Section 40191(a)(b), as amended from time to time, and includes Brown Goods, Construction and Demolition Debris, Food Waste, Garbage, Green Waste, Large Items, Organic Waste, Recyclable Materials, White Goods.

1.62 Solid Waste Management Fee. Administrative costs of managing the City's solid waste program paid for by Contractor.

1.63 Source separated. "Source separated" means the segregation, by the waste generator, of materials designated for separate collection for some form of materials recovery or special handling.

1.64 SRRE (Source Reduction and Recycling Element). A formal planning document prepared and adopted by a California jurisdiction, and submitted to the California Department of Resources Recycling and Recovery (CalRecycle), that demonstrates how the jurisdiction will comply with the California Integrated Waste Management Acts (AB 939) diversion goals. The jurisdiction's SRRE must include specific components, as defined in Public Resources Code sections 41003 and 41303.

1.65 Temporary Basis. "Temporary Basis" means the collection of solid waste for a temporary project or limited period of time, not a regular weekly collection service. Limited to no more than 30 consecutive days in a calendar year, or as long as an ongoing project has an active building permit.

1.66 Temporary Collection Services. “Temporary Collection Services” means collection of Solid Waste and Construction and Demolition debris using Bins and Roll-off Containers, on a Temporary Basis.

1.67 Term. “Term” means the time period or duration of the Limited Franchise.

1.68 Transfer station. “Transfer station” means those facilities utilized to receive Solid Waste, and temporarily store and transfer such waste directly from smaller to larger vehicles for transport

1.69 Universal Waste or U-Waste. E-Waste, dry-cell batteries, non-empty aerosol cans, fluorescent lamps, and fluorescent bulbs, mercury thermostats, and other mercury containing equipment.

1.70 Waste. “Waste” means the useless, unused, unwanted or discarded material and debris resulting from normal residential and commercial activity or materials which, by their presence, may injuriously affect the health, safety, and comfort of persons or depreciate property values in the vicinity thereof.

1.71 Waste diversion. “Waste diversion” means to divert Solid Waste, in accordance with all applicable Federal, State, and local requirements, from disposal at landfills or transformation facilities through source reduction, composting or recycling.

1.72 Waste generator. “Waste generator” means any person, as defined by the most current version of the Public Resources Code, whose act or process produces solid waste as defined in that same code, or whose act first causes solid waste to become subject to regulation.

1.73 Waste Reporting System (WRS). An online/digital data system designated by the City for recording and documenting receipts, revenue, outreach, customer service, site visits, weights and volumes by waste stream, and field issues for compliance, customer service, and reporting purposes.

1.74 White goods. “White goods” means enamel-coated major appliances, such as washing machines, clothes dryers, hot water heaters, stoves, and refrigerators.

1.75 Work Day. Any day, Monday through Saturday, that is not a holiday.

1.76 Wood waste. “Wood waste” means Solid Waste consisting of stumps, large branches, tree trunks, and wood pieces or particles that are generated from the manufacturing or production of wood products, harvesting, processing or storage of raw wood materials, or construction and demolition activities.

Article 2. Term of Agreement

2.01 Initial Term. The initial term of this Agreement will be for a three (3) year period beginning January 1, 2022 and terminating on December 31, 2024.

2.02 Extension of Term. Subject to the provisions of Section 2.03, at the end of the Initial Term, Contractor may be eligible to receive one, two (2) year term extension to the Initial Term, at the City’s sole discretion. Under no circumstances will City be obligated to extend the term.

2.03 Agreement Extension. In order to receive the Agreement term extension offer set forth in Section 2.02 of this Agreement, Contractor must meet or exceed the quarterly minimum performance and diversion standards set forth in Article 5. If either party elects to forego the Agreement extension, the party

wishing to forego the extension shall provide written notice to the other party prior to the applicable Extension Date. Upon delivery of such notice, this Agreement shall not be extended and shall terminate on the termination date.

Article 3. Conditions Governing Services Provided by Contractor

3.01 Grant of Limited Franchise for Temporary Solid Waste Collection In accordance with Title 6, Chapter 2 of the TOMC, City hereby grants to Contractor a Limited Franchise to provide Temporary Solid Waste Collection within the City, subject to the terms and conditions, and within the scope set forth in Exhibit 1, which provides the right and privilege to collect, remove and dispose of, in a lawful manner, Solid Waste, Recyclable Materials, Construction and Demolition debris, and Organic Materials on a Temporary Basis using Bins and Roll-off Containers.

3.02 Recyclable Materials Organic Waste, and Bulky Waste Discarded by Service Recipients. This Agreement shall not prohibit any person from selling Recyclable Materials or Organic Waste or giving Recyclable Materials or Organic Waste away to persons or entities other than Contractor. However, in either instance: (1) the Recyclable Materials or Organic Waste must be source separated from and not mixed with other Solid Waste; and (2) the seller/donor may not pay the buyer/donee any consideration for collecting, processing or transporting such Recyclable Materials or Organic Waste. A discount or reduction in the price for collection, disposal and/or recycling services for any form of un-segregated or segregated Solid Waste is not a sale or donation of Recyclable Materials or Organic Waste and such Solid Waste does not qualify for this exception. However, once the Recyclable Materials or Organic Waste have been placed in the Collection Container and the Container set out for Collection, the Recyclable Materials or Organic waste become the property of Contractor.

3.03 Responsibility for Service Billing and Collection. Contractor is responsible for the billing and collection of payments for Temporary Collection Services within the Service Area.

3.04 Contractor's Payments to City.

3.04.1 Franchise Fee. In consideration of the Limited Franchise provided for in Section 3.01 of this Agreement, Contractor shall pay the City a Franchise Fee as a percent of the Gross Revenue received by the Contractor from Limited Franchise services provided in the City pursuant to this Agreement. The Franchise Fee shall reflect a reasonable estimate of the value of the franchise and shall be established and adjusted as necessary by City Council by resolution. If adjusted during the term of this Agreement, Contractor shall be entitled to a rate adjustment as a City-directed change negotiated as part of the City's Exclusive Franchise Agreement for Solid Waste Collection Services. Any such adjustment will be reflected in the Maximum Service Rates under this Temporary Collection Services Agreement. The Franchise Fee for the Agreement Year and thereafter shall be nine (9) percent of Gross Revenue.

3.04.2 Solid Waste Management Fee. In consideration of the administrative costs of managing the City's solid waste program, Contractor shall pay City a Solid Waste Management Fee as a percent of the Gross Revenue received by the Contractor from Limited Franchise services provided in the City pursuant to this Agreement. The City Council may adjust the Solid Waste Management Fee by resolution, in which case Contractor shall be entitled to a rate adjustment as a City-directed change negotiated as part of the City's Exclusive Franchise Agreement for Solid Waste Collection Services. Any

such adjustment will be reflected in the Maximum Service Rates under this Temporary Collection Services Agreement. The Solid Waste Management Fee for the Agreement Year and thereafter shall be as follows:

- i. Eight and one-quarter (8.25 percent) percent of the Gross Revenues received during the reporting period, less Tipping or Facility Processing Fees, if the diversion rate for every waste stream during the reporting period meets or exceeds the Contractor's Diversion Requirements specified in Section 5.02;
- ii. Sixteen and one half percent (16.50 percent) of the Gross Revenues received during the reporting period, less Tipping or Facility Processing fees, if the diversion rate for any waste stream during the reporting period does not meet the Contractor's Diversion Requirements specified in Section 5.02.

3.04.3 Limited Franchise Construction and Demolition Tracking Fee. In consideration of the Limited Franchise provided for in this Agreement, and in consideration of annual operation costs of City's electronic construction and demolition waste tracking system, Contractor shall pay to City \$1,500 each year for the duration of this Agreement, and any extension thereof. Fee shall be adjusted based on annual operation costs of City's electronic construction and demolition waste tracking system. Payment of the Annual Fee shall be due by February 1st of each year.

3.04.4 Time and Method of Payment; Late Fees. Solid Waste Management Fees and Franchise Fees shall be computed and paid based on Gross Revenue received each calendar month for services rendered. Contractor shall prepare and submit such remittance on a quarterly basis to the Finance Director or designee in a manner specified by the City, and such remittance must be received no later than the last business day of the month following the end of each quarter. For hand-delivered remittance, the Contractor must request and receive a receipt or time stamp with the exact date remittance is received by the City Finance Director or designee.

3.04.5 The remittance will be accompanied by a report, prepared and submitted in an electronic format specified by the City, setting forth the basis, and calculations used for computing the amount due. The figures used shall be taken from the general books of account of the Contractor. All supporting documentation must be retained by the Contractor in accordance with the records retention requirements in Section 12.01.

3.04.6 If the Contractor fees to the City are not paid by the date set by this Agreement, Contractor shall also pay a penalty as specified in Exhibit 3, except to the extent that such lateness is due to extenuating circumstances.

3.04.7 In addition, Contractor shall pay interest on all unpaid fees at the rate of six (6) percent per annum or the prime (lending) rate, whichever is higher, but not to exceed the legal rate, from the date the fees were due and payable to the date actually paid.

3.04.8 If the delay is due to extenuating circumstances, Contractor must request approval in writing from the City Manager or designee at least five (5) business days prior to the date on which fees and reports are due. City shall contact Contractor within three (3) business days of receiving request for submission delay as to whether delay shall be permitted.

3.04.9 Taxes and Utility Charges. Contractor shall pay all Taxes lawfully levied or assessed upon or in respect of the Operating Assets or the Limited Franchise Services, or upon any part thereof or upon any revenues necessary for the operation of the Operating Assets and the provision of the Limited Franchise Services, when the same shall become due.

3.04.10 Disputes. In the event of any disputes between Contractor and City with respect to the fees described in Section 3, City shall provide Contractor with written objection within 180 days of the receipt of the report described in Section 3.04.5, indicating what is disputed and providing all reason then known to the City for its objection to or disagreement with such amount. If any such amount is adjusted in the City's favor pursuant to agreement, mediation, legal proceeding, or otherwise, Contractor shall pay the amount of such adjustment to City, with interest thereof at the Overdue Rate from the date such disputed amount was due City to date of payment in full of such amount. Nothing contained in this subsection shall limit the authority of any authorized office of the City or any other governmental agency to raise a further objection to any amount billed by Contractor pursuant to an audit conducted pursuant to Applicable Law. If Contractor prevails in the dispute, the Contractor shall have the right to recover from City its reasonable costs incurred in connection with the dispute resolution procedure.

3.05 Service Standards. Contractor must perform all Temporary Collection Services under this Agreement in a thorough and professional manner as described in Exhibit 1, while meeting the minimum performance and diversion standards listed in Article 5.

3.06 Labor and Equipment. Contractor must provide and maintain all labor, equipment, tools, facilities, and personnel supervision required for the performance of this Agreement.

3.07 Inspections. The City has the right to inspect Contractor's facilities or Collection Vehicles and their contents used to provide services pursuant to this Agreement at any reasonable time while operating inside or outside the City.

3.08 Commingling of Materials.

3.08.1 Solid Waste Materials Collected in Thousand Oaks. Contractor may commingle materials collected pursuant to this Agreement with other materials collected outside the City of Thousand Oaks, provided that Contractor tracks the tonnage of material collected inside the City of Thousand Oaks separately using a City-approved allocation methodology, and provided that Contractor transports the commingled materials to an appropriate processing facility for proper sorting and recycling. Changes to the allocation methodology may only be made with the express prior written authorization of the Agreement Administrator.

3.08.2 Spillage and Litter. Contractor may not litter premises in the process of providing Temporary Collection Services or while its vehicles are on the road. Contractor must transport all materials Collected under the terms of this Agreement in such a manner as to prevent the spilling or blowing of such materials from Contractor's vehicles. Contractor must exercise all reasonable care and diligence in providing Temporary Collection Services so as to prevent spilling or dropping of debris and must immediately, at the time of occurrence, clean up such spilled or dropped debris.

3.08.3 Except as provided in Article 3.08.2, Contractor is not responsible for cleaning up sanitary conditions caused by the carelessness of the Service Recipient; however, Contractor must clean up any material or residue that is spilled or scattered by Contractor or its employees.

3.08.4 Equipment oil, hydraulic fluids, spilled paint, or any other liquid or debris resulting from Contractor's operations or equipment must be covered immediately with an absorptive material and removed from the street surface. Contractor must document spillage in the Waste Reporting System and notify City's stormwater compliance coordinator within two (2) hours of any spills resulting from Contractor's operations or equipment. When necessary, Contractor must apply a suitable cleaning agent and cleaning technique to the street surface to provide adequate cleaning as approved by the City's stormwater compliance coordinator to be compliant with the City's stormwater permit.

3.08.5 The above paragraphs notwithstanding, Contractor must clean up any spillage or litter caused by Contractor within two (2) hours upon notice from the City. If City deems necessary, Contractor must engage third-party environmental clean-up specialist to remove any equipment oil, hydraulic fluids, or any other liquid or debris that remains on street after Contractor's own clean-up efforts. If clean-up is not conducted to satisfaction of City, City has right to engage environmental clean-up specialist to perform additional clean-up work at the expense of Contractor.

3.08.6 In the event where damage to City streets is caused by a hydraulic fluid spill (i.e., any physical damage in excess of a simple cosmetic stain caused by the spill), Contractor shall be responsible for all repairs to return the street to the same condition as that prior to the spill. Contractor shall be responsible for all clean-up activities related to the spill. Repairs and clean-up shall be performed in a manner satisfactory to the City and at no cost to the City.

3.08.7 To facilitate immediate cleanup, Contractor's vehicles must always carry sufficient quantities of petroleum absorbent materials along with a broom and shovel.

3.09 Regulations and Record Keeping. Contractor must comply with emergency notification procedures required by applicable laws and regulatory requirements. All records required by regulations must be maintained at Contractor's facility. These records must include waste manifests, waste inventories, waste characterization records, inspection records, incident reports, and training records.

Article 4. Billing, Charges and Rates

4.01 Temporary Collection Services. Contractor is responsible for the billing and collection of payments for all Temporary Collection Services. Contractor shall charge Service Recipients no more than the Maximum Service Rates established in Exhibit 2 and as such rates may be adjusted under this Agreement.

4.02 Production of Invoices. At the City's direction, Contractor shall prepare, mail or electronically transmit, and collect bills (or shall issue written receipts for cash payments) for Temporary Collection Services provided by Contractor under this Agreement. If made by mail, Billings shall be placed in an envelope at least 22 square inches in size and shall include a return envelope for each billing period. Contractor shall include an e-mail address on all billing notices and shall accept payment by check, credit card or ACH debit. Billings shall include sufficient space on the statement to accommodate up to 20 typed characters as specified by City. City shall have the right to revise the billing format, provided that reasonable notice is given. Where it has been determined that a Service Recipient has overpaid for service for any reason, Contractor must refund the Service Recipient the credit due within thirty (30) days of such determination.

4.03 Service Recipients and Payments. Through the Waste Reporting System, Contractor must report to the Agreement Administrator quarterly, the names, addresses, services rendered, and billing amounts of all Service Recipients who have received Collection Service. The provisions of Code Section 6-2.401(C) and Exhibit 2 shall apply to billing generally, including penalties for late payments and collection of delinquent accounts. For this purpose, delivery of the billing shall include the date such billing is deposited by Contractor into the U.S. Mail or delivered electronically.

4.04 Adjustments to Maximum Service Rates using Consumer Price Index (CPI). Beginning on January 1, 2023, and annually thereafter, Contractor shall, subject to compliance with all provisions of this Section, receive an annual adjustment to the Maximum Service Rates as set forth below.

4.04.1 Annual CPI Calculation. The Maximum Service Rate adjustment shall be calculated using the percentage change in the CPI between the base year, which shall be the prior preceding 12-month period ending July 31, and the preceding 12-month period ending July 31. Therefore, the first annual CPI adjustment (effective January 1, 2023) will be based on the percentage change between the CPI for the base year, August 1, 2020 through July 31, 2021 (the prior preceding 12-month period), and the CPI for the period of August 1, 2021 through July 31, 2022 (the preceding 12-month period).

4.04.2 Rounding. Adjustments to the overall Maximum Service Rates shall be made only in units of one cent (\$0.01). Fractions of less than one cent (\$0.01) shall not be considered in making adjustments. All CPI indices shall be rounded at two (2) decimal places for the adjustment calculations.

4.05 City Approval of Maximum Service Rates. On or before November 1, 2022, and annually thereafter during the term of this Agreement, City shall notify Contractor of the CPI adjustments to the affected Maximum Service rates to take place on the subsequent January 1st. City shall take action on any changes in the Maximum Service Rates in accordance with the City's Municipal Code.

4.06 Annual Rate Cap on Maximum Service Rates. In any Calendar year that the calculation of the CPI exceeds four percent (4.00%) or is between zero and one percent (1.00%), the total adjustment for that year will equal four percent (4.0%) or one percent (1.0%), respectively, and no rollover amount will be added to or subtracted from the rate adjustment percentage in the following year, or any subsequent year. If the CPI is negative there will be no CPI adjustment for that year.

4.07 Extraordinary Adjustment to Maximum Service Rates. If a material Change in Law occurs after the date hereof, an appropriate adjustment to Maximum Service Rates sufficient to offset the additional cost of solid waste service may be negotiated as part of the City's Exclusive Franchise Agreement for Solid Waste Collection Services. Any such adjustment will be reflected in the Maximum Service Rates under this Temporary Collection Services Agreement.

4.08 Performance Standards for Adjustments to Rates. To be eligible for a CPI adjustment under Article 4.04 or an extraordinary adjustment under Article 4.07, Contractor must cure any material default under Article 18 of this Agreement for which City has provided notice to Contractor.

Article 5. Diversion Requirements

5.01 Minimum Requirements. City requires Contractor to achieve a minimum quarterly diversion rate as described in Article 5.02 below. Contractor must provide diversion documentation to City in its quarterly reporting.

5.01.1 If Contractor fails to achieve a minimum Diversion Rate as described in Section 5.02, Contractor may be subject to an Administrative Penalty as specified in Exhibit 3. Contractor's failure to meet the minimum Diversion requirements for more than three quarters during the term of this Agreement shall constitute an event of default under this Agreement, and, at the sole determination of the City this Agreement shall be terminated.

5.01.2 If Contractor fails to meet Diversion requirements, the City may also direct Contractor to modify its disposal practices.

5.02 Contractor's Diversion Requirements. For purposes of Article 5, Contractor's Diversion requirements are:

5.02.1 For Construction and Demolition materials, the minimum Diversion Rate requirement will be sixty-five percent (65%), per California Green Building Code C&D Diversion standards.

5.02.2 For Organic waste, the minimum Diversion Rate requirement will be seventy-five percent (75%), per CalRecycle SB 1383 Diversion standards.

5.02.3 For all other non-organic and/or non-C&D waste materials, the minimum Diversion rate requirement will be fifty percent (50%), per CalRecycle AB 939 Diversion standards.

For purposes of determining whether Contractor has met its Diversion requirements under this Agreement, the Diversion rate will be calculated using the following formula: "the tons of materials Collected by Contractor from Temporary Collection Services in the City that counts as diversion under applicable CalRecycle regulations (in each case, net of all residue from processing and net of materials processed for diversion but landfilled as a result of unavailable markets), divided by the total tons of materials Collected in the City by Contractor."

5.03 Warranties and Representations. Contractor warrants that it has the ability to and will provide sufficient services to ensure it will meet or exceed the diversion requirements as set forth in this Article 5, as well as the diversion requirements of the Applicable Laws (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) (including AB 939, AB 341, AB 1826, AB 1594, SB 1016, and SB 1383, and all amendments and related subsequent legislation), and that it will do so without imposing any costs or fees other than those set forth on Exhibit 2.

5.04 Guarantee. Except for programs currently required by Applicable Law but not set forth in this Agreement, or programs Contractor is expressly instructed by City not to implement, Contractor shall implement the diversion programs set forth in this Agreement such that Contractor and City will at all times be in compliance with the requirements of the Applicable Laws applicable to them including specifically AB 939, AB 341, AB 1826, AB 1594, SB 1016, and SB 1383, and all amendments thereto (subject to Section 28.01.1). In this regard Contractor agrees that it will, in addition to any other Agreement requirement, at its sole cost and expense:

5.04.1 Assist City in responding to inquiries from CalRecycle or any other regulatory agency;

5.04.2 Assist City in any hearing conducted by CalRecycle, or any other regulatory agency, relating to City's compliance with the Applicable Laws including AB 939, AB 341, AB 1826, AB 1594, SB 1016, and SB 1383;

5.04.3 Be responsible for and pay, any fees, penalties or other costs imposed against City by CalRecycle, and indemnify and hold harmless City from and against any fines, penalties, or other liabilities, levied against it for violation of the diversion requirements, set forth in the Applicable Laws, including AB 939, AB 341, AB 1826, AB 1594, SB 1016, and SB 1383, or for violation of any other provision of the Applicable Laws, arising from or in any way related to Contractor's performance under this Agreement.

Article 6. Materials and Facilities

6.01 Construction and Demolition Debris Processing Facility. All C&D Debris collected as a result of performing Temporary Collection Services must be delivered to a C&D Debris Processing Facility certified by the City of Los Angeles and/or facilities that can verify diversion of no less than 65% and are approved by the City. Failure to comply with this provision will result in the levy of a penalty charge as specified in Exhibit 3 and may result in Contractor being in default under this Agreement.

6.02 Materials Recovery Facility. All Recyclable Materials Collected as a result of performing Temporary Collection Services must be delivered to a Materials Recovery Facility. Failure to comply with this provision will result in the levy of a penalty as specified in Exhibit 3 and may result in Contractor being in default under this Agreement.

6.03 Organic Waste Processing Facility. Contractor must deliver all Collected Organic Waste to a fully permitted Organic Waste Processing Facility or a fully permitted Organic Waste transfer station, that has been approved by the City. Failure to comply with this provision will result in the levy of a penalty charge as specified in Exhibit 3 and may result in Contractor being in default under this Agreement.

Article 7. Audits and Performance Reviews

7.01 Billing/Financial Audit and Performance Reviews

7.01.1 Selection and Cost. City may conduct billing audit, financial audit and performance reviews (together, "reviews") of Contractor's performance during the term of this Agreement. The reviews will be performed by the City or a qualified firm under contract to City. City will have the final responsibility for the selection of the firm. City may conduct reviews at any time during the term of the Agreement.

7.01.2 Purpose. The reviews will be designed to verify that customer billing rates have been properly calculated and they correspond to the service received by the customer, verify that Contractor is correctly billing for all services provided, Franchise Fees, Solid Waste Management Fees and other fees required under this Agreement have been properly calculated and paid to City, verify Contractor's compliance with the reporting requirements and performance standards of this Agreement, verify the diversion percentages reported by Contractor, and verify any other provisions of the Agreement.

7.01.3 Contractor's Cooperation. Contractor shall cooperate fully with the review and provide all requested data, including operational data, financial data of the type described in Article 12, and other data reasonably requested by City within fifteen (15) Work Days of the request.

7.01.4 Findings. In the event that the Billing/Financial Audit and Performance Review concludes that Contractor is not in compliance with all terms and conditions of this Agreement and such non-compliance is material, Contractor is subject to administrative fees and penalties as described in Exhibit 3 as well as reimbursement to the City for the full cost of the audit plus any underpayments discovered during the Audit. If findings include default under Agreement, City may, at its sole discretion, terminate Agreement.

Article 8. Collection Equipment

8.01 Equipment Specifications.

8.01.1 General Provisions. All equipment used by Contractor in the performance of services under this Agreement must be of a high quality and meet all Federal, State, and local regulations and air quality standards, including all applicable provisions of Ventura County Air Pollution Control District. Collection vehicles must be designed and operated so as to prevent collected materials from escaping from the vehicles. Hoppers must be closed on top and on all sides with screening material to prevent collected materials from leaking, blowing or falling from the vehicles.

8.01.2 Large Items. Vehicles used for Collection of Large Items may not use compactor mechanisms or mechanical handling equipment that may damage reusable goods or release Freon or other gases from pressurized appliances.

8.01.3 Collection Vehicles. Contractor may not use any Collection Vehicle that is more than fifteen (15) years old during the term of the Agreement. Collection Vehicles must utilize low carbon ("alternative") fuel, which must be compressed natural gas (CNG or RNG), renewable diesel or electric unless otherwise authorized by the City.

8.01.4 Collection Vehicle Size Limitations / Overweigh Vehicle Charge. Contractor may not use any Collection Vehicle in violation of weight limitations in Applicable Law. The Contractor may exceed the Collection Vehicle size limitation for a limited time due to extraordinary circumstances or conditions with the prior written consent of the Agreement Administrator. Contractor must report all instances of overweight vehicles to City monthly as part of its quarterly reports.

8.01.5 Registration; Inspection. All vehicles used by Contractor in providing Temporary Collection Services under this Agreement, except those vehicles used solely on Contractor's premises, are to be registered with the California Department of Motor Vehicles. In addition, each such vehicle must be inspected by the California Highway Patrol in accordance with Applicable Law. Within two (2) Work Days of a request from the Agreement Administrator, Contractor must provide City a copy of its vehicle maintenance log and any safety compliance report, including, but not limited to, any report issued under California Vehicle Code sections 34500 and following, as well as the biennial "BIT" inspections conducted by the California Highway Patrol.

8.01.6 Safety Markings. All Collection equipment used by Contractor must have appropriate safety markings including, but not limited to, highway lighting, flashing and warning lights,

clearance lights, and warning flags. All such safety markings must be in accordance with the requirements of the California Vehicle Code, as may be amended from time to time.

8.01.7 Vehicle Signage and Appearance. Collection Vehicles must have Contractor's name and customer service telephone number identified on each side of each vehicle. No advertising is permitted other than the name of Contractor, its logo and registered service marks. All Contractor Collection vehicles must be maintained in a clean and sanitary condition and appearance during the term of this Agreement on a frequency as necessary to maintain a positive public image as reasonably determined by the Agreement Administrator.

8.01.8 Bin and Roll-off Container Signage, Painting, and Cleaning. All metal Bins and Roll-off Containers of any service type furnished by Contractor must be either painted or galvanized. All metal or plastic Bins and Roll-off Containers must display Contractor's name, Contractor's customer service telephone number, and the number of the Bin or Roll-off on at least two (2) sides. Identification shall be visible from the street in letters a minimum of two (2") inches in height. Bins and Roll-off Containers should be freshly painted at the start of this Agreement, free of dents, and must be kept in a clean and sanitary condition throughout the term of this Agreement, and painted as needed to maintain an orderly appearance throughout the term of the Agreement. Bins and Roll-off Containers shall be adequately reflectorized with a minimum of ten (10) square inches of plastic or reflective sheeting on each corner at a height between fifteen (15") and sixty (60") inches from the ground. Contractor shall affix a list of acceptable materials to Collection Containers with text approved by the City Manager, per Exhibit 4 and Exhibit 5 of this Agreement. Bins and Roll-off Containers may be subject to periodic, unscheduled inspections by City and determination as to sanitary condition will be made by City.

8.02 Vehicle Certification. For each Collection Vehicle used in the performance of services under this Agreement, Contractor must obtain a certificate of compliance (smog check) issued pursuant to Part 5 of Division 26 of the California Health and Safety Code (Section 43000 and following) and regulations promulgated thereunder and/or a safety compliance report issued pursuant to Division 14.8 of the California Vehicle Code (Section 34500 and following) and the regulations promulgated thereunder, as applicable to the vehicle. Contractor must maintain copies of such certificates and reports and must make such certificates and reports available for inspection upon request by the Agreement Administrator.

8.02.1 No later than January 1, 2022, Contractor must submit to the Agreement Administrator verification that each of the Contractor's Collection Vehicles has passed the California Heavy Duty Vehicle Inspection. Thereafter, Contractor must cause each vehicle in Contractor's Collection fleet to be tested annually in the California Heavy Duty Inspection Program and must, upon request, submit written verification to City within ten (10) Work Days of the completion of such test. Contractor may not use any vehicle that does not pass such inspection.

8.03 Equipment Maintenance. Contractor must maintain Collection equipment in a clean condition and in good repair at all times. All parts and systems of the Collection equipment must operate properly and be maintained in a condition satisfactory to City.

8.04 Maintenance Log. Contractor must maintain a maintenance log for all Collection Vehicles. The log must at all times be accessible to City by physical inspection upon request of Agreement Administrator, and must show, at a minimum, each vehicle Contractor assigned identification number, date

purchased or initial lease, dates of performance of routine maintenance, dates of performance of any additional maintenance, and description of additional maintenance performed.

8.05 Equipment Inventory. On or before January 1, 2022 Contractor shall provide to City an inventory of Collection Vehicles and major equipment used by Contractor for Temporary Collection Services under this Agreement. The inventory must indicate each Collection Vehicle by Contractor assigned identification number, DMV license number, the age of the chassis and body, type of fuel used, the type and capacity of each vehicle, the number of vehicles by type, the date of acquisition, the decibel rating and the maintenance and rebuild status. Contractor must submit to the Agreement Administrator by e-mail, an updated inventory annually to the City or more often at the request of the Agreement Administrator. Each inventory must also include the tare weight of each vehicle as determined by weighing at a certified scale used by Contractor. Each vehicle inventory must be accompanied by a certification signed by Contractor that all Collection Vehicles meet the requirements of this Agreement.

8.06 Equipment Failure. In the event that Contractor's collection vehicles are unable to collect and transport Bin/Roll-off Containers due to equipment breakdown, and the Bin/Roll-off placement poses a safety hazard or exceeds the 30-day placement limit, the City may contract with a hauler to have the Bin/Roll-off Container removed and the Contractor shall be responsible for the cost of removal.

Article 9. Contractor's Office

9.01 Contractor's Office. Contractor shall maintain an office or call center within Ventura County or such other location as City approves where calls and complaints can be received. The office must have responsible persons in charge during Collection hours and must be open during normal business hours, 8:00 a.m. to 5:00 p.m. on Monday through Friday. Contractor must provide either local or toll-free service and emergency telephone numbers that connect to the call center, and a telephone answering service or mechanical device to receive Service Recipient inquiries during those times when the office is closed. The service telephone number(s) must be available through an online search and listed on the Contractor's website. Calls received after normal business hours must be addressed the next Work Day morning.

9.01.1 Emergency Contact. Contractor must provide the Agreement Administrator with an emergency phone number where the Contractor can be reached outside required office hours.

9.01.2 Multilingual/TDD Service. Contractor must at all times maintain the capability of responding to telephone calls in English and such other languages as City may direct. Contractor must at all times maintain the capability of responding to telephone calls through Telecommunications Device for the Deaf (TDD) Services.

9.01.3 All incoming calls will be answered at the local office or call center within 5 rings. Any call "on-hold" in excess of 1.5 minutes must have the option to remain "on-hold" or request a "call-back" from a customer service representative. Contractor's customer service representatives must return Service Recipient calls. For all messages left before 3:00 p.m., all "call backs" must be attempted a minimum of one time prior to 5:00 p.m. on the day of the call. For messages left after 3:00 p.m., all "call backs" must be attempted a minimum of one time prior to noon the next Work Day. Contractor must make a minimum of three (3) attempts within one (1) Work Day of the receipt of the call. Contractor must record all calls including any inquiries, service requests, and complaints into a customer service log.

Article 10. Contractor Support Services

10.01 Contractor website. Contractor shall maintain a business website that explains the Contractor's City-specific services and rates. Contractor will ensure that information provided on the website is regularly updated. Temporary Collection Services should be able to be reserved and paid for online using electronic payment through said website.

10.02 Recycling resources. Contractor shall maintain an accurate list of recyclable materials on its website, and promote proper recycling to all Service Recipients.

10.03 Weighing Containers and Tonnage Documentation. Contractor shall weigh all Bin and Roll-off Containers used for material collection, regardless of capacity, and provide verifiable documentation of tonnage to customers upon request for reporting purposes. Contractor shall report tonnage to City on a quarterly basis using reporting methods defined in Article 12.

10.04 Contamination and Overage Reporting. Contractor shall provide documentation of contamination and overage charges when requested by the City.

Article 11. Emergency Service

11.01 Disaster Recovery Support. In the event of a tornado, major storm, earthquake, fire, natural disaster, or other such event, Contractor agrees to provide disaster recovery support to a reasonable degree, upon request by Agreement Administrator. This may include additional hauling of debris, special handling such as burrito wrapping, temporary storage of debris where feasible, additional disposal, use of different transfer and disposal facilities, and documentation of debris type, weight, and diversion. Contractor should follow protocol laid out in the County of Ventura's Disaster Debris Plan (1999) and any subsequent County or City Disaster Debris Plans, as applied to solid waste hauling and handling.

Article 12. Record Keeping and Reporting Requirements

12.01 Record Keeping. Notwithstanding Article 35 herein:

12.01.1 Accounting Records. Contractor must maintain full, complete and separate financial, statistical and accounting records, pertaining to cash, billing, and provisions of all Temporary Collection Services, prepared on an accrual basis in accordance with generally accepted accounting principles. Such records will be subject to audit, copy, and inspection for the purposes set forth in Section 7.01.2. Gross receipts derived from provision of the Temporary Collection Services will be recorded as revenues in the accounts of Contractor. Contractor shall keep and preserve, during the Term of this Agreement, and for a period of not less than four (4) years following expiration or other termination hereof, full, complete and accurate records, including all cash, billing and disposal records, as indicated in the Agreement. City reserves the right to request audited, reviewed, or compiled financial statements prepared by an independent Certified Public Accountant, or as may be provided by Contractor or its parent company. In the event that Contractor does not maintain separate financial or accounting records prepared specifically for services provided under this Agreement, Contractor may use industry standard allocation methods to provide financial information as applicable to the service provided under this Agreement.

12.01.2 Agreement Materials Records. Contractor must maintain records of the quantities of (i) Solid Waste, (ii) C&D Debris, (iii) Recyclable Materials, and (iv) Organic Waste by type, that are collected, purchased, processed, sold, donated or given for no compensation, and residue disposed under the terms of this Agreement

12.01.3 Other Records. Contractor must maintain all other records reasonably related to provision of Temporary Collection Services, whether or not specified in this Agreement.

12.01.4 Report Format. All reports to be submitted electronically in the City's Waste Reporting System or in a format approved by the City.

12.02 Quarterly Reporting.

Quarterly reports must be submitted no later than 5 p.m. PT on the last day of the month following the end of Quarter in which the receipts are collected and must be provided electronically in a form and means as specified by the City. If the last day of the month falls on a day that City is closed or a holiday, then the report will be due on the next business day. Failure to submit complete quarterly reporting by the due date will result in penalties as specified in Exhibit 3.

Quarterly reports to City must include:

1. Franchise Fee and Solid Waste Management Fee Payment Reporting. The payment report must include an accounting of Contractor's Gross Revenues received during the preceding quarter, and the calculated Franchise Fee and Solid Waste Management Fee.
2. Tonnage and Service Data. Contractor must report the number of unique accounts serviced, individual tonnage of Solid Waste, C&D Debris, Recyclable Materials and Organic Waste loads collected and processed for diversion and/or landfill disposal, broken down by Container type.
3. Overweight Vehicle Reporting. The quarterly report must include a summary total of all instances of overweight Collection Vehicles. This summary must include the number of overweight vehicle instances expressed as a percentage of the total number of Collection Vehicle loads transported during the reported quarter.
4. Service Recipient Complaint Log. The quarterly report must include the Service Recipient call log collected from the previous quarter as required in Section 9.01.3 of this Agreement.

12.03 Diversion Rate Calculation and Data. Contractor must provide documentation, in the format specified by City, of the quarterly Diversion Rate, as calculated in accordance with the provisions of Article 5.

12.04 CalRecycle Reports. Contractor will provide reasonable assistance to City in preparing annual reports to CalRecycle (the "Electronic Annual Report" or EAR), including but not limited to supplying required data for preparation of the reports, and completing all required data input in the Waste Reporting System.

12.05 Additional Reporting. Contractor must furnish City with any additional reports as may reasonably be required, such reports to be prepared within a reasonable time following the reporting period.

Article 13. Nondiscrimination

13.01 Nondiscrimination. In the performance of all work and services under this Agreement, Contractor may not discriminate against any person based on such person's race, sex, color, national origin, religion, marital status or sexual orientation. Contractor must comply with all applicable local, State and Federal laws and regulations regarding nondiscrimination, including those prohibiting discrimination in employment.

Article 14. Service Inquiries and Complaints

14.01 Contractor's Customer Service. All service inquiries and complaints will be directed to Contractor. A representative of Contractor must be available to receive the complaints during normal business hours. All service complaints will be handled by Contractor in a prompt and efficient manner. In the case of a dispute between Contractor and a Service Recipient, the matter will be reviewed, and a decision made by the Agreement Administrator.

14.01.1 Contractor will utilize the Customer Service Log to maintain a record of all inquiries and complaints in a manner prescribed by City.

Article 15. Quality of Performance of Contractor

15.01 Intent. Contractor acknowledges and agrees that one of City's primary goals in entering into this Agreement is to ensure that the Temporary Collection Services are of the highest caliber, that customer satisfaction remains at the highest level, that maximum diversion levels are achieved, and that materials Collected are put to the highest and best use to the extent possible.

15.02 Contract Manager. Contractor must designate a Contract Manager and must provide the name of that person in writing to City within thirty (30) days prior to the effective date of this Agreement and annually by January 1st of each subsequent Calendar Year of this Agreement and any other time the person in that position changes. The Contract Manager must be available to the City by phone at all times that Contractor is providing Temporary Collection Services in the Service Area. The Contract Manager must provide City with an emergency phone number where the Contract Manager can be reached outside of normal business hours.

15.03 Administrative Penalties. Quality performance by the Contractor is of primary importance. In respect of this, Contractor agrees to pay City administrative penalties as detailed in Exhibit 3 should Contractor fail to meet its responsibilities under this Agreement. Should Contractor be in breach of the requirements set forth in this Agreement, City may exercise its right to terminate Agreement.

15.04 Procedure for Review of Administrative Charges. The Agreement Administrator may assess administrative penalties as specified in Exhibit 3 pursuant to this Agreement on a quarterly basis.

15.04.1 City's assessment or collection of administrative penalties will not prevent City from exercising any other right or remedy, including the right to terminate this Agreement, for Contractor's failure to perform the work and services in the manner set forth in this Agreement.

15.05 Uncontrollable Circumstances.

15.05.1 If either party is prevented from or delayed in performing its duties under this Agreement by circumstances beyond its control, whether or not foreseeable, including, without limitation, acts of terrorism, landslides, lightning, forest fires, storms, floods, severe weather, freezing, earthquakes, other natural disasters, the threat of such natural disasters, pandemics (or threat of same), quarantines, civil disturbances, acts of the public enemy, wars, blockades, public riots, strikes, lockouts, or other labor disturbances, acts of government or governmental restraint or other causes, whether of the kind enumerated or otherwise, that are not reasonably within the control of the affected party, then the affected party will be excused from performance hereunder during the period of such disability.

15.05.2 The party claiming excuse from performance must promptly notify the other party when it learns of the existence of such cause, including the facts constituting such cause, and when such cause has terminated.

15.05.3 The interruption or discontinuance of services by a party caused by circumstances outside of its control will not constitute a default under this Agreement.

Article 16. Insurance

16.01 Insurance Policies. Contractor must secure and maintain throughout the term of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with Contractor's performance of work or services under this Contract. Contractor's performance of work or services includes performance by Contractor's employees, agents, and representatives.

16.02 Minimum Scope of Insurance. Insurance coverage must be at least this broad:

16.02.1 Insurance Services Office Form No. GL 0002 (Ed. 1/20) covering Comprehensive General Liability and Insurance Services Office Form No. GL 0404 covering Broad Form Comprehensive General Liability; or Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 0001), including X, C, U where applicable.

16.02.2 Insurance Services Office Form No. CA 0001 (Ed. 1/20) covering Automobile Liability, code 1 "any auto", or code 2 "owned autos" and endorsement CA 0025. Coverage must also include code 8, "hired autos" and code 9 "non-owned autos".

16.02.3 Workers' Compensation insurance as required by the California Labor Code and Employers Liability Insurance.

16.02.4 Environmental Pollution Liability Insurance.

16.03 Minimum Limits of Insurance. Contractor must maintain insurance limits no less than:

16.03.1 Comprehensive General Liability: \$2,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability insurance with a general aggregate limit is used, either the general aggregate limit will apply separately to this Agreement or the general aggregate limit must be \$4,000,000.

16.03.2 Automobile Liability: \$3,000,000 combined single limit per accident for bodily injury and property damage.

16.03.3 Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of \$1,000,000 per accident.

16.03.4 Environmental Pollution Liability: \$3,000,000 per occurrence and \$5,000,000 aggregate, with five (5) years tail coverage. Coverage shall include bodily injury or property damage arising out of the actual, alleged, or threatened discharge, dispersal, seepage, migration, release or escape of pollutants resulting from Contractor's operations.

16.03.5 If Contractor maintains higher limits than the minimum shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Service Provider. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

16.04 Deductibles and Self-Insured Retention. Any deductibles or self-insured retention must be declared to City's risk manager. Should City form a reasonable belief that Contractor may be unable to pay any deductibles or self-insured retentions, Contractor must procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by City's risk manager.

16.05 Endorsements. The policies are to contain, or be endorsed to contain, the following provisions:

16.05.1 General Liability, Automobile and Environmental Liability Coverage.

1. City, its officers, employees, agents and contractors are to be covered as additional 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 automobiles owned, leased, hired or borrowed by Contractor. The coverage must contain no special limitations on the scope of protection afforded to City, its officers, employees, agents and contractors.

2. Contractor's insurance coverage must be primary insurance as respects City, its officers, employees, agents and contractors. Any insurance, or self-insurance maintained by City, its officers, employees, agents or contractors will be in excess of Contractor's insurance and will not contribute with it.

3. Any failure to comply with reporting provisions of the policies will not affect coverage provided to City, its officers, employees, agents, or contractors.

4. Coverage must State that Contractor's insurance will apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

16.05.2 All Coverage. Each insurance policy required by this Agreement must be endorsed to State that coverage may not be canceled except after thirty (30) calendar days (ten (10) days in the event of cancellation for non-payment) prior written notice has been given to City. Moreover, Contractor will not order the cancellation of any required insurance policy or change in insurance policy limits without thirty (30) days prior written notice to City by Contractor.

16.06 Acceptability of Insurers. Insurance is to be placed with insurers having an A.M. Best rating of A-/VII or better.

16.07 Verification of Coverage. Contractor must furnish City with certificates of insurance and with original endorsements affecting coverage required by this Agreement. The certificates and endorsement for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Contractor must furnish City with a new certificate of insurance and endorsements on each renewal of coverage or change of insurers.

16.07.1 Proof of insurance must be mailed to the following address or any subsequent address as may be directed by the City:

City of Thousand Oaks Public Works Department

Attn: Sustainability Division Manager

2100 Thousand Oaks Blvd.

Thousand Oaks, CA 91362

16.08 Modification of Insurance Requirements. The insurance requirements provided in this Agreement may be modified or waived by City's risk manager, in writing, upon the request of Contractor if City's risk manager determines such modification or waiver is in the best interest of City considering all relevant factors, including exposure to City.

16.09 Rights of Subrogation. All required insurance policies must preclude any underwriter's rights of recovery or subrogation against City with respect to matters related to Contractor's performance of its obligations under this Agreement, with the express intention of the parties being that the required insurance coverage protects both parties as the primary coverage for any and all losses covered by the above-described insurance. Contractor must ensure that any companies issuing insurance to cover the requirements contained in this Agreement agree that they will have no recourse against City for payment or assessments in any form on any policy of insurance. The clauses 'Other Insurance Provisions' and 'Insured Duties in the Event of an Occurrence, Claim or Suit' as it appears in any policy of insurance in which City is named as an additional insured will not apply to City.

16.10 Failure to maintain insurance. Should Contractor fail to obtain or maintain insurance as required by this Agreement, Contractor shall have 7 days to cure the defect, during which time City shall have the option, but not the obligation to, at Contractor's sole expense: (i) hire replacement waste hauler services to perform Contractor's tasks until insurance coverage is resumed; or (ii) obtain replacement insurance coverage during said cure period. Should Contractor fail to correct this defect, City shall have the option to terminate this Agreement immediately.

Article 17. Hold Harmless and Indemnification

17.01 Hold Harmless for Contractor's Damages. Contractor holds City, its elected officials, officers, agents, employees and volunteers, harmless from all of Contractor's claims, demands, lawsuits, judgments, damages, losses, injuries or liability to Contractor, to Contractor's employees, to Contractor's

contractors, or to the owners of Contractor's firm, which damages, losses, injuries or liability occur during the work or services required under this Agreement, or performance of any activity or work required under this Agreement.

17.02 Defense and Indemnity of Third Party Claims/Liability. Contractor shall indemnify, defend with legal counsel approved by City, and hold harmless City, its officers, officials, employees and volunteers from and against all liability including, but not limited to, loss, damage, expense, cost (including without limitation reasonable legal counsel fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with Contractor's negligence, recklessness or willful misconduct in the performance of work hereunder or its failure to comply with any of its obligations contained in the Agreement, except such loss or damage which is caused by the active negligence or willful misconduct of City. Should conflict of interest principles preclude a single legal counsel from representing both City and Contractor, or should City otherwise find Contractor's legal counsel unacceptable, then Contractor shall reimburse City its costs of defense, including without limitation reasonable legal counsel fees, expert fees and all other costs and fees of litigation. The Contractor shall promptly pay City any final judgment rendered against City (and its officers, officials, employees and volunteers) with respect to claims determined by a trier of fact to have been the result of Contractor's negligent, reckless or wrongful performance. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

17.02.1 Contractor's obligations under this section apply regardless of whether or not such claim, charge, damage, demand, action, proceeding, loss, stop notice, cost, expense, judgment, civil fine or penalty, or liability was caused in part or contributed to by an Indemnitee. However, without affecting the rights of City under any provision of this Agreement, Contractor shall not be required to indemnify and hold harmless City for liability attributable to the active negligence of City, provided such active negligence is determined by agreement between the parties or by findings of a court of competent jurisdiction. In instances where City is shown to have been actively negligent and where City's active negligence accounts for only a percentage of the liability involved, the obligation of the Contractor will be for that entire portion or percentage of liability not attributable to the active negligence of City.

17.03 Nonwaiver. City does not waive, nor shall be deemed to have waived, any indemnity, defense or hold harmless rights under this section because of the acceptance by City, or the deposit with City, of any insurance certificates or policies described in Section 16.

17.04 Diversion Indemnification. Subject to the requirements of Public Resources Code section 40059.1, which will control in the event of any conflict with the provisions of this Section, Contractor agrees to protect and defend City Indemnitees with counsel selected by Contractor and approved by City, to pay all attorneys' fees, and to indemnify and hold City Indemnitees harmless from and against all fines or penalties imposed by the California Integrated Waste Management Board if the diversion goals specified in California Public Resources Code section 41780, as it may be amended, are not met by City with respect to the Materials Collected by Contractor and if the inability to meet such goals is attributable in any way to Contractor's failure to undertake the related activities required by this Agreement. In the event CalRecycle

provides an administrative process to challenge the imposition of a compliance order or a fine or fines, Contractor will be responsible for engaging any consultants or attorneys necessary to represent City in any challenge. Contractor will be responsible for the retention of and payment to any consultants engaged to perform waste generation studies (diversion and disposal). All consultants and attorneys engaged hereunder are subject to the agreement of City and Contractor.

17.05 Hazardous Substances Indemnification. Contractor agrees to indemnify, defend (with counsel reasonably approved by City), protect and hold harmless the City Indemnitees from and against any and all Claims of any kind whatsoever paid, suffered or incurred by or against the City Indemnitees resulting from any repair, cleanup, removal action or response action undertaken pursuant to CERCLA, the Health & Safety Code or other similar Federal, State or local law or regulation, with respect to Solid Waste or Household Hazardous Waste Collected and Disposed of by Contractor. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of CERCLA and Section 25364 of the Health & Safety Code to defend, protect, hold harmless and indemnify the City Indemnitees from all forms of liability under CERCLA, the Health & Safety Code or other similar Federal, State or local law or regulation.

17.06 Consideration. It is specifically understood and agreed that the consideration inuring to Contractor for the execution of this Agreement consists of the promises, payments, covenants, rights and responsibilities contained in this Agreement.

17.07 Obligation. This Agreement obligates Contractor to comply with the foregoing indemnification and release provisions; however, the collateral obligation of providing insurance must also be complied with as set forth in this Agreement.

17.08 Exception. Notwithstanding other provisions of this Agreement, Contractor's obligation to indemnify, hold harmless and defend City, its officers and employees will not extend to any loss, liability, penalty, damage, action or suit arising or resulting solely from acts or omissions constituting active negligence, willful misconduct, breach of this Agreement, or violation of law on the part of City, its officers or employees.

17.09 Damage by Contractor. If Contractor's employees cause any injury, damage or loss to City property, including but not limited to City streets or curbs, excluding normal wear and tear, Contractor must reimburse City for City's cost of repairing or replacing such injury, damage or loss. Such reimbursement is not in derogation of any right of City to be indemnified by Contractor for any such injury, damage or loss. With the prior written approval of City, Contractor may repair the damage at Contractor's sole cost and expense. Any injury, damage or loss to private property caused by the negligent or willful acts or omissions of Contractor to private property must be repaired or replaced by Contractor at Contractor's sole expense. Disputes between Contractor and its Service Recipients or private property owners as to damage to private property are civil matters and complaints of damage will be referred to Contractor as a matter within its sole responsibility and as a matter within the scope of Section 17.01 [Indemnification].

Article 18. Default of Agreement

18.01 Termination. City may cancel this Agreement, except as otherwise provided below in this Section, by giving Contractor thirty (30) calendar days advance written notice, to be served as provided in this Agreement, upon the happening of any one of the following events:

18.01.1 By, or pursuant to, or under the authority of any legislative act, resolution or rule or any order or decree of any court or governmental board, agency or officer having jurisdiction, a receiver, trustee or liquidator takes possession or control of all or substantially all of the property of Contractor, and such possession or control continues in effect for a period of sixty (60) calendar days; or

18.01.2 Contractor has defaulted, by failing or refusing to pay in a timely manner the administrative charges or other monies due City and such default is not cured within thirty (30) calendar days of receipt of written notice by City to do so; or

18.01.3 Contractor has defaulted by allowing any final judgment for the payment of money owed to City to stand against it unsatisfied and such default is not cured within thirty (30) calendar days of receipt of written notice by City to do so; or

18.01.4 Contractor has defaulted, by failing or refusing to perform or observe the terms, conditions or covenants in this Agreement, or any of the rules and regulations promulgated by City pursuant thereto or has wrongfully failed or refused to comply with the instructions of the Agreement Administrator relative thereto and such default is not cured within thirty (30) calendar days of receipt of written notice by City to do so, or if by reason of the nature of such default, the same cannot be remedied within thirty (30) calendar days following receipt by Contractor of written demand from City to do so, Contractor fails to commence the remedy of such default within such thirty (30) calendar days following such written notice or having so commenced fails thereafter to continue with diligence the curing thereof (with Contractor having the burden of proof to demonstrate (a) that the default cannot be cured within thirty (30) calendar days, and (b) that it is proceeding with diligence to cure such default, and such default will be cured within a reasonable period of time).

18.02 Violations. Notwithstanding the foregoing and as supplemental and additional means of termination of this Agreement under this Article, in the event that Contractor's record of performance shows that Contractor has defaulted in the performance of any of the covenants and conditions required herein to be kept and performed by Contractor three (3) or more times in any twenty-four (24) month period, and regardless of whether the Contractor has corrected each individual condition of default, Contractor will be deemed a "habitual violator", will be deemed to have waived the right to any further notice or grace period to correct, and all such defaults will be considered cumulative and collectively will constitute a condition of irredeemable default. City will thereupon issue Contractor a final warning citing the circumstances therefore, and any single default by Contractor of whatever nature, subsequent to the occurrence of the last of such cumulative defaults, will be grounds for immediate termination of the Agreement. In the event of any such subsequent default, City may terminate this Agreement upon giving of written final notice to Contractor, such cancellation to be effective upon the date specified in City's written notice to Contractor, and all contractual fees due hereunder plus any and all charges and interest will be payable to such date, and Contractor will have no further rights hereunder. Immediately upon the specified date in such final notice Contractor must cease any further performance under this Agreement.

18.03 Effective Date. In the event of any the events specified above, and except as otherwise provided in such subsections, termination will be effective upon the date specified in City's written notice to Contractor and upon such date this Agreement will be deemed immediately terminated and upon such termination, except for payment of services rendered up to and including the date of termination, all liability of City under this Agreement to Contractor will cease.

18.04 Early Termination. Notwithstanding the provisions of Section 18.01 above, City may terminate this Agreement immediately upon notice to Contractor if Contractor offers or gives any gift to a City official or employee as prohibited by TOMC Section 1-10.12. For purposes of this section, a gift creating financial conflict shall be anything which would be considered reportable income under FPPC rules.

18.05 Termination Cumulative. City's right to terminate this Agreement is cumulative to any other rights and remedies provided by law or by this Agreement.

Article 19. Modifications to the Agreement

19.01 City-Directed Change. City has the power to make changes in this Agreement to impose new rules and regulations on Contractor under this Agreement relative to the scope and methods of providing Temporary Collection Services as may from time-to-time be necessary and desirable for the public welfare. The capabilities and capacities of Material Recovery Facilities, Disposal Facilities, and Organics Waste Processing facilities may change during the term of this Agreement; as such City reserves the right to redirect materials to alternate facilities in accordance with any such changes. When such modifications are made to this Agreement, City and Contractor will negotiate in good faith, a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of Contractor due to any modification in the Agreement under this Article. City and Contractor will not unreasonably withhold agreement to such compensation adjustment. Should agreement between City and Contractor on compensation adjustment not be reached within six months of the change request, or other period as agreed upon by both parties, City and Contractor agree to submit the compensation adjustment to binding arbitration as described in Section 19.03.

19.02 Change in Law. City and Contractor understand and agree that the California Legislature has the authority to make comprehensive changes in Solid Waste Collection legislation, and that these and other changes in Applicable Law in the future which mandate certain actions or programs for counties, municipalities or Contractor may require changes or modifications in some of the terms, conditions or obligations under this Agreement. Contractor agrees that the terms and provisions of the City of Thousand Oaks Municipal Code, as it now exists or as it may be amended in the future, will apply to all of the provisions of this Agreement and the Service Recipients of Contractor located within the Service Area. In the event any future change in Federal law or regulations, State or local law of regulation, or the City Code materially alters the obligations of Contractor, then the affected Maximum Service Rates, as established in Exhibit 2 of this Agreement will be adjusted in accordance with Section 4.04. Nothing contained in this Agreement will require any party to perform any act or function contrary to law. City and Contractor agree to enter into good faith negotiations regarding modifications to this Agreement which may be required in order to implement changes in the interest of the public welfare or due to Change in Law. When such modifications are made to this Agreement, City and Contractor will negotiate in good faith, a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of Contractor due to any Change in Law or modification in the Agreement under this Article. City and Contractor will not unreasonably withhold agreement to such compensation adjustment. Should agreement between City and Contractor on compensation adjustment not be reached within six months of the change request, or other period as agreed upon by both parties, City and Contractor agree to submit the compensation adjustment to binding arbitration as described in Section 19.03.

19.03 Arbitration. Arbitration shall be conducted by a single arbitrator. If, within twenty (20) days from the receipt of a request to arbitrate (or such longer period mutually agreed to by the parties), the parties are unable to agree on an arbitrator, then a single arbitrator shall be appointed pursuant to the Commercial Arbitration Rules of the American Arbitration Association, which shall govern any arbitration requested under this provision. Each party shall bear its own costs and expenses of any arbitration. Each party shall pay one-half of the costs of the arbitrator.

Article 20. Legal Representation

Acknowledgement. It is acknowledged that each party was, or had the opportunity to be, represented by counsel in the preparation of and contributed equally to the terms and conditions of this Agreement and, accordingly, the rule that a contract will be interpreted strictly against the party preparing the same will not apply due to the joint contributions of both parties.

Article 21. Conflict of Interest

Financial Interest. Contractor is unaware of any City employee or official that has a financial interest in Contractor's business. During the term of this Agreement and/or as a result of being awarded this Agreement, Contractor shall not offer, encourage or accept any financial interest in Contractor's business by any City employee or official.

Article 22. Contractor's Personnel

22.01 Personnel Requirements. Contractor must employ and assign qualified personnel to perform all services required under this Agreement. Contractor is responsible for ensuring that its employees comply with all Applicable Laws related to their employment and position.

22.01.1 City may request the transfer of any employee of Contractor who materially violates any provision of this Agreement, or who is wanton, negligent, or discourteous in the performance of his or her duties under this Agreement.

22.01.2 Contractor's field operations personnel are required to wear a clean uniform shirt bearing Contractor's name. Contractor's employees, who normally come into direct contact with the public, including drivers, must bear some means of individual photographic identification such as a name tag or identification card.

22.01.3 Each driver of a Collection Vehicle must at all times carry a valid California driver's license and all other required licenses for the type of vehicle that is being operated.

22.01.4 Each driver of a Collection Vehicle must at all times comply with all applicable State and Federal laws, regulations and requirements.

22.01.5 Contractor's employees, officers, and agents may not identify themselves or in any way represent themselves as being employees or officials of City.

Article 23. Exempt Waste

Contractor is not required to Collect or dispose of Exempt Waste but may offer such services. Collection and disposal of Exempt Waste are not regulated under this Agreement, but if provided by Contractor must be in strict compliance with all Applicable Laws.

Article 24. Independent Contractor

In the performance of services pursuant to this Agreement, Contractor is an independent contractor and not an officer, agent, servant or employee of City. Contractor will have exclusive control of the details of the services and work performed and over all persons performing such services and work. Contractor is solely responsible for the acts and omissions of its officers, agents, and employees. Neither Contractor nor its officers, employees, or agents will obtain any right to retirement benefits, Workers Compensation benefits, or any other benefits which accrued to City employees and Contractor expressly waives any claim to such benefits.

Article 25. Laws to Govern

The law of the State of California governs the rights, obligations, duties and liabilities of City and Contractor under this Agreement and govern the interpretation of this Agreement.

Article 26. Consent to Jurisdiction

The parties agree that any litigation between City and Contractor concerning or arising out of this Contract must be filed and maintained exclusively in the Superior Courts of Ventura County, State of California, or in the United States District Court for the Central District of California to the fullest extent permissible by law. Each party consents to service of process in any manner authorized by California law.

Article 27. Assignment

27.01 No assignment of this Agreement or any right occurring under this Agreement may be made in whole or in part by Contractor without the express prior written consent of the City. City will have full discretion to approve or deny, with or without cause, any proposed or actual assignment by the Contractor. Any assignment of this Agreement made by Contractor without the express written consent of the City will be null and void and will be grounds for City to declare a default of this Agreement and immediately terminate this Agreement by giving written notice to Contractor.

27.02 The use of a subcontractor is prohibited under the terms of this Agreement.

Article 28. Compliance with Laws

28.01 In the performance of this Contractor, Contractor must comply with all Applicable Laws, including, without limitation, the Thousand Oaks Municipal Code.

28.02 City shall provide written notice to Contractor of any planned amendment of the Thousand Oaks Municipal Code that would substantially affect the performance of Contractor's services pursuant to this Agreement. Such notice must be provided at least thirty (30) calendar days prior to the City Council's approval of such an amendment.

Article 29. Permits and Licenses

Contractor shall obtain, at its own expense, all permits, certificates, and licenses required by law or ordinance and maintain same in full force and effect throughout the term of this Agreement. This includes, but is not limited to, City of Thousand Oaks Business Tax Certificate and annual City Blanket Encroachment Permit. Contractor must provide proof of such permits, licenses or approvals and must demonstrate compliance with the terms and conditions of such permits, licenses and approvals upon the request of the Agreement Administrator.

Article 30. Ownership of Written Materials

Contractor hereby grants City a non-exclusive license as to all reports, documents, brochures, public education materials, and other similar written, printed, electronic or photographic materials developed by Contractor at the request of City or as required under this Agreement, and intended for public use, without limitation or restrictions on the use of such materials by City. Contractor may not use such materials that specifically reference City for other purposes without the prior written consent of the Agreement Administrator. This Article 30 does not apply to ideas or concepts described in such materials and does not apply to the format of such materials.

Article 31. Waiver

Waiver by City or Contractor of any breach for violation of any term covenant or condition of this Agreement will not be deemed to be a waiver of any other term, covenant or condition or any subsequent breach or violation of the same or of any other term, covenant or condition. The subsequent acceptance by City of any fee, tax, or any other monies which may become due from Contractor to City will not be deemed to be a waiver by City of any breach for violation of any term, covenant or condition of this Agreement.

Article 32. Prohibition Against Gifts

Contractor represents that Contractor is familiar with City's prohibition against the acceptance of any gift by a City officer or designated employee. Contractor may not offer any City officer or designated employee any gifts prohibited by the City.

Article 33. Point of Contact

The day-to-day dealings between Contractor and City will be between Contractor and the Agreement Administrator.

Article 34. Notices

34.01 Except as provided in this Agreement, whenever either party desires to give notice to the other, it must be given by written notice addressed to the party for whom it is intended, and sent to the physical and email address last specified and to the place for giving of notice in compliance with the provisions of this Section. For the present, the parties designate the following as the respective persons and places for giving of notice:

As to the City:

Public Works Director
City of Thousand Oaks Public Works Dept.
2100 Thousand Oaks Blvd.
Thousand Oaks, CA 91362
Telephone: (805) 449-2399
email: cfinley@toaks.org

As to the Contractor:

Ware Disposal, Inc.
1035 East Fourth Street
Santa Ana, CA 92701-4750
Attn: Jay Ware
Telephone: (877) 714-9273
Email: jay@waredisposal.com

34.02 Notices will be effective when received at the physical address and email address as specified above. Changes in the respective address to which such notice is to be directed may be made by written notice.

34.03 Notice by City to Contractor of a Collection or other Service Recipient problem or complaint may be given to Contractor orally by telephone at Contractor's local office with confirmation sent to Contractor through the Customer Service System by the end of the Work Day.

Article 35. Contractor's Records

35.01 Contractor shall keep and preserve, during the Term of this Agreement, full, complete, and accurate financial and accounting records, pertaining to cash, billing and disposal transactions for the franchise area, prepared on an accrual basis in accordance with generally accepted accounting principles. These records and reports are necessary for the City to properly administer and monitor the Agreement and to assist the City in meeting the requirements of the Act. The Contractor shall keep and preserve, during the Term of this Agreement, and for a period of not less than four (4) years following expiration or other termination hereof or for any longer period required by law, full, complete and accurate records as indicated in the Agreement.

35.02 Any records or documents required to be maintained pursuant to this Agreement must be made available for inspection or audit for the purposes set forth in Section 7.01.2, at any time during regular business hours, upon written request by the Agreement Administrator, the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such documents will be provided to City electronically, available to City for inspection at the local Contractor office, or an alternate site if mutually agreed upon.

35.02.1 Contractor acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"). City acknowledges that Contractor may consider certain records, reports, or information contained therein, ("Records") which Contractor is required to provide to City under this

Agreement, to be of a proprietary or confidential nature. In such instances, Contractor will inform City in writing of which records are considered proprietary or confidential and shall identify the statutory exceptions to disclosure provided under the CPRA that legally permit non-disclosure of the Records. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act ("FOIA") or a subpoena or other court order requesting disclosure of the Records, City will notify Contractor of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) calendar days. Contractor shall within five (5) calendar days either: (i) consent in writing to the disclosure of the Records; or (ii) seek and obtain, at Contractor's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the Records. If Contractor fails to timely respond, then City may proceed to disclose the Records in which event Contractor agrees waives and releases City of any liability for the disclosure of the Records

35.03 Where City has reason to believe that such records or documents may be lost or discarded in the event of the dissolution, disbandment or termination of Contractor's business, City may, by written request or demand of any of the above named officers, require that custody of the records be given to City and that the records and documents be maintained in City Hall. Access to such records and documents will be granted to any party authorized by Contractor, Contractor's representatives, or Contractor's successor-in-interest.

Article 36. Entire Agreement

This Agreement and the attached Exhibits constitute the entire Agreement and understanding between the parties, and the Agreement will not be considered modified, altered, changed or amended in any respect unless in writing and signed by the parties.

Article 37. Severability

If any provision of this Agreement or the application of it to any person or situation is to any extent held invalid or unenforceable, the remainder of this Agreement and the application of such provisions to persons or situations other than those as to which it is held invalid or unenforceable, will not be affected, will continue in full force and effect, and will be enforced to the fullest extent permitted by law.

Article 38. Right to Require Performance

The failure of City at any time to require performance by Contractor of any provision of this Agreement will in no way affect the right of City thereafter to enforce same. Nor will waiver by City of any breach of any provision of this Agreement be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

Article 39. All Prior Agreements Superseded

This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained in this Agreement and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms of this Agreement will be predicated upon any prior representations or agreements, whether oral or written.

Article 40. Headings

Headings in this document are for convenience of reference only and are not to be considered in any interpretation of this Agreement.

Article 41. Exhibits

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

Article 42. Attorney's Fees

In the event that litigation is brought by a party in connection with this Agreement, the prevailing party will be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies under this Agreement or the enforcement of any of the terms, conditions, or provisions of this Agreement.

Article 43. Effective Date

This Agreement will become effective when it is properly executed by City and Contractor and Contractor will begin Services under this Agreement as of January 1, 2022.

Article 44. Signatures

(a) **Counterparts.** This Agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument.

(b) **Scanned Signatures.** In the event that any signature is delivered by facsimile transmission or submitted electronically as a scanned image (i.e. files with .pdf, .tiff or .jpeg extensions), such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or scanned signature page were an original thereof.

(c) **Digital/Electronic Signatures.** This Agreement may be executed through the use of digital or electronic signatures provided they meet the requirements of the Electronic Signatures in Global and National Commerce (ESIGN) Act and the California Uniform Electronic Transactions Act (UETA) and are produced using a City-approved method. The presence of an electronic signature on this document shall be construed as the parties' consent to do business electronically.

IN CONCURRENCE AND WITNESS WHEREOF, City and Contractor have executed this Agreement on November 9, 2021.

Ware Disposal, Inc.

Judith Helaine Ware, President

Ben Marlon Ware, Vice President

CITY OF THOUSAND OAKS

Claudia Bill-de la Peña, Mayor

ATTEST:

Cynthia M. Rodriguez, City Clerk

APPROVED AS TO ADMINISTRATION:

Andrew P. Powers, City Manager

APPROVED BY DEPARTMENT HEAD:

Clifford G. Finley, Public Works Director

APPROVED AS TO FORM:

Office of the City Attorney

Tracy Friedl, Assistant City Attorney

EXHIBIT 1

Limited Franchise Scope of Services Summary

E1.0 Limited Franchise Collection Service

Limited Franchise Contractor is authorized to place Bins and/or Roll-off containers to collect Solid Waste on a Temporary Basis, where such Solid Waste originates from premises within City. Examples of such service include residential, commercial/industrial construction and demolition projects with or without a current City issued building and/or grading permit, cleanup and land clearing projects, and temporary green waste service for landscaping and tree removal projects.

E1.01 Time Limits of Service

Temporary Collection service for residential and/or commercial/industrial cleanup projects shall be provided on a Temporary Basis, i.e. no more than thirty (30) consecutive days per calendar year at a single location unless a time extension is granted by Agreement Administrator, or unless the Bin/Roll-off container is for the purpose of a Construction and Demolition project with an active City building and/or grading permit in which case Bin/Roll-off container may be left until construction activities have been completed and/or a certificate of occupancy has been issued by the City.

E1.02 Bin/Roll-off Container Placement

Per TOMC Sec. 6-2.602(c), Bin/Roll-off containers placed in the public right-of-way shall be restricted to the following:

- (i) Bin/Roll-off Container may only be placed where vehicles can legally park.
- (ii) Placement is restricted to any location on the street right-of-way which has a slope less than seven (7%) percent.
- (iii) Bin/Roll-off Container shall be identified by contractor's name and phone number on at least two (2) sides. Identification shall be visible from the street in letters a minimum of two (2") inches in height.
- (iv) Bin/Roll-off Container shall be adequately reflectorized with a minimum of ten (10) square inches of plastic or reflective sheeting on each corner at a height between fifteen (15") and sixty (60") inches from the ground.
- (v) Bin/Roll-off Container shall only be placed at locations permissible by the TOMC and with approval of the customer requesting said service.

E1.03 Bin/Roll-off Container Requirements

Bin and Roll-off Containers shall meet specifications and requirements defined in Article 8.01.8 and Exhibit 4 of this Agreement. Bins/Roll-off Containers must be freshly painted at the start of this Agreement and maintained in good repair and condition throughout the term of this Agreement. Contractor shall provide Bins having an approximate volume of 1, 2, 3, 4 and 6-cubic yards, and Roll-off containers shall be provided in sizes 10, 20, 30, and 40 cubic yards.

E1.04 Weighing

Contractor shall weigh all Bin/Roll-off containers used for collection of Solid Waste, regardless of capacity, and provide verifiable documentation of material tonnage to customers, per Article 10.3 of this Agreement. Contractor shall report tonnage to City on a quarterly basis using reporting methods defined in Article 12 of this Agreement.

E1.05 Collection Vehicle Requirements

Per Article 8 of this Agreement, Limited Franchise Contractor may not use any Collection Vehicle that is more than fifteen (15) years old during the term of the Agreement. Collection Vehicles must utilize low carbon (“alternative”) fuel, which must be compressed natural gas (CNG or RNG), renewable diesel or electric unless otherwise authorized by the City. Collection Vehicles must have Contractor's name and customer service telephone number identified on each side of each vehicle. All Contractor Collection vehicles must be maintained in a clean and sanitary condition and appearance and in good repair at all times.

E1.06 Use of Certified C&D Facilities

Limited Franchise Contractor shall only transport and deposit Construction and Demolition materials at facilities certified by the City of Los Angeles and/or facilities that can verify diversion of no less than 65% and are approved by the City.

E1.07 Recyclable Materials Collection

Limited Franchise Contractor shall advise all Customers about source-separation/recyclable materials opportunities including, but not limited to, asphalt concrete, wood waste and other construction and demolition materials, green and organic waste, and mixed Recyclable Materials. Limited Franchise Contractor shall divert these materials from landfill disposal to the maximum extent possible..

E1.08 Organic Material Collection

Limited Franchise Contractor must deliver all Collected Organic Waste to a fully permitted Organic Waste Processing Facility or a fully permitted Organic Waste transfer station, that has been approved by the City. Failure to comply with this provision will result in the levy of a penalty charge as specified in Exhibit 3 and may result in Contractor being in default under this Agreement.

E1.09 Diversion Requirements

Limited Franchise Contractor shall achieve a minimum quarterly diversion rate as described in Article 5.02 of this Agreement. Contractor must provide diversion documentation to City in its quarterly reporting as described in Article 12 of this Agreement.

E1.10 Customer Quotes and Billing

Contractor shall clearly itemize and identify the following items in all service quotes and billing to customers for the provision of services under this Agreement.

- Bin/Roll-off Container service rate (not to exceed approved Maximum Service Rate as identified in Exhibit 2)
- Tipping or Processing Fees
- Any applicable Special Fees (allowable Special Fees identified in Exhibit 2)

Contractor shall cooperate with Agreement Administrator regarding the provision of records to the City upon request including copies of individual customer billing receipts and associated disposal receipts on request.

E1.11 Illicit Discharge and Stormwater Accumulation

Contractor shall apply industry-wide Best Management Practices to prevent both the accumulation of stormwater and non-stormwater in Bins and Roll-off containers and subsequent Illicit Discharge. Such measures are subject to review and approval of City Manager and may include lids and/or hard-top covers to prevent water intrusion. Contaminated accumulated water shall be disposed of in accordance with Applicable Law and shall not be discharged directly to the storm drain or sanitary sewer system.

E1.12 Container Content Information

For all Containers provided to the Customer by the Contractor, Contractor shall provide and affix to such Containers a list of acceptable materials with text approved by the Agreement Administrator, per Exhibit 4 and 5 of this Agreement.

EXHIBIT 2
Limited Franchise Solid Waste Collection Maximum Rates

Table 1: Temporary Roll-Off Rates (Solid Waste, Recycle, C&D, Green Waste, Food Waste)		
Roll-Off Containers billed per haul plus disposal fee*		
10 Cubic Yard Container per pull	per haul	\$210.00
20 Cubic Yard Container per pull	per haul	\$210.00
30 Cubic Yard Container per pull	per haul	\$210.00
40 Cubic Yard Container per pull	per haul	\$210.00

Table 2: Temporary Bin Rates (Solid Waste, Recycle, C&D, Green Waste, Food Waste)		
Includes seven day bin rental plus one dump (at the time of removal)		
Temporary Bin	per occurrence	\$180.00
Temporary Bin: Dead Run	per occurrence	\$50.00
Temporary Bin: Demurrage (in excess of 7 day rental)	per day	\$7.50
Temporary Bin: Extra Dump	per lift	\$50.00

Table 3: Other Services and charges		
Delinquency Charge for Non-Payment of Account	% of service charge	5.00%
Returned Check Fee	per occurrence	\$30.00
Damaged Bin (Caused by Service Recipient)	per occurrence	\$195.00
Damaged Roll-Off (Caused by Service Recipient)	per occurrence	\$495.00
Overage Fee	per occurrence	\$50.00
Excess of Posted Weight	per ton	\$75.00
Recyclable Materials Contamination Fee (Bins), 3+ occurrence/year	per occurrence	\$100.00
Organic Waste Contamination Fee (Bins), 3+ occurrence/year	per occurrence	\$175.00
Return Fee for Blocked Roll-Off	per run	\$75.00
Trip Charge/Dry Run	per occurrence	\$150.00
Roll-Off "Rocket Launcher" Service (one hour minimum)	per hour	\$165.00
Roll-Off Dead-Run, Go-Back, or Box Relocation	per occurrence	\$180.00
Roll-Off Same-Day Priority Service	per occurrence	\$75.00
Roll-Off Overweight Penalty (in addition to disposal charges)	per occurrence	\$250.00

* Disposal/recycling processing fees (gate fees) are charged per ton and vary depending on the type of material and the facility where the material is taken.

EXHIBIT 3

Administrative Penalties

Item		Penalty Amount
a.	Failure to respond to each complaint within three (3) Work Days of receipt of complaint.	\$100 per incident
b.	Failure to maintain call center hours as required by this Agreement.	\$100 per day.
c.	Failure to submit to City all reports by the deadlines required under the provisions of this Agreement.	\$100 per day.
d.	Failure to include all parts of quarterly reports specified in Article 12 of this Agreement.	\$100 per day.
e.	Failure to submit to City all payments by the deadlines required under the provisions of this Agreement.	1% of the total amount due if fees are 1 – 10 days late; and 10% of the total amount due if fees are more than 10 days late.
f.	Failure to deliver collected C&D materials to a City of Los Angeles-certified C&D Debris processing facility, or other facility, that can verify 65% diversion or more, as specified in Article 6 of this Agreement.	\$100 per incident.
g.	Failure to deliver collected Recyclable materials to a proper Material Recovery Facility, as specified in Article 6 of this Agreement.	\$100 per incident.
h.	Failure to deliver collected Organic materials to a fully permitted Organics Processing Facility or Organic Waste transfer station, that has been approved by the City, as specified in Article 6 of this Agreement.	\$100 per incident.
i.	Failure to meet diversion requirements for collected materials as specified in Article 5 of this Agreement in any quarter	\$500 per quarter per waste stream.
j.	Failure for Collection Containers to be compliant with specifications of Exhibit 4.	\$50.00/each Collection Container not compliant.
k.	Failure to display Contractor's name and customer service phone number on Collection Vehicles.	\$100 per incident per day.
l.	Failure to maintain collection hours as required by this Agreement.	\$100 per day.

Item		Penalty Amount
m.	Failure to have Contractor personnel in Contractor-provided uniforms.	\$25 per day per employee.
n.	Vehicle mechanic fluid leak (e.g. hydraulic fluid or oil) incidents from Contractor Collection Vehicles in excess of three (3) during a calendar year.	\$1000 per incident in excess of three (3)
o.	Failure of Contractor to provide proof of insurance as required by this Agreement	Agreement Default
p.	Failure to report customer data in quarterly report.	\$500 per occurrence.
q.	Failure to report tonnages, diversion, and revenue in quarterly report.	\$500 per occurrence.
r.	Failure to comply with City Municipal Code requirements.	Agreement Default.
s.	Failure to comply with State of California or Federal regulatory requirements.	Agreement Default.

Exhibit 4
Collection Bin Specifications

E4.01 Bin Specifications.

E4.01.1 Bins must be constructed of heavy metal or heavy plastic and must be watertight, well painted, in good condition and without rust or dents.

E4.01.2 Wheels, forklift slots, and other appurtenances, which are designed for movement, loading, or unloading of the container, must be maintained in good repair.

E4.01.3 Contractor may provide Bins having an approximate volume of 1, 2, 3, 4 and 6-cubic yards.

E4.01.4 Bins must have the name and phone number of Contractor on the exterior so as to be visible when the Bin is placed for use.

E4.01.5 Each Bin must be labeled with a listing of materials that may and may not be placed in a particular Bin type, and each Bin must include a conspicuous warning: "Not to be used for the disposal of hazardous, electronic, or universal waste." Bins must be labelled in English and Spanish.

E4.01.6 Bin lids must be constructed of metal or heavy plastic, so as to minimize the intrusion of rainwater and minimize odors.

E4.01.7 Bins shall be adequately reflectorized with a minimum of ten (10) square inches of plastic or reflective sheeting on each corner at a height between fifteen (15") and sixty (60") inches from the ground.

E4.01.8 Bins must be capable of being lifted into the Collection Vehicle without damage under normal usage.

E4.02 Roll-off Container Specifications.

Roll-off specifications shall be the same as Bin specifications E4.01.1 through E4.01.8, with the exception of E4.01.3 and E4.01.6. Roll-offs may be provided in sizes 10, 20, 30, 40 cubic yards.

E4.03 Containers End of Life

Collection Containers must be recycled at the end of their useful life.

Exhibit 5
Recyclable Materials

This list will be updated annually on or before November 22 each year. Recyclable Materials currently being Collected in Recycling Collection Containers under this Agreement include all plastics #s 1 through 5, and #7, except where specifically excluded in list below:

Material	Type	Recyclable (Diversion)	Non- recyclable¹
Aluminum	Metal	X	
Foil	Metal	X	
Steel	Metal	X	
Tin	Metal	X	
Bimetal	Metal		X
Ferrous Scrap Metal	Metal	X	
Non-Ferrous	Metal	X	
PET	Plastic	X	
HDPE Natural	Plastic	X	
HDPE Color	Plastic	X	
PVC	Plastic	X	
LDPE	Plastic	X	
Polypropylene	Plastic	X	
Polystyrene	Plastic		X
Film Plastics/Plastic Bags	Plastic		X
Expanded Polystyrene (Foam & Rigid)	Plastic		X
Bioplastic	Plastic		X
Glass Flint	Glass	X	
Glass Amber	Glass	X	
Glass Green	Glass	X	
Mixed Glass	Glass	X	
Mixed Paper	Paper	X	
Newspaper	Paper	X	
Corrugated Cardboard	Paper	X	

Tetra Pak, Aseptic Containers	Paper	X	
Clothes	Textiles		X
Nylon/Polyester/Wool/etc.	Carpet		X
Concrete/Rock/Soil/Fines/Dry wall/etc.	Building		X
Wood/Lumber	Building		X
Electronic Waste	E-waste		X

¹Not recycled under this Agreement. May not be placed in Recycling Container.

List of acceptable organic materials:

- Food waste
- Green Waste
- Landscape and pruning waste
- Non-hazardous wood waste
- Food-soiled paper that is mixed in with food waste
- Compostable food containers
- Compostable foodware

List of materials which Contractor should explore means and markets to recycle but which Service Recipient may seek, and pay for, alternative recycling markets. Also included are all materials listed as “Non-recyclable” in table above.

- Plastics #6 and #7
- Plastic bags, wrap and film
- Laboratory ware (plastics, glass etc.)
- Mirrors
- Porcelain and ceramics
- Glass and metal cookware/bakeware
- Hoses, cords, wires
- Paper less than 4 inches in size in any dimension
- Microwaveable trays
- Window or auto glass
- Coated cardboard
- Coat hangers
- White goods (household appliances)
- Needles, syringes, IV bags or other medical supplies
- Textiles, cloth or any fabric
- Propane tanks
- Universal waste (u-waste)
- Electronic waste (e-waste)