

**AGREEMENT BETWEEN THE CITY OF SAN
JOSE AND CALIFORNIA WASTE SOLUTIONS,
INC. FOR RECYCLE PLUS RECYCLING
SERVICES**

NOVEMBER 21, 2006 – JUNE 30, 2013

SFD RECYCLING SERVICES AGREEMENT

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1 **AGREEMENT BETWEEN THE CITY OF SAN JOSE AND**
2 **CALIFORNIA WASTE SOLUTIONS, INC. FOR RECYCLE**
3 **PLUS SFD RECYCLING SERVICES**

4 **THIS AGREEMENT** is made and entered into effective the 21ST day of
5 November, 2006 (the "Effective Date"), by and between the City of San José, a
6 municipal corporation of the State of California, ("CITY") and California Waste
7 Solutions, Inc. ("CONTRACTOR").

8 **WHEREAS**, on February 15, 2006, CITY issued a Request For Proposals
9 ("RFP") for Recycling Services for the Recycle Plus Program; and

10 **WHEREAS**, on April 3, 2006, CONTRACTOR submitted a response to the RFP
11 and the various addenda to the RFP; and

12 **WHEREAS**, after consideration of CONTRACTOR's response and the
13 responses of other proposers for the same services, CITY's staff and the evaluation
14 panel have recommended CONTRACTOR to perform the services more fully
15 described in this Agreement;

16 **WHEREAS**, the City Council desires to award to CONTRACTOR, and
17 CONTRACTOR has determined to accept such award, an Agreement to perform the
18 services described in this Agreement; and

19 **WHEREAS**, the Negative Declaration prepared for this project under File No.
20 PP06-119 has become final;

21 **NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS,**
22 **AGREEMENTS AND CONSIDERATIONS CONTAINED HEREIN, CITY AND**
23 **CONTRACTOR HEREBY AGREE AS FOLLOWS:**

24 **ARTICLE 1. DEFINITIONS**

25 For the purpose of this Agreement, the definitions contained in this Article shall
26 apply unless otherwise specifically stated. If a word or phrase is not defined in this
27 Article, the definition of such word or phrase as contained in Chapter 9.10 of the San
28 José Municipal Code shall control. When not inconsistent with the context, words
29 used in the present tense include the future, words in the plural include the singular,
30 and words in the singular include the plural. Use of the masculine gender shall include
31 the feminine gender.

1 **1.01 Agreement.** This written document and all exhibits and amendments
2 hereto, between CITY and CONTRACTOR, governing the provision of services as
3 provided herein.

4 **1.02 Agreement Year.** The twelve (12) month period from July 1st to June
5 30th.

6 **1.03 Biohazardous or Biomedical Waste.** Any waste which may cause
7 disease or reasonably be suspected of harboring pathogenic organisms; included are
8 waste resulting from the operation of medical clinics, hospitals, and other facilities
9 processing wastes which may consist of, but are not limited to, human and animal
10 parts, contaminated bandages, pathological specimens, hypodermic needles, sharps,
11 contaminated clothing and surgical gloves.

12 **1.04 Business(es).** All retail, professional, wholesale and industrial
13 facilities and any other commercial enterprises offering goods or services to the public.

14 **1.05 Business Service Unit.** Any Business located in a Mixed Use
15 Dwelling that elects to utilize SFD Solid Waste Services or MFD Services and is
16 approved for such service under CITY's Recycle Plus Program requirements, or any
17 Small Commercial Business.

18 **1.06 Central Business District (CBD).** The Central Business District as
19 described in San José Municipal Code Section 9.10.1500 and as set forth in **Exhibit 8**
20 ("CENTRAL BUSINESS DISTRICT AND TRANSIT MALL ZONE") to this Agreement.

21 **1.07 CITY.** The City of San José, California.

22 **1.08 City Representative.** The person, or the person's designee(s), who is
23 designated by the City Manager to administer and monitor the provisions of this
24 Agreement.

25 **1.09 Compostable Waste.** Vegetable and other food scraps including
26 meat, dairy products, kitchen grease and bones; paper and cardboard that have been
27 contaminated with food, fat or kitchen grease; compostable paper associated with food
28 preparation or food consumption such as paper towels, paper plates, tissue, waxed
29 paper and waxed cardboard; and other materials designated by the City
30 Representative that are capable of being composted, that would otherwise be
31 disposed of as Garbage, and that are set out separate from Garbage for collection by
32 CITY's Yard Trimmings Collection Service contractor.

33 **1.10 Consolidated Utility Billing System (C-UBS).** An integrated utility
34 billing, customer service, and performance management system.

35 **1.11 CONTRACTOR.** California Waste Solutions, Inc. a California
36 Corporation.

1 **1.12 County.** Santa Clara County, California.

2 **1.13 Courtesy Notice.** A form approved by the City Representative and
3 used by CONTRACTOR to inform Service Recipients that a courtesy collection
4 occurred even though containers may not have been set out by the Service Recipient
5 according to program instructions.

6 **1.14 Disposal Facility.** The Newby Island Landfill, located at 1601 Dixon
7 Landing Road, San José, CA or such place or places specifically designated by the
8 CITY for the disposal, or processing as appropriate, of Residential Solid Waste, and
9 other materials.

10 **1.15 Dwelling Unit.** Any individual living unit in a single-family dwelling
11 (SFD), multi-family dwelling (MFD), or Mixed-Use Dwelling (MUD) intended for, or
12 capable of being utilized for, residential living. Dwelling Unit does not include an
13 individual living unit in a hotel or motel, guesthouse, residential care facility, extended
14 care facility, sorority or fraternity house, school, dormitory, residential service facility,
15 emergency residential shelter, hospital, convent, or monastery, as determined by the
16 City Representative.

17 **1.16 E-Waste.** Discarded electronics equipment such as cell phones,
18 computers, monitors, televisions, and other items containing cathode ray tubes
19 (CRTs).

20 **1.17 Exempt Waste.** Biohazardous or Biomedical Waste, Hazardous
21 Waste, Sludge, Stable Matter, Yard Trimmings or lumber that is more than five (5) feet
22 in length in its longest dimension or more than two (2) feet in diameter, automobiles,
23 automobile parts except those which fall within the definition of Recyclable Materials,
24 boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, and
25 those wastes under the control of the Nuclear Regulatory Commission; but not
26 including Used Oil or Used Oil Filters and those materials defined as Large Items or
27 Recyclable Materials.

28 **1.18 Garbage.** All putrescible waste which generally includes, but is not
29 limited to, kitchen and table food waste, animal, vegetative, food or any organic waste
30 that is attendant with, or results from the storage, preparation, cooking or handling of
31 food materials attributed to normal activities of a Service Unit. Garbage must be
32 generated at the Service Unit from which the Garbage is collected. Garbage does not
33 include those items defined as Exempt Waste, and does not include materials
34 collected as Compostable Waste through CITY's Yard Trimmings collection service
35 program.

36 **1.19 Hazardous Waste.** Any material which is defined as a hazardous
37 waste under California or United States law or any regulations promulgated pursuant

1 to such law, as such law or regulations may be amended from time to time, but not
2 including materials defined as Used Oil or Used Oil Filters that can be Recycled.

3 **1.20 Large Items.** Those materials listed in **Exhibit 14** (LARGE ITEMS
4 LIST”) to this Agreement. Large Items must be generated at the Service Unit from
5 which the Large Items are collected.

6 **1.21 Large Yard Trimmings.** Oversized Yard Trimmings such as tree
7 trunks and branches with a diameter between six (6) inches and two (2) feet, and a
8 length not more than five (5) feet in its longest dimension, which are attributed to the
9 normal activities of a Service Unit. Large Yard Trimmings must be generated at the
10 Service Unit from which the Large Yard Trimmings are collected.

11 **1.22 Market Specifications.** Those specifications identified in the Institute
12 of Scrap Recycling Industries, Inc. (ISRI), “Scrap Specifications, Circular 2005 (or the
13 most current version of this document), guideline for Nonferrous Scrap, Ferrous Scrap,
14 Glass Cullet, Paper Stock, Plastic Stock, Electronics Scrap, Tire Scrap, or such other
15 set of market standards as may be designated by the CITY.

16 **1.23 Materials Recovery Facility (MRF).** The facility operated by
17 CONTRACTOR and located at 1005 Timothy Street, San Jose, CA 95133, or such
18 other facility that is approved in advance by CITY’s Director of Environmental Services
19 and that is designed, operated, and legally permitted for the purpose of receiving,
20 sorting, processing, storing, or preparing Recyclable Materials for sale.

21 **1.24 Mixed Use Dwelling.** A building or structure which contains both
22 Business(es) and Dwelling Unit(s).

23 **1.25 Non-Collection Notice.** A form approved by the City Representative
24 and used by CONTRACTOR to notify Service Recipients of the reason for non-
25 collection of materials set out by the Service Recipient for collection by
26 CONTRACTOR pursuant to this Agreement.

27 **1.26 Non-Program Materials.** Those materials which are collected as part
28 of the provision of SFD Recycling Collection Services or SFD Used Oil Collection
29 services and have been approved by the Director of ESD for inclusion in the RRM
30 diversion standard calculation set forth in Section 9.02.1 of this Agreement. Non-
31 Program Materials currently include Used Oil, Used Oil Filters, car batteries, electronic
32 waste, tires, concrete, Green Waste, other compostable material, wood and helium or
33 propane compressed gas tanks or cylinders. Non-Program Material must be generated
34 at the Service Unit from which the Non-Program Material is collected.

35 **1.27 Process, Processed, or Processing.** The act of separating
36 Recyclable Materials Collected under the terms of this Agreement by type, in
37 accordance with the procedures set forth in, the MRF Processing Operations Plan

1 included in **Exhibit 7** (“PLANS”), such that each material type meets Market
2 Specifications and can be sold for its highest and best use. The MRF processing
3 Operations Plan may be modified from time to time by the mutual written agreement of
4 CONTRACTOR and the City Representative. Processing includes the separation of
5 Recyclable Materials during the “pre-sort” process as described in the MRF
6 Processing Operations Plan. Processing begins at the time Recyclable Materials are
7 delivered to the CONTRACTOR’s Materials Recovery Facility and ends when the
8 Processed Recyclable Materials are separated in accordance with the MRF
9 Processing Operations Plan .

10 **1.28 Rebuilt Vehicle.** For purposes of this Agreement, “rebuilt” means, at a
11 minimum, replacement of worn parts and reconditioning or replacement of hydraulic
12 systems, transmissions, differentials, electrical systems, engines, and brake systems.
13 In addition, the Rebuilt Vehicle must be repainted and its tires must have at least
14 eighty-five percent (85%) of tread remaining.

15 **1.29 Recyclable Materials.** Newsprint (including inserts); mixed paper
16 (including magazines, catalogs, envelopes, junk mail, corrugated cardboard, Kraft
17 brown bags and paper, paperboard, paper egg cartons, office ledger paper, and
18 telephone books); glass containers; aluminum beverage containers; small scrap and
19 cast aluminum (not exceeding sixty (60) pounds in weight nor two (2) feet in any
20 dimension for any single item); steel including “tin” cans and small scrap (not
21 exceeding sixty (60) pounds in weight nor two (2) feet in any dimension for any single
22 item); bimetal containers; mixed plastics such as plastic bags, plastic film, plastics (1-
23 7), and bottles including containers made of HDPE, LDPE, PET, or PVC; textiles;
24 aseptic containers; polystyrene; and other materials as approved by the City
25 Representative, that are capable of being Recycled and that would otherwise be
26 disposed of as Residential Solid Waste. Recyclable Material must be generated at the
27 Service Unit from which the Recyclable Material is collected and does not include
28 items defined as Exempt Waste.

29 **1.30 Recycle or Recycled.** Process and market in a manner that meets the
30 requirements of the California Integrated Waste Management Act, Public Resources
31 Code Section 40000 *et seq.*, for inclusion of the materials in the calculation of
32 diversion from landfill disposal for the purposes of the solid waste diversion
33 requirements of the Act. Recycle does not include transformation as described in
34 Public Resources Code Section 41201, and does not include stockpiling or storage by
35 CONTRACTOR or any other person.

36 **1.31 Recycling Cart.** A heavy plastic receptacle having a hinged tight-
37 fitting lid and wheels that is approved by the City Representative for use by Service
38 Recipients for SFD Recycling Service and that is appropriately labeled as a Recycling

1 Cart. The specifications for Recycling Carts, including capacity, are set forth in **Exhibit**
2 **5** (“CART SPECIFICATIONS AND PERFORMANCE CRITERIA”) to this Agreement.

3 **1.32 Residential Solid Waste.** Garbage and Rubbish resulting from the
4 normal activities at a Service Unit. Residential Solid Waste must be generated at the
5 Service Unit from which the Residential Solid Waste is collected and does not include
6 items defined as Exempt Waste.

7 **1.33 Residue.** Recyclable Materials that are delivered to the
8 CONTRACTOR’s Material Recovery Facility for Processing, but which were not
9 Processed by the CONTRACTOR in a manner that meets Market Specifications, and
10 were subsequently removed from the CONTRACTOR’s Materials Recovery Facility
11 and Disposed. For purposes of calculating diversion rates as specified in Article 9 of
12 this Agreement, “Recyclable Materials Processed and Sold” does not include Residue.

13 **1.34 Roll-Off Collection Service.** The collection of Roll-Off Containers
14 containing material other than Residential Solid Waste from SFD Service Units, Small
15 Civic Service Units or Businesses from SFD Service Units, Small Civic Service Units or
16 Businesses.

17 **1.35 Roll-Off Container.** A metal container that is normally loaded onto a
18 motor vehicle and transported to an appropriate facility.

19 **1.36 Rubbish.** All refuse, accumulation of paper, excelsior, rags, wooden
20 boxes and containers, sweep-ups and all other accumulations of a nature other than
21 Garbage and Yard Trimmings, resulting from the normal activities of a Service Unit.
22 Rubbish must be generated at the Service Unit from which the Rubbish is collected.
23 Rubbish does not include items defined as Exempt Waste.

24 **1.37 Service Districts .** Those areas designated as District A and District
25 C on the map set out in **Exhibit 2** (“RECYCLE PLUS SERVICE DISTRICTS”) to this
26 Agreement.

27 **1.38 Service Recipient.** A Business Service Unit, a Small Civic Service
28 Unit, or a resident of the City of San José residing in a SFD Service Unit that receives
29 services pursuant to this Agreement.

30 **1.39 Service Unit.** Any Business Service Unit or SFD Service Unit.

31 **1.40 SFD Recycling Services.** SFD Recycling Collection Service, SFD
32 Large Item Collection Service, and SFD Used Oil Collection Service.

33 **1.41 SFD Large Item Collection Service.** The periodic on-call collection
34 of Large Items from SFD Service Units in the Service District(s) and the delivery of
35 those Large Items to the Disposal Facility, Materials Recovery Facility or such other
36 facility as is appropriate under the terms of this Agreement and approved in advance

1 by the City Representative. SFD Large Item Collection Service does not include the
2 collection of Large Items through the use of Roll-Off Containers.

3 **1.42 SFD Recycling Collection Service.** The collection of Recyclable
4 Materials from Service Units in the Service District(s), the delivery of those Recyclable
5 Materials to a Materials Recovery Facility, and the processing and marketing of those
6 Recyclable Materials.

7 **1.43 SFD Service Unit.** Any Dwelling Unit or Small Civic Service Unit in
8 the Service District(s) utilizing a Garbage Cart, any Dwelling Units in a Mixed Use
9 Dwelling, or any combination of Dwelling Units sharing Garbage Carts, for the
10 accumulation and set-out of Residential Solid Waste.

11 **1.44 SFD Used Oil Collection Service.** The collection of Used Oil in Used
12 Oil Containers and Used Oil Filters in Used Oil Filter Containers from SFD Service
13 Units in the Service District(s) and the appropriate disposition of the Used Oil and
14 Used Oil Filters in accordance with the requirements of this Agreement.

15 **1.45 Sludge.** The accumulated solids, residues, and precipitates generated
16 as a result of waste treatment or processing, including wastewater treatment, water
17 supply treatment, or operation of an air pollution control facility, and mixed liquids and
18 solids pumped from septic tanks, grease traps, privies, or similar disposal
19 appurtenances or any other such waste having similar characteristics or effects.

20 **1.46 Small Civic Service Unit.** Those neighborhood parks, fire stations,
21 and other CITY properties as set forth in **Exhibit 6** ("small CIVIC SERVICE UNITS") to
22 this Agreement.

23 **1.47 Small Commercial Business.** A Business that generates less than
24 one (1) cubic yard solid waste per week, and is included in the residential collection
25 program.

26 **1.48 Sold** A market based transaction when the ownership of Recyclable
27 Materials changes from one legal entity to another, that is documented through the use
28 of a "bill of sale", "sales agreement", "cancelled checks", "invoice", or other appropriate
29 written documentation.

30 **1.49 Stable Matter.** Manure and other waste matter normally accumulated
31 in stables or in livestock or poultry enclosures.

32 **1.50 Transit Mall Zone.** The Transit Mall Zone described in San José
33 Municipal Code Section 9.10.1510 and as set forth in Exhibit 8 to this Agreement.

34 **1.51 Used Oil.** Any oil that has been refined from crude oil or has been
35 synthetically produced, and is no longer useful to the Service Recipient because of
36 extended storage, spillage or contamination with non-hazardous impurities such as dirt

1 or water; or has been used and as a result of such use has been contaminated with
2 non-hazardous physical or chemical impurities. Used Oil must be generated at the
3 Service Unit from which the Used Oil is collected. Used Oil does not include
4 transmission fluid.

5 **1.52 Used Oil Container.** A plain copoly container that is at least four (4)
6 quarts in capacity, leak-proof, has a screw-on lid, has a label designating it for use as a
7 Used Oil Container, is approved by the City Representative, and is provided by
8 CONTRACTOR for the accumulation of Used Oil.

9 **1.53 Used Oil Filter.** Any oil filter that is no longer useful to the Service
10 Recipient because of extended storage, spillage or contamination with non-hazardous
11 impurities such as dirt or water; or has been used and as a result of such use has
12 been contaminated with non-hazardous physical or chemical impurities. Used Oil
13 Filters must be generated at the Service Unit from which the Used Oil Filter is
14 collected.

15 **1.54 Used Oil Filter Container.** A six (6) mil poly bag with double track
16 seal with dimensions of at least fourteen and one-half (14.5) inches by eight (8) that
17 has a label designating it for use as a Used Oil Filter Container, is approved by the City
18 Representative, and is provided by CONTRACTOR for the accumulation of Used Oil
19 Filters.

20 **1.55 Work Day.** Any day, Monday through Friday that is not designated as
21 a holiday pursuant to Section 3.05 of this Agreement, and any Saturday on which
22 collection occurs because of the holiday schedule adjustment described in Section
23 3.05.

24 **1.56 Yard Trimmings.** Any vegetative matter resulting from normal yard
25 and landscaping maintenance that is not more than five (5) feet in its longest
26 dimension or six (6) inches in diameter or weighs more than sixty (60) pounds and any
27 natural Christmas tree regardless of size and weight. Yard Trimmings includes sod;
28 plant debris such as palm, yucca and cactus; grass clippings; leaves; prunings; weeds;
29 branches; brush; Christmas trees; and other forms of horticultural waste generated at
30 the Service Unit from which the Yard Trimmings are collected. Yard Trimmings do not
31 include items defined as Exempt Waste.

32 **1.57 Yard Trimmings Processing Facility.** Any facility designed, operated
33 and legally permitted for the purpose of receiving, and processing Yard Trimmings and
34 Large Yard Trimmings.

1 Recycling Services for the holiday and each Work Day thereafter will be delayed one
2 Work Day for the remainder of the week with normally scheduled Friday SFD
3 Recycling Services being performed on Saturday.

4 **3.06 Commingling of Materials Prohibited.**

5 3.06.1 Residential Solid Waste and Recyclable Materials.

6 CONTRACTOR shall not at any time commingle any Recyclable Materials collected
7 pursuant to this Agreement with any Residential Solid Waste without the express prior
8 written authorization of the City Representative.

9 3.06.2 Non-CITY Recyclable Materials. CONTRACTOR shall not
10 commingle, at any time, including at the Materials Recovery Facility, whether operated
11 by CONTRACTOR or an approved Subcontractor, Recyclable Materials collected
12 pursuant to this Agreement with any other materials, whether collected by
13 CONTRACTOR or any other person, without the express prior written authorization of
14 the City Representative.

15 **3.07 Spillage and Litter.**

16 3.07.1 CONTRACTOR shall not litter premises in the process of
17 providing SFD Recycling Services or while its vehicles are on the road.
18 CONTRACTOR shall transport all Recyclable Materials, Large Items, or Used Oil and
19 Used Oil Filters in such a manner as to prevent the spilling or blowing of such waste
20 from CONTRACTOR's vehicle. CONTRACTOR shall exercise all reasonable care and
21 diligence in providing SFD Recycling Services so as to prevent spilling or dropping of
22 Recyclable Materials, Large Items, or Used Oil and Used Oil Filters during collection
23 activity and shall immediately, at the time of occurrence, clean up such spilled
24 materials.

25 3.07.2 CONTRACTOR shall immediately cover with petroleum-
26 absorbent material, all oil, hydraulic fluids, spilled paint, or any other liquid or debris
27 resulting from CONTRACTOR's operations or equipment repair and shall remove the
28 debris and the petroleum-absorbent material from the street surface before the end of
29 the calendar day immediately following the day of the spill. When necessary,
30 CONTRACTOR shall apply a suitable cleaning agent to the street surface to provide
31 adequate cleaning.

32 3.07.3 Notwithstanding Sections 3.07.1 and 3.07.2 above,
33 CONTRACTOR shall clean up any spillage or litter caused by CONTRACTOR within
34 two (2) hours after notice from CITY. Such notice may be by telephone, e-mail, or
35 facsimile.

1 not located in CONTRACTOR's Service District(s), or that the premises do not qualify
2 for SFD Recycling Collection Services.

3 4.02.3 CONTRACTOR shall revise the Service Unit route maps to
4 show the addition or deletion of Service Units as provided above and shall provide
5 such revised maps to the City Representative upon request.

6 **4.03 Annexation.** If during the term of this Agreement, additional territory
7 within or adjacent to the CONTRACTOR's Service District(s) is acquired by CITY
8 through purchase, annexation, eminent domain, or other procedures, the City
9 Representative may designate such additional territory as part of CONTRACTOR's
10 Service District(s). If the additional territory is so designated, CONTRACTOR shall
11 provide SFD Recycling Services in such additional territory in accordance with the
12 provisions and service rates set forth in this Agreement. Such SFD Recycling Services
13 shall begin within ten (10) Work Days of receipt of written notice from the City
14 Representative. CONTRACTOR shall not begin SFD Recycling Services in the
15 additional territory without written authorization from the City Representative.

16 If at the time of acquisition by CITY, the additional territory contains more
17 than five hundred (500) Service Units for which CONTRACTOR will provide SFD
18 Recycling Services, CONTRACTOR may phase in the distribution of Recycling Carts
19 on a schedule approved by the City Representative; provided that CONTRACTOR
20 shall complete the distribution of all Recycling Carts within ninety (90) calendar days
21 after CONTRACTOR receives notification to begin SFD Recycling Services in the
22 additional territory.

23 **ARTICLE 5. SFD RECYCLING SERVICES**

24 Beginning July 1, 2007, and continuing until the expiration or termination of this
25 Agreement, CONTRACTOR shall provide SFD Recycling Services to all Service Units
26 in the Service District(s) in accordance with the terms and conditions of this
27 Agreement.

28 **5.01 Transition.** CONTRACTOR understands and agrees that the time
29 between the Effective Date and July 1, 2007, is intended to provide CONTRACTOR
30 with sufficient time to, among other things, order equipment, prepare necessary routing
31 changes, obtain permits and licenses, establish/build facilities, obtain required service
32 agreements, and integrate other program changes as specified in this Agreement.
33 CONTRACTOR shall be responsible for the provision of all SFD Recycling Collection
34 Services in the Service District(s) beginning July 1, 2007. CONTRACTOR shall
35 implement the transition in accordance with CONTRACTOR's Transition Plan which is
36 set forth in **Exhibit 7** ("PLANS") to this Agreement. The Transition Plan may be

1 modified from time to time by the mutual written agreement of CONTRACTOR and the
2 City Representative in order to provide a smooth transition of services, provided that
3 no such modification shall extend any time for performance beyond the dates set forth
4 in this Agreement.

5 **5.02 Holiday Contingency Plan.** On or before September 30, 2007 and
6 on or before each subsequent September 30th during the term of this Agreement,
7 CONTRACTOR shall submit an annual plan outlining collection strategies to handle
8 increased tonnages during the fall holiday season. The plan should list any additional
9 vehicles which will be utilized including ID#, type, license number and material that will
10 be collected; strategy for fluctuation in the labor force; how excess material delivered
11 to CONTRACTOR's Yard Trimmings processing facility will be processed; and how
12 coordination with the SFD Solid Waste Services and the YT & RSS contractor(s) will
13 be accomplished for the collection of Christmas trees.

14 **5.03 General Provisions.**

15 5.03.1 Accessibility to Street. In those instances where a public or
16 private street within the Service Districts is temporarily closed to vehicular traffic but is
17 accessible to pedestrian traffic, CONTRACTOR shall utilize pedestrian access to
18 provide SFD Recycling Service with no disruption of service to the Service Unit except
19 as set forth herein. Where a public or private street within the Service Districts is
20 temporarily closed to vehicular traffic, CONTRACTOR shall not be required to utilize
21 pedestrian access to provide SFD Large Item Collection Services, but shall reschedule
22 collection and shall notify CITY and the Service Recipient of the rescheduled date for
23 collection.

24 5.03.2 Frequency of Service. CONTRACTOR shall provide SFD
25 Recycling Collection Services to each Service Unit in the Service Districts once every
26 week on a scheduled route basis. CONTRACTOR shall provide SFD Used Oil
27 Collection Services to each SFD Service Unit in the Service Districts once every week
28 on a scheduled route basis. CONTRACTOR shall provide collection of Recyclable
29 Materials, Used Oil and Used Oil Filters, as appropriate, on the same Work Day as the
30 collection of Residential Solid Waste to that Service Unit is scheduled. Where the
31 scheduled collection day falls on a holiday, CONTRACTOR shall adjust the route
32 schedule as set forth in Section 3.05.

33 CONTRACTOR shall provide SFD Large Item Collection
34 Service on an on-call basis to those SFD Service Units in the Service District
35 requesting the service. CITY will notify CONTRACTOR of a request for SFD Large
36 Item Collection Service through the Consolidated Utility Billing System. Except where
37 service must be rescheduled as provided in Section 5.03.1, collection shall be made
38 from the curbside within ten (10) Work Days of notification to CONTRACTOR by CITY.

1 5.03.3 Hours of Collection. Except as set forth below,
2 CONTRACTOR shall provide SFD Recycling Services commencing no earlier than
3 6:00 a.m. and terminating no later than 6:00 p.m., Monday through Friday, with no
4 service on Saturday (except for holiday service as set forth in Section 3.05 of this
5 Agreement) or Sunday.

6 Collection in the Central Business District and the Transit Mall
7 Zone shall take place between 12:00 a.m. and 6:00 a.m. A map of the Central
8 Business District and the Transit Mall Zone is included in Exhibit 8 to this Agreement.

9 The hours, days, or both of collection set out above may be
10 extended due to extraordinary circumstances or conditions with the prior consent of
11 the City Representative. If such consent is given in any manner other than by written
12 notice, the City Representative shall provide written confirmation to CONTRACTOR
13 within three (3) Work Days.

14 Notwithstanding the above requirements, delivery of collected
15 materials to the Disposal Facility, Materials Recovery Facility or other appropriate
16 facility shall occur during the normal business hours of such facility unless other
17 arrangements have been made with the facility and have been approved in advance
18 by the City Representative.

19 5.03.4 Inventory. CONTRACTOR shall maintain an inventory of
20 Recycling Carts, Used Oil Containers and Used Oil Filter Containers in sufficient
21 number for CONTRACTOR to perform deliveries, repairs and exchanges of such
22 equipment in a timely manner.

23 5.03.5 Manner of Collection. CONTRACTOR shall provide all SFD
24 Recycling Collection and SFD Used Oil Collection Services with as little disturbance as
25 possible. Except in the case of on-premises service, CONTRACTOR shall leave any
26 Recycling Cart in an upright position at the same point from which its contents were
27 collected and shall leave replacement Used Oil Containers and Used Oil Filter
28 Containers at the point of collection, without obstructing alleys, roadways, driveways,
29 sidewalks or mail boxes. In the case of on-premises service, CONTRACTOR shall
30 remove the Recycling Cart and Used Oil and Used Oil Filter Containers from the back
31 or side of the Service Unit (or from such other location as agreed to by CONTRACTOR
32 and the Service Recipient), shall empty the contents into the collection vehicle, and
33 shall return the Recycling Cart and replacement containers to the location from which
34 they were removed.

35 CONTRACTOR's employees providing SFD Recycling
36 Services shall follow the regular walk for pedestrians while on private property and
37 shall not trespass nor cross property to the adjoining premises unless the occupant or

1 owner of both properties has given permission. Care shall be taken to prevent
2 damage to property, including flowers, shrubs, and other plantings.

3 5.03.6 Spillage. CONTRACTOR shall not be responsible for cleaning
4 up sanitary conditions around Recycling Carts caused by the carelessness of the
5 Service Recipient; however, CONTRACTOR shall clean up any up any Recyclable
6 Materials spilled from a Recycling Cart by CONTRACTOR or its employees, and shall
7 clean up any Large Items or Yard Trimmings spilled or scattered by CONTRACTOR or
8 its employees.

9 During transport, all Recyclable Materials, and Large Items
10 shall be contained, covered or enclosed so that leaking, spilling and blowing of the
11 materials is prevented. CONTRACTOR shall be responsible for the immediate
12 cleanup of any spillage caused by CONTRACTOR or its employees.

13 5.03.7 Inspections. CITY shall have the right to inspect the Materials
14 Recovery Facility during the MRF's normal business hours and shall also have the
15 right to inspect CONTRACTOR's collection vehicles and their contents at any time
16 while operating inside or outside the City of San José.

17 5.03.8 Reporting of Problems and Non-Collections. CONTRACTOR
18 shall use the Consolidated Utility Billing System on a daily basis to report all situations
19 that prevent or hinder collection, and all replacements, repairs and exchanges of
20 Recycling Carts. Except as otherwise provided in this Agreement, to the extent
21 possible, CONTRACTOR shall make such reports by the end of the Work Day in which
22 the event occurred; where it is not possible to make such reports by the end of the
23 Work Day, CONTRACTOR shall report such events no later than the end of the next
24 Work Day.

25 **5.04 SFD Large Item Collection Service**. CONTRACTOR shall perform
26 SFD Large Item Collection Service in accordance with the following terms and
27 conditions:

28 5.04.1 Conditions of Service. CONTRACTOR shall provide on-call
29 SFD Large Item Collection Service to all SFD Service Units in the Service District(s)
30 whose Large Items have been placed within three (3) feet of the curb, swale, paved
31 surface of the public roadway, closest accessible roadway, or other such location
32 agreed to by CONTRACTOR and the Service Recipient, that will provide safe and
33 efficient accessibility to the CONTRACTOR's collection crew and vehicle.
34 CONTRACTOR shall notify the Service Recipient in advance, either in writing or by
35 telephone, of the specific Work Day the service will be provided. Each set-out of three
36 (3) Large Items shall be considered a single collection for the purposes of invoicing.

37 5.04.2 Non-Collection. During the performance of any SFD Large
38 Item Collection Service, CONTRACTOR shall not be required to collect more Large

1 Items from an SFD Service Unit than specified by CITY when requesting
2 CONTRACTOR to perform the collection. In the event of non-collection,
3 CONTRACTOR shall affix a Non-Collection Notice to the uncollected Large Item(s)
4 explaining why collection was not made.

5 If CONTRACTOR collects more Large Items than were
6 specified by CITY when requesting collection, CONTRACTOR shall use the
7 Consolidated Utility Billing System to report the number and type of the additional
8 Large Items collected, the address of the Service Unit where collection occurred, and
9 the date and time of collection. Such report shall be made not later than the end of the
10 Work Day immediately following the Work Day collection was made.

11 5.04.3 Maximum Reuse and Recycling. CONTRACTOR shall
12 process Large Items collected from Service Units pursuant to this Agreement in
13 accordance with the following hierarchy:

- 14 ▪ Reuse as is (where energy efficiency is not compromised)
- 15 ▪ Disassemble for reuse or Recycling
- 16 ▪ Recycle
- 17 ▪ Disposal

18 CONTRACTOR shall not landfill such Large Items unless the
19 Large Items cannot be reused or Recycled.

20 5.04.4 Large Items Containing Freons. In the event CONTRACTOR
21 collects Large Items that contain Freons, CONTRACTOR shall handle such Large
22 Items in a manner such that the Large Items are not subject to regulation as
23 Hazardous Waste under applicable state and federal laws or regulations.

24 5.04.5 CITY Direction of Large Items. CITY reserves the right to
25 direct CONTRACTOR to take Large Items collected from Service Units to a designated
26 site or sites within fifty (50) miles of the city limits of the City of San José for the
27 purpose of permitting persons who will reuse or Recycle such Large Items to obtain
28 the Large Items at no cost. CONTRACTOR shall have no obligation to dispose of the
29 Large Items or Large Item residue remaining at the directed site or sites after reusers
30 and recyclers have removed reusable or recyclable Large Items.

31 **5.05 SFD Used Oil Collection Service.** CONTRACTOR shall perform
32 SFD Used Oil Collection Service in accordance with the following terms and
33 conditions:

34 5.05.1 Conditions of Service. CONTRACTOR shall provide SFD
35 Used Oil Collection Service to all SFD Service Units in the Service Districts utilizing
36 Used Oil Containers for the accumulation and set-out of Used Oil, and Used Oil Filter

1 Containers for the accumulation and set out of Used Oil Filters where the Used Oil
2 Containers and Used Oil Filter Containers have been placed within three (3) feet of the
3 curb, swale, paved surface of the public roadway, closest accessible roadway, or other
4 such location agreed to by CONTRACTOR and the Service Recipient, that will provide
5 safe and efficient accessibility to the CONTRACTOR's collection crew and vehicle.
6 Participation by an SFD Service Unit in SFD Used Oil Collection Service is completely
7 voluntary and nothing in this Agreement shall be construed to require participation by
8 any SFD Service Unit.

9 5.05.2 On-Premises Service.

10 5.05.2.1 Non-Subscription On-Premises Service.

11 Notwithstanding any term or condition set forth in this Agreement, CONTRACTOR
12 shall provide on-premises collection of Used Oil and Used Oil Filters to a SFD Service
13 Unit if all adult Service Recipients residing therein have disabilities that prevent them
14 from setting the Used Oil Container and/or Used Oil Filter Container at the curb for
15 collection and if a request for non-subscription on-premises service has been made to,
16 and approved by, the City Representative in the manner required by CITY. The City
17 Representative shall utilize the Consolidated Utility Billing System to notify
18 CONTRACTOR of any SFD Service Units requiring non-subscription on-premises
19 service, along with the date such service is to begin. No additional monies shall be
20 due to CONTRACTOR for the provision of non-subscription on-premises service.

21 CONTRACTOR may at any time, but not more often than twice
22 in any Agreement Year, request that the City Representative verify the eligibility of a
23 SFD Service Unit for non-subscription on-premises service. Upon receipt of
24 CONTRACTOR's request, the City Representative shall make a determination as to
25 whether the SFD Service Unit meets the eligibility requirements and shall notify
26 CONTRACTOR of such determination within sixty (60) calendar days of
27 CONTRACTOR's request. At the time CONTRACTOR makes the request for
28 verification of eligibility, CONTRACTOR may submit to the City Representative any
29 information relevant to the City Representative's determination.

30 5.05.2.2 Subscription On-Premises Service. Notwithstanding
31 any term or condition set forth in this Agreement, CONTRACTOR shall provide on-
32 premises collection of Used Oil and Used Oil Filters to those SFD Service Units
33 subscribing to such service, except that subscription on-premises collection service
34 shall not be available in those instances where the on-premises collection location of
35 the Used Oil Container and/or Used Oil Filter Container is more than one hundred
36 (100) yards from the normal curbside set out location. The City Representative shall
37 utilize the Consolidated Utility Billing System to notify CONTRACTOR of any SFD
38 Service Units subscribing to subscription on-premises collection service, along with the
39 date such service is to begin.

1 5.05.2.3 Collection Day. CONTRACTOR shall provide on-
2 premises SFD Used Oil Collection Service on the same Work Day that curbside Used
3 Oil Collection Service would otherwise be provided to the SFD Service Unit.

4 5.05.3 Non-Collection. CONTRACTOR shall not be required to
5 collect material placed in Used Oil Containers or Used Oil Filter Containers unless the
6 material is Used Oil or Used Oil Filters. In the event of non-collection, CONTRACTOR
7 shall affix to the Used Oil Container or Used Oil Filter Container a Non-Collection
8 Notice explaining why collection was not made. If non-collection is because the
9 material placed in the Used Oil Container or the Used Oil Filter Container was
10 identified by CONTRACTOR as a Hazardous Waste, prior to leaving the Service Unit
11 CONTRACTOR shall notify CITY's Division of Code Enforcement of the non-collection.
12 If non-collection is because the Used Oil or Used Oil Filter was placed in an improper
13 container, CONTRACTOR shall also leave Used Oil Containers or Used Oil Filter
14 Containers in a number sufficient to contain the uncollected Used Oil (but not
15 exceeding sixteen (16) quarts) or Used Oil Filters (but not exceeding two (2) Used Oil
16 Filters) along with the Non-Collection Notice.

17 5.05.4 Courtesy Notice. CONTRACTOR shall be required to collect
18 any Used Oil or Used Oil Filters that are placed in a Used Oil Containers or Used Oil
19 Filter Container. CONTRACTOR may affix to the Recycling Cart a Courtesy Notice
20 informing the Service Recipient that collection was completed even though containers
21 may not have been set out by the Service Recipient according to program instructions.

22 5.05.5 Spillage. CONTRACTOR shall carry petroleum-absorbent
23 material on all Used Oil collection vehicles and shall clean up any Used Oil that spills
24 or leaks prior to or during collection, or that spills or leaks during the time the Used Oil
25 or Used Oil Filter is in the collection vehicle. CONTRACTOR shall remove and
26 properly dispose of all such Used Oil and the petroleum-absorbent material.

27 5.05.6 Used Oil Containers and Used Oil Filter Containers. Within
28 five (5) Work Days of receipt of a verbal request from CITY or an SFD Service Unit,
29 CONTRACTOR shall, at CONTRACTOR's sole cost and expense, provide the SFD
30 Service Unit where the customer resides with Used Oil Containers and Used Oil Filter
31 Containers in the number requested by CITY or the SFD Service Unit but not
32 exceeding a number sufficient to hold sixteen (16) quarts of Used Oil and two (2) Used
33 Oil Filters.

34 At the time CONTRACTOR collects Used Oil from an SFD
35 Service Unit, CONTRACTOR shall, at CONTRACTOR's sole cost and expense, leave
36 at the premises one (1) Used Oil Container for each Used Oil Container collected and
37 one (1) Used Oil Filter Container for each Used Oil Filter Container collected.
38 CONTRACTOR shall keep the outside of all Used Oil Containers and Used Oil Filter

1 Containers clean and may re-use the containers until the condition of the container
2 makes it inappropriate for re-use.

3 5.05.7 Segregation of Used Oil. CONTRACTOR shall at all times
4 keep all Used Oil and Used Oil Filters collected pursuant to this Agreement segregated
5 from other materials. CONTRACTOR shall also keep all Used Oil and Used Oil Filters
6 collected pursuant to this Agreement segregated from all other Used Oil and Used Oil
7 Filters collected by CONTRACTOR or generated by CONTRACTOR until all CITY-
8 required data has been collected and recorded by CONTRACTOR. Such segregation
9 includes segregation in the collection vehicles, in the holding tanks at the processing
10 facility and all times the Used Oil and Used Oil Filters are in CONTRACTOR's
11 possession.

12 5.05.8 Used Oil Processing. CONTRACTOR shall Recycle the Used
13 Oil and Used Oil Filters collected pursuant to this Agreement only with persons who
14 are authorized by the State of California to Recycle oil. CONTRACTOR shall Recycle
15 all such Used Oil and Used Oil Filters to the extent feasible and shall, in accordance
16 with applicable state and federal law and at CONTRACTOR's own cost and expense,
17 properly dispose of all Used Oil and Used Oil Filters that cannot be Recycled.

18 **5.06 SFD Recycling Collection Service.** CONTRACTOR shall perform
19 SFD Recycling Collection Service in accordance with the following terms and
20 conditions:

21 5.06.1 Conditions of Service. CONTRACTOR shall provide SFD
22 Recycling Collection Service to all Service Units in the Service Districts whose
23 Recyclable Materials are properly containerized in a Recycling Cart, where the
24 Recyclable Materials have been placed within three (3) feet of the curb, swale, paved
25 surface of the public roadway, closest accessible roadway, or other such location
26 agreed to by CONTRACTOR and the Service Recipient, that will provide safe and
27 efficient accessibility to the CONTRACTOR's collection crew and vehicle. In the event
28 the Service Recipient produces more Recyclable Materials than can fit in the Recycling
29 Cart, CONTRACTOR shall collect such excess Recyclable Materials as are set out
30 beside the Recycling Cart in an additional container whose loaded weight does not
31 exceed sixty (60) pounds, or in the case of corrugated cardboard, as is placed beside
32 the Recycling Cart.

33 5.06.2 Recyclable Materials Overflow. In the case of repeated set-
34 outs of excess Recyclable Materials, CONTRACTOR shall contact the Service
35 Recipient to arrange for an appropriate change in Recycling Cart size or the provision
36 of additional Recycling Carts.

37 In the event CONTRACTOR cannot successfully contact the
38 Service Recipient after three attempts, or cannot reach an agreement with such

1 Service Recipient regarding the change in service, CONTRACTOR shall utilize the
2 Consolidated Utility Billing System to provide the City Representative with the details
3 of the set-outs of excess Recyclable Materials, and the attempts at communication
4 with the Service Recipient. The City Representative shall respond to CONTRACTOR's
5 report and make a final written determination. Within ten (10) Work Days of receipt of
6 the City Representative's written determination, CONTRACTOR shall exchange the
7 Recycling Cart or shall provide additional Recycling Carts to the extent required by
8 such written determination.

9 5.06.3 On-Premises Service.

10 5.06.3.1 Non-Subscription On-Premises Service.

11 Notwithstanding any term or condition set forth in this Agreement, CONTRACTOR
12 shall provide on-premises collection of Recyclable Materials to a SFD Service Unit if all
13 adult Service Recipients residing therein have disabilities that prevent them from
14 setting the Recycling Cart at the curb for collection and if a request for non-
15 subscription on-premises service has been made to, and approved by, the City
16 Representative in the manner required by CITY. The City Representative shall utilize
17 the Consolidated Utility Billing System to notify CONTRACTOR of any SFD Service
18 Units requiring non-subscription on-premises service, along with the date such service
19 is to begin. No additional monies shall be due to CONTRACTOR for the provision of
20 non-subscription on-premises service.

21 CONTRACTOR may at any time, but not more often than twice
22 in any Agreement Year, request that the City Representative verify the eligibility of a
23 SFD Service Unit for non-subscription on-premises service. Upon receipt of
24 CONTRACTOR's request, the City Representative shall make a determination as to
25 whether the SFD Service Unit meets the eligibility requirements and shall notify
26 CONTRACTOR of such determination within sixty (60) calendar days of
27 CONTRACTOR's request. At the time CONTRACTOR makes the request for
28 verification of eligibility, CONTRACTOR may submit to the City Representative any
29 information relevant to the City Representative's determination.

30 5.06.3.2 Subscription On-Premises Service. Notwithstanding
31 any term or condition set forth in this Agreement, CONTRACTOR shall provide
32 subscription on-premises collection of Recyclable Materials to those SFD Service
33 Units subscribing to such service, except that subscription on-premises collection
34 service shall not be available in those instances where the on-premises collection
35 location of the Recycling Cart is more than one hundred (100) yards from the normal
36 curbside set out location. The City Representative shall utilize the Consolidated Utility
37 Billing System to notify CONTRACTOR of any SFD Service Units subscribing to
38 subscription on-premises collection service, along with the date such service is to
39 begin.

1 5.06.3.3 Collection Day. CONTRACTOR shall provide on-
2 premises SFD Recycling Service on the same Work Day that curbside collection would
3 otherwise be provided to the Service Recipient.

4 5.06.4 Recycling - Improper Procedure. Except as set forth in this
5 Section 5.06.4, CONTRACTOR shall not be required to collect Recyclable Materials if
6 the Service Recipient does not segregate the Recyclable Materials from Residential
7 Solid Waste or Exempt Waste. If Recyclable Materials are contaminated through
8 commingling with Residential Solid Waste or Exempt Waste, CONTRACTOR shall, if
9 practical, separate the Residential Solid Waste or Exempt Waste from the Recyclable
10 Materials. The Recyclable Materials shall then be collected and the Residential Solid
11 Waste or Exempt Waste shall be left in the Recycling Cart along with a Non-Collection
12 Notice explaining why the Residential Solid Waste or Exempt Waste is not considered
13 a Recyclable Material.

14 In the event the Recyclable Materials and Residential Solid
15 Waste or Exempt Waste are commingled to the extent that they cannot be separated
16 by CONTRACTOR, the nature of the Residential Solid Waste or Exempt Waste
17 renders the entire contents of the Recycling Cart contaminated, or the nature of the
18 Exempt Waste poses a health and safety issue, CONTRACTOR will leave the
19 Recycling Cart un-emptied along with a Non-Collection Notice that contains
20 instructions on the proper procedures for setting out Recyclable Materials. In the
21 event CONTRACTOR leaves the Recycling Cart un-emptied, CONTRACTOR shall
22 utilize the Consolidated Utility Billing System to provide the City Representative with
23 the details of the excess contamination. In the event the Recycling Cart is left un-
24 emptied more than three (3) times during three (3) consecutive months, the City
25 Representative will work with CONTRACTOR to resolve the situation.

26 5.06.5 Courtesy Notice. Except as set forth in Section 5.06.4 above,
27 CONTRACTOR shall be required to collect any Recyclables Materials that are placed
28 in a Recycling Cart even if placement of cart causes CONTRACTOR to move it to
29 facilitate collection. CONTRACTOR may affix to the Recycling Cart a Courtesy Notice
30 informing the Service Recipient that collection was completed even though containers
31 may not have been set out by the Service Recipient according to program instructions.

32 5.06.6 Purchase and Distribution of Recycling Carts.

33 CONTRACTOR shall purchase and distribute fully assembled
34 and functional Recycling Carts to new Service Units that are added to
35 CONTRACTOR's Service District(s) during the term of this Agreement. The number of
36 Recycling Carts and the size of each Recycling Cart to be distributed will be in
37 accordance with the information provided by the CITY and except as provided in
38 Section 4.03 of this Agreement, CONTRACTOR shall complete the distribution within

1 ten (10) Work Days of receipt of the information. If directed by the City
2 Representative, CONTRACTOR will provide multiple Recycling Carts to a Service Unit.
3 Recycling Carts shall be affixed with the CITY recycling logo, and shall meet the
4 specifications set forth in Exhibit 5.

5 5.06.7 Replacement of Recycling Carts. CONTRACTOR's
6 employees shall take care to prevent damage to Recycling Carts by unnecessary
7 rough treatment. Any Recycling Cart damaged by CONTRACTOR shall be replaced
8 by CONTRACTOR, at CONTRACTOR's expense, within ten (10) Work Days at no
9 cost or inconvenience to the Service Recipient and at no cost to CITY.

10 Upon notification to CONTRACTOR by the City Representative
11 or a Service Recipient that the Service Recipient's Recycling Cart has been stolen or
12 that it has been damaged beyond repair through no fault of CONTRACTOR,
13 CONTRACTOR shall deliver a replacement Recycling Cart to such Service Recipient
14 within five (5) Work Days of the notification.

15 Each Service Recipient shall be entitled to the replacement of
16 one (1) lost, destroyed, or stolen Recycling Cart during the term of this Agreement at
17 no cost to the Service Recipient or CITY. Except in the case of a Recycling Cart that
18 must be replaced because of damage caused by CONTRACTOR or in the case where
19 CONTRACTOR elects to replace a Recycling Cart rather than repair it on-site,
20 CONTRACTOR shall be compensated for the cost of those replacements in excess of
21 one (1) per Service Recipient during the term of this Agreement, in accordance with
22 the "Cart Exchanges in Excess of Once per Year" service rate set forth in **Exhibit 1**
23 ("COMPENSATION RATES"), as adjusted under the terms of this Agreement.
24 CONTRACTOR understands and agrees that this provision is intended to be applied
25 on a per Service Recipient basis, not a per Service Unit basis.

26 5.06.8 Repair of Recycling Carts. CONTRACTOR shall be
27 responsible for repair of Recycling Carts in the areas to include, but not be limited to,
28 hinged lids, wheels and axles. Within ten (10) Work Days of notification by CITY or a
29 Service Recipient of the need for such repairs, CONTRACTOR shall repair the
30 Recycling Cart or if necessary, remove the Recycling Cart for repairs and deliver a
31 replacement Recycling Cart to the Service Recipient.

32 5.06.9 Recycling Cart Exchange. With ten (10) Work Days of
33 notification to CONTRACTOR by CITY or a Service Recipient that a change in the size
34 of a Recycling Cart is required, CONTRACTOR shall deliver a replacement Recycling
35 Cart to the Service Recipient, and remove the Recycling Cart being replaced. Each
36 Service Unit shall be eligible to receive one (1) free Recycling Cart exchange per
37 Agreement Year during the term of this Agreement, as extended. CONTRACTOR
38 shall be compensated for the cost of those exchanges in excess of one (1) per

1 Agreement Year, in accordance with the “Cart Exchanges in Excess of Once per Year”
2 service rate set forth in Exhibit 1, as adjusted under the terms of this Agreement.

3 5.06.10 Ownership of Recycling Carts. Recycling Carts in the
4 possession of a Service Unit as of July 1, 2007, and all Recycling Carts distributed by
5 CONTRACTOR during the term of this Agreement shall be the property of
6 CONTRACTOR. CONTRACTOR shall retain ownership of such Recycling Carts
7 during the term of this Agreement. Upon the expiration or termination of this
8 Agreement, CONTRACTOR shall transfer to CITY and CITY shall obtain ownership of
9 all Recycling Carts that are in the possession of a Service Unit on the date of such
10 expiration or termination. CONTRACTOR shall retain ownership of all Recycling Carts
11 in CONTRACTOR’s possession at the expiration or termination of this Agreement.

12 5.06.11 Materials Recovery Facility. CONTRACTOR shall transport
13 and deliver all Recyclable Materials collected as a result of performing SFD Recycling
14 Services to the Materials Recovery Facility. In the event the Materials Recovery
15 Facility is unable to accept delivery of the Recyclable Materials, CONTRACTOR shall
16 deliver the Recyclable Materials to such other appropriate facility as is approved in
17 advance by the City Representative. CONTRACTOR’s failure to comply with this
18 provision shall result in the levy of an administrative charge as specified in Article 17 of
19 this Agreement and may result in CONTRACTOR being in default under this
20 Agreement.

21 **5.07 Service Agreement.** To the extent available, CITY will provide
22 CONTRACTOR with a list of private streets in the Service District(s), and shall provide
23 updated lists as additional streets are added or additional information is available.
24 CONTRACTOR shall obtain a signed service agreement from each SFD Service Unit
25 complex or development where CONTRACTOR will enter upon private streets to
26 perform SFD Recycling Services. CONTRACTOR shall provide the City
27 Representative with copies of all signed service agreements within ten (10) Work Days
28 of receipt by CONTRACTOR. The service agreements will contain at least the
29 following information: Name and address of the complex, development, or
30 homeowners’ association; name, address and phone number of the contact person for
31 the complex, development, or homeowners’ association; permission for
32 CONTRACTOR to enter the private streets; number and size of Recycling Carts; and
33 collection location if not curbside.

34 / /

35 / /

36 / /

1 shall provide notice of the route change to the affected Service Units not less than
2 thirty (30) Work Days before the proposed date of implementation in a manner
3 approved by the City Representative.

4 **6.03 Collection Route Audits.**

5 6.03.1 Route Audits. All collection routes shall be audited annually in
6 a manner subject to the approval of the City Representative. CONTRACTOR shall
7 conduct an annual route audit for each of CONTRACTOR's SFD Recycling Service
8 routes. The route audits shall be conducted once each calendar year during the term
9 of this Agreement beginning in calendar year 2008, with each route being audited in a
10 different quarter each year so that all routes are audited in each of the four (4) quarters
11 during the term of this Agreement. CONTRACTOR shall conduct audits of all routes
12 served by one collection vehicle on five (5) consecutive Work Days. Not later than
13 sixty (60) Work Days prior to the first route audit in each year, CONTRACTOR shall
14 submit to the City Representative a schedule of route audits to be conducted in that
15 year together with a description of the audit methodology. CITY reserves the right to
16 determine which routes will be audited in a particular week and, if CITY exercises this
17 right, shall notify CONTRACTOR of the routes not less than three (3) Work Days in
18 advance. CONTRACTOR shall include route audits performed in each quarter in
19 CONTRACTOR's quarterly report.

20 6.03.2 Audit Information. The route audits shall include the following
21 information for each collection route:

- 22 ▪ The cart size and address of the Service Recipient where the cart
23 was audited.
- 24 ▪ The route number, the date of the audit, and the starting and
25 ending times of collection during the audit.
- 26 ▪ The number of Service Units on the route.
- 27 ▪ The number of Service Units participating on the date of the audit
28 and the number and type (Recyclable Materials, Used Oil & Used
29 Oil Filters) of collections.
- 30 ▪ The number of contaminated Recycling Carts and the number of
31 Service Units that set out overages.
- 32 ▪ The number of over-filled carts, and the address of the Service
33 Recipient where the cart was audited.
- 34 ▪ The number of carts that need repair or replacement, and the
35 address of the Service Recipient where the cart was audited.

- 1 ▪ The number of collection vehicles used on the route by vehicle
2 type (e.g., rear loader truck, side-loading truck), and the number
3 of trips made by each vehicle to the Materials Recovery Facility.
- 4 ▪ The tonnage of Recyclable Materials, and the time of arrival and
5 departure of each vehicle at the Materials Recovery Facility.
- 6 ▪ A description of any changes in the route occurring since the
7 immediately preceding route audit, including changes in the
8 location of the route, the number of Service Units, equipment
9 used, and collection methods employed.
- 10 ▪ The name(s), telephone number(s), and signature(s) of the
11 persons performing each route audit.

12 **6.04 Special Route Audits.** CITY may request performance of special
13 route audits in addition to the route audits conducted pursuant to Section 6.03. Within
14 fifteen (15) calendar days of receipt of a written request for a special route audit,
15 CONTRACTOR shall provide to the City Representative a written cost proposal for
16 performance of the special route audit. If the City Representative accepts
17 CONTRACTOR's cost proposal, CONTRACTOR shall conduct the special route audit
18 and CITY shall compensate CONTRACTOR at the rate described in CONTRACTOR's
19 cost proposal.

20 **6.05 CITY-Conducted Collection Route Audits.** CITY reserves the right
21 to conduct audits of CONTRACTOR's collection route audits. CONTRACTOR shall
22 cooperate with CITY in connection therewith, including permitting CITY employees or
23 agents, designated by the City Representative, to ride in the collection vehicles during
24 the conduct of audits. CONTRACTOR shall have no responsibility or liability for the
25 salary, wages, benefits or Worker's Compensation claims of any person designated by
26 the City Representative to conduct such audits.

27 **6.06 Waste Characterization Study.** CITY may require that a waste
28 characterization study be undertaken by the CONTRACTOR, or the City may elect to
29 conduct the study itself. In the event the CITY requests participation of the
30 CONTRACTOR, CONTRACTOR shall within fifteen (15) calendar days of receipt of a
31 written request for a waste characterization study, provide to the City representative a
32 written cost proposal for performance of the waste characterization study. If the City
33 Representative accepts CONTRACTOR's cost proposal, CONTRACTOR shall
34 participate in the waste characterization study to the extent set forth in the approved
35 study plan, and CITY shall compensate CONTRACTOR at the rate described in
36 CONTRACTOR's cost proposal. In the event CITY elects to conduct the waste
37 characterization study itself, CONTRACTOR shall cooperate with the CITY in
38 conducting the study. Cooperation shall include, but not be limited to, providing route

1 and collection data to assist in the selection of the test samples, and coordinating
2 collection routes and activities so as not to interfere with the study.

3 **ARTICLE 7. COLLECTION EQUIPMENT**

4 **7.01 Equipment Specifications.**

5 7.01.1 General Provisions. All collection equipment used by
6 CONTRACTOR in the performance of services under this Agreement shall be of high
7 quality. The vehicles shall be designed and operated so as to prevent collected
8 materials from escaping from the vehicles. All hoppers shall be closed on top and on
9 all sides with screening material to prevent collected materials from leaking, blowing or
10 falling from the vehicles. All trucks and containers shall be watertight and shall be
11 operated so that liquids do not spill during collection or in transit.

12 Except in the case of collection of Large Items, all collection
13 vehicles utilized by CONTRACTOR pursuant to this Agreement shall provide
14 automated or semi-automated collection except where such service is not feasible
15 because of topographic or other physical factors. The determination that automated or
16 semi-automated collection vehicles are not feasible shall be made by the City
17 Representative after consultation with CONTRACTOR. Where automated or semi-
18 automated services are not feasible, CONTRACTOR shall consult with the City
19 Representative regarding the collection equipment to be utilized.

20 7.01.2 Clean Air Vehicles. During the term of this Agreement, to the
21 extent required by law, CONTRACTOR shall provide its Collection Service vehicles to
22 be in full compliance with local, State and federal clean air requirements that were
23 adopted or proposed to be adopted, including, but not limited to, the California Air
24 Resources Board Heavy Duty Engine Standards as currently proposed to be contained
25 in CCR Title 13, Section 2021 et seq.; the Federal EPA's Highway Diesel Fuel Sulfur
26 regulations and any other applicable air pollution control laws.

27 7.01.3 Lubricants. Except as approved in writing by the Director of
28 Environmental Services on an individual vehicle basis, CONTRACTOR shall utilize re-
29 refined motor oil and re-refined hydraulic oil in all vehicles used by CONTRACTOR in
30 the performance of this Agreement.

31 7.01.4 Large Items. Vehicles used for collection of Large Items shall
32 not use compaction mechanisms or mechanical handling equipment that may damage
33 reusable goods or release Freons or other gases from pressurized appliances, prior to
34 sorting by a CITY-approved process.

35 7.01.5 Collection Vehicles. CONTRACTOR shall not use any collection
36 vehicle older than model year 2001, and shall not use any collection vehicle that is

1 more that six (6) years old or has more than 250,000 miles unless such vehicle is a
2 Rebuilt Vehicle.

3 7.01.6 Safety Markings and Devices. All collection equipment used
4 by CONTRACTOR in providing collection services under this Agreement shall have
5 appropriate safety markings including, but not limited to, highway lighting, flashing and
6 warning lights, and clearance lights. All such safety markings and devices shall be in
7 accordance with the requirements of the California Vehicle Code, as may be amended
8 from time to time, and shall be subject to the approval of the City Representative.

9 7.01.7 Vehicle Signage and Painting. Collection vehicles shall be
10 painted and numbered consecutively without repetition and shall have
11 CONTRACTOR's name, CITY's customer service telephone number, (408) 535-3500
12 or such other number as is provided to CONTRACTOR by the City Representative,
13 and the number of the vehicle in letters of contrasting color, at least four (4) inches
14 high, on each side and the rear of each vehicle. CITY may specify the format of the
15 alpha-numeric numbering sequence to be used, so that all vehicles have a unique
16 identifier. No advertising shall be permitted on the collection vehicles other than the
17 name of CONTRACTOR and promotional advertisement of the Recycle Plus Program.
18 Collection vehicles shall be painted white, or such other color as has been approved
19 in writing by the City Representative and vehicle striping and logos shall be in
20 CONTRACTOR's primary corporate colors. CONTRACTOR shall repaint all collection
21 vehicles (including the vehicles' striping) during the term of this Agreement on a
22 frequency as is necessary to maintain a positive public image as reasonably
23 determined by the City Representative, but not less often than every thirty (30) months
24 beginning July 1, 2007.

25 Collection vehicles shall be identified as City of San José
26 Recycle Plus collection vehicles through the use of interchangeable signs. These
27 signs will contain Recycle Plus-related announcements in English, Spanish,
28 Vietnamese, or other languages as directed by the City Representative.
29 CONTRACTOR shall be responsible for equipping both sides of the collection vehicles
30 with frames capable of securing signs of dimensions 29-3/16" high by 93-3/16" wide or
31 other dimensions designated by the City Representative. CITY shall provide such
32 signs to CONTRACTOR with a minimum of one (1) week's notice prior to design
33 changes. CONTRACTOR shall install the signs in the frames. CITY shall not require
34 sign changes more frequently than once every quarter.

35 **7.02 Collection Vehicle Noise Level.** The noise level generated by
36 collection vehicles using compaction mechanisms during the stationary compaction
37 process shall not exceed seventy-five (75) decibels at a distance of twenty-five (25)
38 feet from the collection vehicle measured at an elevation of five (5) feet above ground
39 level using the "A" scale of the standard sound level meter at slow response.

1 CONTRACTOR shall cause each collection vehicle to be tested no less than once
2 every three (3) years during the months of March and April, beginning March of 2008.
3 CONTRACTOR shall maintain copies of certificates of testing showing the results of
4 the vehicle testing and shall make such certificates available for inspection upon
5 request by the City Representative. CONTRACTOR shall not use any collection
6 vehicle that does not meet the noise level limitations of this Section.

7 **7.03 Vehicle Registration, Licensing and Inspection.** All vehicles used
8 by CONTRACTOR in the performance of services under this Agreement shall be in
9 compliance with all registration, licensing and inspection requirements of the California
10 Highway Patrol, the California Department of Motor Vehicles, and any other applicable
11 laws or regulations. CONTRACTOR shall maintain copies of all certificates and
12 reports evidencing compliance, and shall make such certificates and reports available
13 for inspection upon request by the City Representative. CONTRACTOR shall not use
14 any vehicle to perform Collection Services that is not in compliance with applicable
15 registration, licensing and inspection requirements.

16 **7.04 Equipment Maintenance.** CONTRACTOR shall maintain all
17 collection equipment in a clean condition, free of graffiti and in good repair at all times.
18 All parts and systems of the collection equipment shall operate properly and be
19 maintained in good working order. CONTRACTOR shall wash all collection vehicles at
20 least once a week using recycled water. All washings shall be conducted in a manner
21 that conforms to the BMP Guidelines for Non-Point Source Pollutants in the publication
22 entitled *Storm Water Best Management Practices Handbook for Industrial Commercial*.

23 **7.05 Maintenance Log.** CONTRACTOR shall maintain a maintenance log
24 for all collection vehicles. The log shall at all times be accessible to CITY via
25 computer, or by physical inspection upon request of the City Representative, and shall
26 show, at a minimum, each vehicle's CONTRACTOR-assigned identification number,
27 date purchased or initial lease, dates of performance of routine maintenance, dates of
28 performance of any additional maintenance, and description of additional maintenance
29 performed.

30 **7.06 Equipment Inventory.**

31 7.06.1 On or before October 1, 2006, CONTRACTOR shall submit to
32 the City Representative preliminary estimates of the equipment required for
33 CONTRACTOR to perform the services described in this Agreement. CITY may
34 provide written comments on the preliminary estimates within ten (10) Work Days of
35 receipt of the estimates from CONTRACTOR. CONTRACTOR shall respond in writing
36 to any CITY comments within thirty (30) Work Days of receipt of comments from CITY.

37 7.06.2 On or before June 15, 2007, CONTRACTOR shall provide to
38 the City Representative an inventory of collection vehicles and major equipment used

1 by CONTRACTOR in the performance of services under this Agreement. The
2 inventory shall indicate each vehicle by CONTRACTOR-assigned identification
3 number, DMV license number, the age of the chassis and body, mileage, type of fuel
4 used, the type and capacity of each vehicle, the number of vehicles by type, the date
5 of acquisition, the decibel rating and the maintenance and rebuilt status.
6 CONTRACTOR shall submit to CITY an updated inventory annually or more often at
7 the request of the City Representative. Each inventory shall also include the tare
8 weight of each vehicle as determined by weighing at a public scale and not at a
9 disposal or other facility scale used by CONTRACTOR. The specific procedure for
10 performing the tare weighing shall be subject to the approval of the City
11 Representative. Each vehicle inventory shall be accompanied by a certification by
12 CONTRACTOR that all vehicles meet the requirements of this Agreement.

13 **7.07 Reserve Equipment.** CONTRACTOR shall have available to it, at all
14 times, reserve collection equipment which can be put into service and operation within
15 one (1) hour of any breakdown. Such reserve equipment shall correspond in size and
16 capacity to the equipment used by CONTRACTOR to perform services pursuant to this
17 Agreement.

18 **7.08 Collection Fleet Rental.** CITY, at its sole option, may rent all or part
19 of CONTRACTOR's collection fleet for a three-month period beginning July 1, 2013.
20 CITY will notify CONTRACTOR in writing of its intention to use this option no later than
21 June 1, 2013. The rental price shall be \$100.00 per hour per vehicle, and the terms
22 and conditions of the rental shall be those customary in the rental of solid waste
23 collection equipment.

24 **ARTICLE 8. CONTRACTOR'S COMPENSATION**

25 **8.01 Billing and Collection of Payments.** CITY shall be responsible for
26 the billing and collection of payments from Service Units for all SFD Recycling
27 Services.

28 **8.02 Monthly Invoices.** Beginning for services performed by
29 CONTRACTOR during the month of July 2007, CITY shall produce a preliminary
30 monthly invoice for all services received under this Agreement no later than the
31 fifteenth (15th) day of the month following the month such services were rendered.

32 **8.02.1 Review of Monthly Invoice by CONTRACTOR.**
33 CONTRACTOR shall review the monthly invoice prepared by CITY and within ten (10)
34 Work Days of receipt of the invoice, CONTRACTOR shall notify the City
35 Representative of any discrepancies or deficiencies in said invoice.

1 8.02.2 Resolution Of Discrepancies. CONTRACTOR shall meet with
2 the City Representative within ten (10) Work Days of CITY's receipt of notice of
3 discrepancies or deficiencies to resolve any such discrepancies or deficiencies and
4 shall provide to the City Representative any and all documentation relating to the
5 discrepancy or deficiency that is requested by the City Representative or which
6 CONTRACTOR wishes to provide in support of CONTRACTOR's calculations. Within
7 fifteen (15) calendar days of the receipt of documentation requested in writing by the
8 City Representative or within fifteen (15) calendar days of the meeting between
9 CONTRACTOR and the City Representative, whichever occurs later, the City
10 Representative shall notify CONTRACTOR in writing of the City Representative's
11 resolution of the discrepancies or deficiencies. The City Representative's
12 determination shall be final unless within ten (10) calendar days of the date of the
13 determination CONTRACTOR requests a review by the Director of Environmental
14 Services ("Director").

15 If CONTRACTOR timely requests a review by the Director, the
16 Director shall review the City Representative's determination, all relevant
17 documentation presented to the City Representative, and any additional relevant
18 documentation provided by CONTRACTOR at the time of CONTRACTOR's request
19 for review. If requested by CONTRACTOR, the Director or the Director's designee
20 shall meet with CONTRACTOR within fifteen (15) calendar days of CONTRACTOR's
21 request for review. The Director shall render a written decision to CONTRACTOR
22 sustaining or reversing the City Representative's determination, in whole or in part,
23 within thirty (30) calendar days of receipt of CONTRACTOR's request for review.

24 8.02.3 Partial Month Service. If, during a month, a Service Unit is
25 added to or deleted from CONTRACTOR's Service Unit list, the billing for such Service
26 Unit shall be pro-rated as follows: (1) if the Service Unit was eligible to receive SFD
27 Recycling Service for at least sixteen (16) calendar days during the month,
28 CONTRACTOR shall be compensated for that Service Unit at the full monthly rate set
29 out in Exhibit 1; and (2) if the Service Unit was eligible to receive SFD Recycling
30 Service for less than sixteen (16) calendar days during the month, CONTRACTOR
31 shall not be compensated for that Service Unit for that month.

32 8.02.4 Payments. CITY shall make no payment for any SFD Service
33 Unit (including Small Civic Service Units) or Business Service Unit that is not included
34 on the list of SFD Service Units, Small Civic Service Units, and Business Service Units
35 maintained by CITY.

36 **8.03 Payments to CONTRACTOR.** Beginning for services performed
37 during the month of July 2007, CITY shall pay CONTRACTOR for services performed
38 in accordance with this Agreement at the service rates set forth in Exhibit 1 as such
39 rates may be adjusted pursuant to this Agreement. Except as otherwise provided in

1 this Agreement, CITY shall make monthly payments to CONTRACTOR within thirty
2 (30) calendar days of CONTRACTOR's approval of CITY's invoice. In the event there
3 are any amounts listed on the invoice which remain in dispute after CONTRACTOR
4 and CITY complete the Resolution of Discrepancies process set forth in Section 8.02.2
5 above, CITY shall pay to CONTRACTOR the amounts accepted by the City
6 Representative or the Director of Environmental Services, as appropriate. CITY shall
7 not make any payments to any CONTRACTOR's subcontractors.

8 8.03.1 Wire Transfers. At the request of CONTRACTOR, CITY will
9 make monthly invoice payments and/or additional payments by wire transfer to
10 CONTRACTOR's bank account or accounts as are designated by CONTRACTOR.
11 CITY may deduct CITY's costs of the wire transfers from the monthly payment
12 otherwise due to CONTRACTOR.

13 **8.04 Adjustments To Rates Using Refuse Rate Index (RRI)**

14 8.04.1 Refuse Rate Index (RRI). Beginning on July 1, 2008, and
15 annually thereafter, CONTRACTOR shall, subject to compliance with all provisions of
16 this Article, receive an annual adjustment in the following service rates as set forth in
17 Exhibit 1 to this Agreement.

- 18 ▪ SFD Recycling Service, collection (line A.1)
- 19 ▪ SFD Used Oil Collection Service (line A.2.)
- 20 ▪ Subscription On-Premises Collection (line B.1)
- 21 ▪ Cart Exchanges in Excess of Once per Year (line B.2)
- 22 ▪ Large Item Collection (line B.3)

23 8.04.2 At the start of the second year of this Agreement (July 1,
24 2008), and annually thereafter during the term of this Agreement, the service rates set
25 forth in Section 8.04.1 above shall be increased or decreased by the percentage
26 change in the Refuse Rate Index (RRI) from the base month, which shall be
27 December of the prior preceding year, to December of the immediately preceding year
28 as contained in the most recent release of the source documents listed in **Exhibit 3**
29 ("REFUSE RATE INDEX") to this Agreement. Therefore, the first rate adjustment will
30 be based on the percentage change between the December 2006 indices and the
31 December 2007 indices.

32 8.04.3 On or before February 15, 2008, CONTRACTOR shall deliver
33 to CITY financial information for the specific services performed under this Agreement
34 for the period from July 1, 2007, through December 31, 2007. On or before February
35 15, 2009, and annually thereafter during the term of this Agreement, CONTRACTOR
36 shall deliver to CITY financial information for the specific services performed under this

1 Agreement for the preceding calendar year. Such financial information shall be the
2 information described in the "Operating Cost Statement – Description" portion of
3 Exhibit 3 and shall be in the format described in Exhibit 3, or as may be revised by
4 CITY from time to time. If CONTRACTOR fails to submit the financial information in
5 the required format by February 15th, it is agreed that CONTRACTOR shall be deemed
6 to have waived the RRI rate adjustment for that year. CONTRACTOR's failure to
7 provide the financial information shall not preclude CITY from applying the RRI using
8 the prior year's financial data, or pro forma data if no prior year financial data is
9 available, if that application would result in a decrease in the affected service rates.

10 8.04.4 Annual adjustments shall be made only in units of one cent
11 (\$0.01). Fractions of less than one cent (\$0.01) shall not be considered in making
12 adjustments. The indices shall be truncated at four (4) decimal places for the
13 adjustment calculations.

14 8.04.5 If CONTRACTOR's failure to submit the financial information
15 required by Section 8.04.3 is the result of extraordinary or unusual circumstances as
16 demonstrated by CONTRACTOR to the satisfaction of CITY's Director of
17 Environmental Services, CITY, at its sole discretion, may consider the request for the
18 annual RRI rate adjustment.

19 8.04.6 As of June 1, 2008, and annually thereafter during the term of
20 this Agreement, the City Representative shall notify CONTRACTOR of the RRI
21 adjustment to the affected service rates to take place on the subsequent July 1st.

22 **8.05 Service Unit Counts.** CITY will utilize the Consolidated Utility Billing
23 System to maintain the customer database from which the SFD Service Unit and Small
24 Civic Service Unit counts will be derived. In the event CONTRACTOR does not agree
25 with the SFD Service Unit count or the Small Civic Service Unit count as maintained by
26 CITY, CONTRACTOR may, at any time but not more often than once per Agreement
27 Year, request that CITY and CONTRACTOR perform a joint route audit of the SFD
28 Service Units, Small Commercial Business Service Units and/or the Small Civic
29 Service Units in the Service District(s). Such audit shall be at no cost to CITY other
30 than labor costs for CITY staff.

31 **8.06 Withholding of Payment.** In addition to express provisions contained
32 elsewhere in this Agreement, CITY may withhold from any payment otherwise due to
33 CONTRACTOR such amount as is reasonably determined by CITY as necessary to
34 protect CITY's interest, or, if CITY so elects, may withhold or retain all or a portion of
35 any monthly payment or refund payment for any of the following reasons. CITY shall
36 provide written notice to CONTRACTOR of the reason for withholding of payments.

- 37 ▪ Unsatisfactory progress of the work not caused by any condition
38 beyond CONTRACTOR's control;

- 1 ▪ Defective work not corrected;
- 2 ▪ CONTRACTOR's failure to carry out instructions or orders of the
- 3 City Representative;
- 4 ▪ Execution of work not in accordance with this Agreement;
- 5 ▪ Claims filed by or against CONTRACTOR or reasonable evidence
- 6 indicating probable filing of claims;
- 7 ▪ Failure of CONTRACTOR to make payments to any subcontractor
- 8 for material or labor;
- 9 ▪ Unsafe working conditions allowed to persist by CONTRACTOR;
- 10 ▪ Failure of CONTRACTOR to provide route schedules and other
- 11 reports as required by CITY; or
- 12 ▪ Use of any subcontractors without CITY's prior written approval.

13 **8.07 Payment Of Withheld Amounts.** Upon CONTRACTOR's remedy of
14 the above-listed grounds for withholding payment and demonstration of the remedy to
15 the reasonable satisfaction of the City Representative, CITY shall pay all withheld
16 amounts within ten (10) Work Days. CITY shall not be liable for interest on any
17 delayed or late payment.

18 **ARTICLE 9. DIVERSION STANDARDS**

19 **9.01 Diversion Standards.**

20 9.01.1 In Service District A, the Residential Recyclable Materials
21 ("RRM") diversion standard is thirty percent (30%);

22 9.01.2 In Service District C, Residential the Recyclable Materials
23 ("RRM") diversion standard is thirty-five percent (35%);and

24 9.01.3 The Large Item diversion standard is fifty percent (50%).

25 **9.02 Annual Calculation of Diversion Standards.** The diversion
26 standards will be calculated individually for each Service District on a calendar year
27 basis beginning January 1, 2008, as follows:

28 9.02.1 RRM Diversion Standard. The Residential Recyclable
29 Materials diversion standard for each Service District will be measured as the tons of
30 Recyclable Materials, and approved Non-Program Materials collected through the
31 provision of SFD Recycling Collection Services and SFD Used Oil Collection Services
32 and attributable to that Service District that are Recycled, Processed, and Sold divided
33 by the sum of the tons of Residential Solid Waste collected by the CITY's SFD Solid

1 Waste Contractor for the same Service District and the Recyclable Materials collected
2 from the same Service District in the calendar year:

$$\text{RRM Diversion Standard} = \frac{\text{Tons of Recyclable Materials Recycled, Processed and Sold}}{\text{Tons RSW collected} + \text{Tons Recyclable Materials collected}}$$

3 9.02.2 Large Item Diversion Standard. The Large Item diversion
4 standard for each Service District A and Service District C will be calculated as the
5 tons of Large Items collected through the provision of Large Item Collection Services
6 and attributable to the Service District that are Recycled, Processed, and Sold, or
7 delivered to a recycler or reuser, as required by this Agreement, divided by the total
8 tons of Large Items collected from the Service District in the calendar year:

$$\text{Large Item Diversion Standard} = \frac{\text{Tons of Large Items Recycled, Processed, and Sold, or delivered}}{\text{Tons Large Items collected}}$$

9 9.02.3 The protocol for determining the tons of materials Sold, the
10 tons of materials collected, and the tons of materials that are attributable to each
11 Service District will be determined by CITY in consultation with CONTRACTOR.

12 **9.03 Residential Recyclable Materials (RRM) Diversion Incentive**
13 **Payment Calculation.**

14 9.03.1 CITY shall pay CONTRACTOR a Residential Recyclable
15 Materials Diversion Incentive Payment for each calendar year in which
16 CONTRACTOR exceeds the applicable RRM diversion standard. CONTRACTOR's
17 eligibility for the annual RRM Diversion Incentive Payment shall be determined by
18 CITY based on the results of the data submitted by CONTRACTOR through the
19 Consolidated Utility Billing System during the preceding calendar year, as verified by
20 CITY. CONTRACTOR's eligibility for the annual RRM Diversion Incentive Payment
21 shall be determined separately for each District. In the event CONTRACTOR is
22 determined to be eligible for the annual RRM Diversion Incentive Payment for a
23 District, such payment shall be calculated as follows:

- 24 ■ For each one percent (1%) above the RRM diversion standard, CONTRACTOR
25 will receive an amount equal to one-half percent (1/2%) of the prior calendar
26 year payments made by CITY to CONTRACTOR.

27 9.03.2 If CONTRACTOR meets the eligibility requirements for the
28 RRM Diversion Incentive Payment for a particular calendar year, CITY shall make the
29 annual RRM diversion incentive payment to CONTRACTOR on or before August 1st
30 following the end of the calendar year in which the RRM Diversion Incentive Payment
31 was earned.

1 **9.04 Residential Recyclable Materials (RRM) Diversion Disincentive**
2 **Deduction Calculation.**

3 9.04.1 CITY shall make a Residential Recyclable Materials Diversion
4 Disincentive deduction for each calendar year in which CONTRACTOR fails to achieve
5 the applicable RRM diversion standard. CONTRACTOR's annual RRM Diversion
6 Disincentive deduction shall be determined by CITY based on the results of the data
7 submitted by CONTRACTOR through the Consolidated Utility Billing System during
8 the preceding calendar year, as verified by CITY. CONTRACTOR's annual RRM
9 Diversion Disincentive deduction shall be determined separately for each District. In
10 the event CONTRACTOR is determined to owe the annual RRM Diversion
11 Disincentive deduction for a District, such deduction shall be calculated as follows:

- 12 ▪ For each one (1%) below the applicable RRM diversion standard,
13 CITY will deduct an amount equal to one-half percent (1/2%) of the
14 prior calendar year payments made by CITY to CONTRACTOR.

15 9.04.2 If CONTRACTOR fails to meet the applicable RRM diversion
16 standard for a particular calendar year, CITY shall make a RRM Diversion Disincentive
17 deduction from payments due to CONTRACTOR on or before March 1st following the
18 end of the calendar year in which CONTRACTOR did not meet the RRM diversion
19 standard.

20 **9.05 Approval of New Non-Program Materials.** CONTRACTOR may
21 request that additional items be added to the approved list of Non-Program Materials
22 used to calculate the RMM diversion standards. The request shall be made in writing
23 to the ESD Director and shall include a statement that the item was collected during
24 the provision of SFD Residential Recycling Collection Services, a description of
25 specifically how the material will be diverted, tonnage collected for the past six (6)
26 months, to the extent available, tonnage projected to be collected over the next twelve
27 (12) months, and such other information as may be requested by CITY. The Director
28 shall review the request and respond to CONTRACTOR with in thirty (30) calendar
29 days.

30 **ARTICLE 10. CONTRACTOR DISPOSAL ALLOCATION**

31 **10.01 CONTRACTOR's Acknowledgement.** CONTRACTOR
32 acknowledges that CITY will not arrange for or pay for the disposal of Residue from
33 Recyclable Materials or Large Items (except those directed to another location
34 pursuant to Section 5.04.5), or Used Oil processing. The disposal of all such materials
35 is the sole responsibility of CONTRACTOR.

1 **ARTICLE 11. RECYCLABLE MATERIALS PROCESSING**

2 **11.01 Materials Recovery Facility.** CONTRACTOR shall provide the
3 Materials Recovery Facility for processing all Recyclable Materials collected pursuant
4 to this Agreement. CONTRACTOR shall Process all Recyclable Materials in the manner
5 set forth in the MRF Operations Processing Plan, in Exhibit 7, of this Agreement to
6 meet the Market Specifications. CONTRACTOR acknowledges that it will Process all
7 incoming materials in a manner that meets the terms and intent of the Agreement.
8 CONTRACTOR further acknowledges that many material markets (end-users, paper
9 mills, etc.) have mill or user-specific specifications that may be more stringent than the
10 ISRI specifications, and CONTRACTOR further acknowledges that it shall be
11 responsible for meeting any such other more stringent specifications in order to meet
12 the diversion standards as specified in Article 9 of this Agreement.

13 **11.02 Processing of Recyclable Material.** CONTRACTOR acknowledges
14 that all Recyclable Materials Collected under the terms of this Agreement are to be
15 Processed unless written authorization to not Process a specific Recyclable Material is
16 received from the City Representative. CONTRACTOR shall Process Recyclable
17 Materials in accordance with this Agreement. CONTRACTOR acknowledges that
18 Processing some Recyclable Materials may not be profitable but CONTRACTOR
19 nevertheless shall Process Recyclable Materials as required hereunder. CITY
20 acknowledges that CONTRACTOR's Residue may contain Recyclable Materials that
21 were contaminated, and may contain *de minimus* amounts of clean material that
22 escaped sorting. CONTRACTOR shall not load materials from the tip floor for
23 transport off-site without prior written authorization from the City Representative. This
24 restriction does not apply to materials that have been pulled from the tip floor as a
25 result of the pre-sort operation as described in the MRF Processing Operations Plan
26 approved by CITY, to materials that have been fully processed through the MRF in
27 accordance with the MRF Processing Operations Plan, or to materials that are being
28 transferred to a City-approved Alternative Processing Facility pursuant to the
29 Agreement.

30 **11.03 Modification of Market Specifications.** Market Specifications may
31 be modified by CITY based on input from CONTRACTOR, to accommodate material
32 categories that are separated from and typical of a single stream recyclables program
33 or that are either not listed by ISRI or cannot reasonably be processed to meet ISRI
34 specifications. In evaluating the need to modify Market Specifications, CITY shall
35 consider, the following criteria:

- 36 • the intent of the Agreement that Recyclable Materials be separated in a
37 manner so as to allow them to be sold for their highest and best use;

- 1 • the commodity specifications required by a list of national commodity
- 2 brokers developed by CITY in consultation with CONTRACTOR including
- 3 such changes to the list as may be agreed to by CITY and CONTRACTOR;
- 4 • the commodity specifications used by the list of Peer Recyclable Material
- 5 Facilities developed by CITY in consultation with CONTRACTOR including
- 6 such changes to the list as may be agreed to by CITY and CONTRACTOR;
- 7 and
- 8 • information provided by CITY staff, consultants, and CONTRACTOR.

9 **11.04 Review of Market Specifications.** On or before July 1, 2007 and at
10 least semi-annually thereafter CITY will develop or update information that may be
11 used to update Market Specifications. In obtaining this information, CITY will obtain
12 information from the Peer Recyclable Material Facilities related to the standards to
13 which the Peer Facilities are processing Recyclable Materials. In the event a majority
14 of the Peer Facilities are processing a material to a specification that is lower than the
15 equivalent ISRI specification, the Peer Facility Specifications will be ranked and the
16 median Peer Facility Specification may be used in place of the ISRI specification for a
17 temporary period as agreement between CONTRACTOR and City Representative.

18 **11.05 Quality Assurance and Contract Compliance Monitoring.**

19 11.05.1 CITY will secure the professional services of a quality
20 assurance and contract compliance third-party consultant ("QACC Consultant") to
21 monitor CONTRACTOR's recyclables processing operations. CONTRACTOR will
22 provide access to CONTRACTOR's MRF and large item processing sites at any time
23 that these facilities are operating. The QACC Consultant may inspect the operations
24 without prior notice to CONTRACTOR, and without limitation to the duration of the
25 inspection. It is acknowledged that the QACC Consultant will perform work at
26 CONTRACTOR's facilities and will carry appropriate insurance for this purpose. The
27 QACC Consultant will also have the same access to any CITY-approved alternate
28 processing facility. CONTRACTOR will compensate CITY for its share of the on-going
29 monitoring costs, through a deduction of \$5,000 from CONTRACTOR's monthly
30 invoice, beginning July 1, 2007. This expense will initially be deducted through June
31 30, 2009.

32 11.05.2 CITY will include in its agreement with the QACC Consultant a
33 provision that the QACC Consultant shall not use the information received at
34 CONTRACTOR's facility for any purpose other than for the performance of services for
35 CITY and that the QACC Consultant shall not disclose any such information except:
36 (a) to CITY or CONTRACTOR, (b) as authorized by CITY, or (c) as required by law.

37 11.05.3 No later than June 30, 2009, and annually thereafter, the
38 Director of ESD will consider whether the charges for monitoring should be terminated

1 and will notify CONTRACTOR in writing of his decision. In making this determination,
2 the Director shall consider, 1) the number and severity of reported violations of the
3 processing requirements of the Agreement and 2) whether or not CONTRACTOR met
4 the Diversion Standards set forth in Section 9.01 of this Agreement for the prior
5 calendar year.

6 11.05.4 Notwithstanding Section 11.05.03 above, the Director may, at
7 any time after the oversight monitoring charges have been terminated, re-institute
8 such charges. If the oversight service charges are re-instituted, CONTRACTOR will
9 again compensate CITY through a deduction of \$5,000 from CONTRACTOR's monthly
10 invoice beginning the month after service charges are re-instituted.

11 11.05.5 CONTRACTOR shall ensure or shall cause CONTRACTOR's
12 processing subcontractor to ensure, that representatives of CITY have complete
13 access to the Materials Recovery Facility or the Alternative MRF, as appropriate and in
14 accordance with the terms approved by CITY in its approval of an Alternate Facility as
15 provided in Section 11.11.1, and their records of inbound and outbound materials
16 without exception, during normal business hours. In the case of an alternative
17 processing and/or storage facility approved by CITY in accordance with Section 11.11,
18 the City Representative shall consider the following factors in determining whether or
19 not to approve CONTRACTOR's request that a facility be designated as an Alternate
20 Facility:

- 21 ■ the rights afforded to the CITY with respect to access to the Alternate Facility
22 and records;
- 23 ■ protocols to assure accurate weighing of incoming Recyclable Materials;
- 24 ■ protocols to assure that Recyclable Materials will be Processed at the Alternate
25 Facility as required under this Agreement;
- 26 ■ in the event that Recyclable Materials are commingled at the Alternate facility, a
27 statistically reliable methodology for measuring total separated Recyclable
28 Materials and Residue subject to City's approval; and
- 29 ■ assurance that all reports required of CONTRACTOR under Article 15 and
30 otherwise hereunder are made on a timely basis with respect to all activities
31 occurring at the Alternate Facility.

32 **11.06 Commingling Recyclable Materials.** CONTRACTOR shall not, or
33 shall cause CONTRACTOR'S processing subcontractor to not, commingle Recyclable
34 Materials collected pursuant to this Agreement with any Recyclables Materials not
35 collected pursuant to this Agreement during collection, delivery or Processing at the
36 MRF, except in accordance with the protocol approved as part of the process set forth
37 in Section 11.05 above.

1 **11.07 Use of Subcontractor(s)**. CONTRACTOR acknowledges that this
2 Article 11 applies to CONTRACTOR and all subcontractors CONTRACTOR may use
3 to Process Recyclable Materials.

4 **11.08 Capacity and Reporting Requirements**. CONTRACTOR shall ensure
5 there is sufficient capacity at the Materials Recovery Facility to Process, and store until
6 marketed, all Recyclable Materials collected by CONTRACTOR pursuant to this
7 Agreement during any one-week collection period. CONTRACTOR shall maintain
8 procedures, records and internal controls to preclude the commingling of Recyclable
9 Materials collected pursuant to this Agreement with any and all other materials
10 delivered to the Materials Recovery Facility and to ensure complete, accurate and
11 timely recording and reporting of Recyclable Materials processing. At a minimum,
12 CONTRACTOR shall perform or shall caused to be performed, all of the following:

- 13 ▪ All Recyclable Materials shall be weighed upon delivery to the Materials
14 Recovery Facility and all weight (gross and tare) and related delivery
15 information, including date, time, material type, route and truck number,
16 shall be recorded and reported to the CITY as specified in **Exhibit 10**
17 (“DATA AND REPORTING REQUIREMENTS”) of this Agreement;
- 18 ▪ All processed Recyclable Materials shall be weighed after baling,
19 containerizing or other processing at the time of shipment from the MRF
20 or Alternate Facility and the weights shall be recorded and reported to
21 the CITY as specified in Exhibit 10;
- 22 ▪ The weights of all materials received, the weights of all materials
23 Processed-and Sold, the weights of all materials stored, and weights of
24 all materials disposed as Residue shall be reconciled on a weekly basis
- 25 ▪ Each bale shall be tagged with a bale tag that contains at a minimum: a
26 non-repeating identification number and material type.
- 27 ▪ All scales shall be registered with the County Department of Weights and
28 Measures and shall be regularly maintained to ensure their reliability and
29 continued functioning. Current certificates of registration, inspection
30 reports and all maintenance records shall be made available for review
31 by CITY upon receipt of written request from the City Representative.
32 Scales shall be operated in the same manner as required by State weigh
33 master regulations.

34 **11.09 Significant Events**. CONTRACTOR shall notify the City
35 Representative within two hours, electronically or in writing, of any significant event
36 that negatively impacts its ability to process materials or that puts it out of compliance
37 with permit requirements, and each time CONTRACTOR rejects a full or partial load at
38 the MRF.

1 **11.10 Disposal of Residue.** CONTRACTOR shall properly dispose of any
2 and all Residue remaining from the processing of Recyclable Materials. Such disposal
3 shall be at CONTRACTOR's sole cost and expense. CITY shall offer CONTRACTOR
4 the right to dispose of CONTRACTOR's Residue at Newby Island Landfill at the same
5 rates charged to CITY provided that the use does not cause CITY to exceed its
6 disposal allocation under its disposal Agreement, and further provided that any savings
7 over alternative disposal of CONTRACTOR's Residue shall be deducted from the
8 payments otherwise due to CONTRACTOR. The savings shall be the sum of the
9 savings in "tip fees" and the savings in transportation costs determined as follows:

10 (a) Savings in "tip fee" is the number of total tons disposed multiplied by the
11 difference between (i) the per ton disposal fee at the disposal facility designated
12 in writing by CONTRACTOR as the usual facility for the Disposal of Residue
13 under this Agreement as such fee is set forth in the agreement between
14 CONTRACTOR and the operator of said facility, and (ii) the per ton tip fee at
15 Newby Island Landfill in effect at the time of disposal.

16 (b) Savings in transportation is the difference between the mileage (i) from
17 CONTRACTOR's MRF to the disposal facility designated in writing by
18 CONTRACTOR as provided above, and (ii) from CONTRACTOR's MRF to
19 Newby Island Landfill, multiplied by the transportation cost per mile as
20 determined by CITY in consultation with CONTRACTOR. (Savings in
21 transportation may be a negative number.)

22 **11.11 Alternate Processing Facility.** CONTRACTOR shall secure
23 Processing capacity at one or more alternate facilities, approved by the City
24 Representative, ("Alternate Facility") for use in the event the Materials Recovery
25 Facility is closed on a Work Day because of the order of a regulatory agency having
26 jurisdiction over the Materials Recovery Facility or the Materials Recovery Facility is
27 unable to process Recyclable Materials in accordance with the requirements of this
28 Agreement. In the event the Materials Recovery Facility is unable to store the amount
29 of material required by Section 11.08, CONTRACTOR, at CONTRACTOR's sole cost
30 and expense, may arrange for alternate storage capacity at a facility approved in
31 advance by the City Representative, provided that all material collected pursuant to
32 this Agreement shall be kept segregated from all other material at the Alternate Facility.
33 The materials that were not Processed before transportation to the Alternate Facility
34 shall be transported to the Materials Recovery Facility for Processing unless another
35 arrangement is approved in advance by the City Representative. Materials that were
36 processed prior to the transfer to the Alternate Facility may be sold directly from the
37 Alternate Facility, provided that the material shall not be commingled with any other
38 materials prior to shipping offsite and provided that CONTRACTOR shall submit to
39 CITY reports required by this Agreement segregated by Alternate Facility.

1 11.11.1 CONTRACTOR may request approval of an Alternate Facility
2 for Processing or facility for a maximum of 30 calendar days. The City
3 Representaive's approval of an Alternate Facility shall be in writing and shall address
4 the factors listed in Section 11.05.5 of this Agreement. The City Representative has
5 the authority to extend the duration of the use of the Alternate Facility at CITY's sole
6 discretion. CONTRACTOR will notify the City Representative electronically or in
7 writing, at least two hours in advance if materials are to be taken to the Alternate
8 Facility and will report electronically or in writing on a daily basis the tonnage of
9 materials taken to the Alternate Facility. The City Representative may also rescind the
10 approval of the Alternate Facility if it is determined that CONTRACTOR has failed to
11 comply with either the terms of the Agreement or the approved Alternate Facility plan,
12 or if the Alternate Facility is not able to receive or process the materials.

13 11.11.2 CITY reserves the right to require the delivery of materials to
14 an alternative processing facility (a facility other than the Materials Recovery Facility or
15 the Alternate Facility) in the event that CONTRACTOR is unable to perform processing
16 at the MRF or a CITY-approved Alternate Facility. Costs for these services will be at
17 CONTRACTOR's sole expense and will be deducted from its monthly invoice until
18 payment in full is achieved. In this event, all revenues from the sale of the materials
19 will belong to the Alternate Facility.

20 **11.12 Transformation of Recyclable Materials.** CONTRACTOR
21 acknowledges that the California Integrated Waste Management Act requires solid
22 waste diversion from landfill disposal and that transformation, as defined in Public
23 Resources Code Section 40201, is not an acceptable method for meeting said diversion
24 requirements. CONTRACTOR shall not Process by means of transformation any
25 Recyclable Materials collected under this Agreement, nor shall CONTRACTOR ship,
26 transport, deliver or otherwise make available any such Recyclable Materials to any
27 person for the purpose of transformation, without the express prior written authorization
28 of CITY's Director of Environmental Services. This restriction shall remain in force
29 regardless of any change in the definition of transformation or in the ability of CITY to
30 count transformation as diversion under State law.

31 **11.13 Use as Alternative Daily Cover.** CONTRACTOR shall ensure that the
32 Recyclable Materials collected pursuant to this Agreement is neither disposed of in a
33 landfill nor utilized as alternative daily cover (ADC) at a landfill or other landfill
34 application without prior written consent from CITY's Director of Environmental Services.

35 **ARTICLE 12. SERVICE INQUIRIES AND COMPLAINTS**

36 **12.01 CONTRACTOR's Office.** CONTRACTOR shall maintain an office
37 within the municipal limits of the City of San José where inquiries and complaints can
38 be received. Such office shall be open during the normal business hours of 8:00 a.m.

1 to 6:00 p.m. on all Work Days, and from 8:00 a.m. until all collection routes have been
2 completed on those Saturdays when collection services are performed pursuant to this
3 Agreement. CONTRACTOR shall ensure that responsible persons are in charge of
4 the office during collection hours, and are available to receive inquiries and complaints
5 during normal business hours.

6 **12.02 Telephone Requirements.** CONTRACTOR's office shall be equipped
7 with sufficient telephones that all collection service-related calls received during normal
8 business hours are answered by an employee within five (5) rings. CONTRACTOR
9 shall provide either a telephone answering service or mechanical device to receive
10 Service Recipient inquiries during those times when CONTRACTOR's office is closed.
11 Calls received after normal business hours shall be addressed before 12:00 noon on
12 the next Work Day.

13 **12.03 Emergency Contact.** CONTRACTOR shall provide the City
14 Representative with an emergency phone number where CONTRACTOR's
15 representative authorized to act on CONTRACTOR's behalf can be reached outside of
16 the required office hours.

17 **12.04 Multilingual/TDD Service.** CONTRACTOR shall at all times maintain
18 the capability of responding to telephone calls in English, Spanish or Vietnamese and
19 such other languages as the City Representative may reasonably require.
20 CONTRACTOR shall at all times maintain the capability of responding to telephone
21 calls through Telecommunications Device for the Deaf (TDD) Services.

22 **12.05 Service Recipient Calls.** During normal business hours,
23 CONTRACTOR shall maintain a telephone answering system capable of accepting at
24 least fifteen (15) incoming calls at one time. CITY will direct service inquiries and
25 complaints to CONTRACTOR through the Consolidated Utility Billing System.
26 CONTRACTOR shall record all calls including any inquiries, service requests and
27 complaints into the Consolidated Utility Billing System. Any such call received via
28 CONTRACTOR's answering service shall be recorded in the Consolidated Utility
29 Billing System no later than 12:00 noon on the following Work Day.

30 CONTRACTOR shall answer all incoming calls within five (5) rings. Any
31 caller "on-hold" in excess of one and one-half (1.5) minutes shall have the option to
32 remain "on-hold" or to be switched to a message center where the caller can leave a
33 message. CONTRACTOR's customer service representatives shall return Service
34 Recipient calls as provided in this Section 12.05. For all messages left before 3:00
35 p.m., CONTRACTOR shall attempt all "call backs" at least one time prior to 6:00 p.m.
36 on the day of the call. For messages left after 3:00 p.m., CONTRACTOR shall attempt
37 all "call backs" at least one time prior to noon the next Work Day. CONTRACTOR
38 shall make a minimum of three (3) attempts within twenty-four (24) hours of the receipt

1 of the call. If CONTRACTOR is unable to reach the Service Recipient on the next
2 Work Day, CONTRACTOR shall send a postcard to the Service Recipient on the
3 second Work Day after the call was received, indicating that CONTRACTOR has
4 attempted to return the call. All attempts to contact the caller shall be recorded and
5 provided to the CITY in electronic format.

6 **12.06 Service Complaints.**

7 12.06.1 CONTRACTOR shall handle all service complaints in a prompt
8 and efficient manner. In the case of a dispute between CONTRACTOR and a Service
9 Recipient, CONTRACTOR will refer the matter to the City Representative for review.
10 The City Representative will review the matter and make a determination as to the
11 resolution of the dispute.

12 12.06.2 For those complaints related to missed collections that are
13 received by CONTRACTOR by 3:00 p.m. on a Work Day, CONTRACTOR will return to
14 the Service Unit address and collect the missed materials before leaving the Service
15 District for the day. For those complaints related to missed collections that are
16 received by CONTRACTOR after 3:00 p.m. on a Work Day, CONTRACTOR shall have
17 until the end of the following Work Day to collect the materials. For those complaints
18 related to repair or replacement of carts, the appropriate provisions of Article 5 of this
19 Agreement shall apply. At the end of each Work Day CONTRACTOR shall utilize the
20 Consolidated Utility Billing System to provide the City Representative with a response
21 to each complaint which was received from a Service Recipient or CITY in the event
22 the complaint was made by CITY, during the preceding Work Day.

23 **12.07 Missed Collections.** CONTRACTOR acknowledges and agrees that
24 it is in the best interest of CITY that all Residential Waste, Recyclable Materials, and
25 Yard Trimmings be collected on the scheduled collection day. Accordingly,
26 CONTRACTOR will remedy missed collections as set forth in Section 12.06.2 above
27 regardless of the reason that the collection was missed. However, in the event a
28 Service Recipient requests missed collection service more than two (2) times in any
29 consecutive two (2) month period, CITY will work with CONTRACTOR to determine an
30 appropriate resolution to that situation. In the event CONTRACTOR believes any
31 complaint to be without merit, CONTRACTOR shall notify the City Representative
32 immediately. The City Representative will investigate all disputed complaints and
33 render a written determination within ten (10) Work Days of receipt of
34 CONTRACTOR's notification.

35 **12.08 Customer Service Representative Training.** All of CONTRACTOR's
36 customer service representatives shall be required to attend training as may be
37 provided by CITY. The City Representative shall coordinate with CONTRACTOR to
38 schedule such training.

1 in which case CONTRACTOR shall submit such materials to the City Representative
2 simultaneously with CONTRACTOR's submittal to such regulatory agency.

3 Copies of articles resulting from media interviews or news releases
4 related to CONTRACTOR's providing services under this Agreement shall be provided
5 to the City Representative within five (5) Work Days after publication.

6 **13.03 Pilot Programs.**

7 13.03.1 CITY may request CONTRACTOR to conduct pilot test
8 programs that temporarily change the collection method, the type of service, or the
9 service schedule for a portion of the Service Units in CONTRACTOR's Service
10 District(s). A pilot test program shall be limited to no more than ten percent (10%) of
11 the Service Units in the Service District(s) and to a term of no more than eighteen (18)
12 months unless otherwise specifically agreed by CONTRACTOR and CITY's Director of
13 Environmental Services. CONTRACTOR shall perform any additional record keeping
14 required by a pilot test program. If CONTRACTOR agrees to perform a pilot test
15 program, CONTRACTOR and CITY's Director of Environmental Services shall execute
16 a letter of agreement prior to the start of the pilot test program. The letter of
17 agreement shall set forth the terms of the pilot test program including program costs,
18 program operating parameters, and program duration.

19 13.03.2 If a pilot test program affects the cost of providing collection
20 services, the program costs set forth in the letter of agreement may include an
21 adjustment to the monthly payments otherwise payable to CONTRACTOR under this
22 Agreement to reflect the benefits and/or burdens of the pilot test program. The
23 adjustment shall be set so as to capture any increase or decrease in CONTRACTOR's
24 direct operating costs resulting from the pilot test program. "Direct operating costs"
25 include planning costs; labor expense, including supervision (wages, employment
26 taxes, and fringe benefits); materials, supplies and fuel; and amortized costs of new
27 equipment purchased or equipment modified for the pilot test program. Any increases
28 in direct operating costs must be established by CONTRACTOR and must be capable
29 of verification by an independent auditor.

30 **13.04 Other Programs and Services.** CONTRACTOR shall provide other
31 services and programs related to the Recycle Plus Program as requested by CITY at a
32 price to be mutually agreed upon between CONTRACTOR and the Director of
33 Environmental Services. In the event CONTRACTOR and the Director of
34 Environmental Services cannot reach a mutually agreed upon price for the requested
35 service or program within sixty (60) calendar days of CITY's request, CITY shall have
36 the right to procure the service of other vendors or contractors to provide the
37 requested service.

1 **13.05 Reporting.** CONTRACTOR shall submit a report on April 15, 2007 and
2 quarterly thereafter providing a summary of outreach activities that have taken place
3 during the preceding quarter, the cost of those activities, and those that are planned
4 for the upcoming quarter. Invoices for all outreach and public education activities
5 undertaken as part of this Collection Service Agreement of the preceding quarter shall
6 be included as part of the report.

7 **13.06 Public Education and Outreach Budget.** The annual public
8 education and outreach budget(including transition outreach costs) will not be less
9 than:

10	Calendar Year 2006	\$12,000
11	Calendar Year 2007	\$400,000
12	Calendar Year 2008	\$312,000
13	Calendar Year 2009	\$156,000
14	Calendar Year 2010	\$156,000
15	Calendar Year 2011	\$156,000
16	Calendar Year 2012	\$156,000
17	Calendar Year 2013 (6 Mo)	\$ 56,000

18 **ARTICLE 14. EMERGENCY SERVICE PROVISIONS**

19 **14.01 Route Variances.** In the event of a tornado, major storm, earthquake,
20 fire, natural disaster, or other such event, the City Representative may grant
21 CONTRACTOR a variance from regular routes and schedules. As soon as practicable
22 after such event, CONTRACTOR shall advise the City Representative when it is
23 anticipated that normal routes and schedules can be resumed. The CITY shall make
24 an effort through the local news media to inform the public when regular services may
25 be resumed. Clean-up from some events may require that CONTRACTOR hire
26 additional equipment, employ additional personnel, or work existing personnel on
27 overtime hours to clean debris resulting from the event. CONTRACTOR shall receive
28 additional compensation, above the normal compensation contained in this
29 Agreement, to cover the costs of rental equipment, additional personnel, overtime
30 hours and other documented expenses based on the rates set forth in Exhibit 1 to this
31 Agreement, provided CONTRACTOR has first secured written authorization and
32 approval from the City Representative.

33 **14.02 Collection Services.** CONTRACTOR may be required to provide
34 SFD Recycling Services on an emergency services basis prior to July 1, 2007. If CITY
35 requires CONTRACTOR to provide such emergency services, CONTRACTOR shall

1 be compensated for such services at the service rates set forth on Exhibit 1 to this
2 Agreement.

3 **14.03 Transition Delays.** In the event that there are delays in the transition
4 timeline which indicate that CONTRACTOR will not be able to perform SFD Recycling
5 services as of July 1, 2007, CITY, at its sole option, may contract with other service
6 providers for all or part of the required services, for as long as is needed, but at a
7 minimum for three (3) months, until CONTRACTOR is able to perform. CITY will make
8 its decision to arrange emergency contracting services based on a predetermined set
9 of criteria established by CITY. The costs for these emergency contracting services
10 will be at CONTRACTOR's sole expense and will be deducted from CONTRACTOR's
11 monthly invoice until full payment is achieved. In the event emergency contracting
12 services are required, CONTRACTOR will forfeit all claims to recyclable materials
13 collected under the terms of the emergency collection contract and any associated
14 revenues. The provision for emergency contracting services is distinct from any other
15 cure provisions in the Agreement. CONTRACTOR acknowledges that this Section
16 14.03 provides the CITY the right to step into the transition process to assure or
17 attempt to assure service to residents of the CITY and that the CITY must have broad
18 discretion to meet its obligations to its residents. In the event CONTRACTOR is able to
19 perform some but not all services, CITY shall limit the scope of the services that it
20 contracts out to third persons to those services CONTRACTOR is unable to perform
21 hereunder so as to allow CONTRACTOR, to the extent reasonably possible, to utilize
22 such equipment and resources as CONTRACTOR has secured.

23 **ARTICLE 15. REPORTING AND BILLING SYSTEM REQUIREMENTS**

24 **15.01 Requirements.** CONTRACTOR shall provide and record operating
25 and customer service data elements as set forth in Exhibit 10 of this Agreement.
26 CONTRACTOR is required to communicate with the CITY's PeopleSoft Revenue
27 Management System (Consolidated Utility Billing System) either via an internet portal
28 or using an electronic interface as described in **Exhibit 13** ("CONTRACTOR
29 ELECTRONIC INTERFACE REQUIREMENTS") of this Agreement.

30 15.01.1 The Consolidated Utility Billing System includes the basic
31 functions CONTRACTOR needs in order to perform its customer service and specific
32 operational services. CONTRACTOR access is limited to customer information,
33 service location service type and service level information, collection days, and field
34 activities. CITY shall have access to all the information available to CONTRACTOR
35 and, additionally, will control access to the financial and billing functions of the
36 Consolidated Utility Billing System.

1 15.01.2 CITY will maintain all service location and property owner
2 information. New service locations will be added into the database by CITY. CITY will
3 also have and control the property ownership database that is used to update property
4 owner records.

5 **15.02 Field Activity Descriptions.** CONTRACTOR shall use the field
6 activity descriptions that have been set up in the Consolidated Utility Billing System by
7 CITY. CITY will provide field activity descriptions for all the services provided under
8 this Agreement.

9 **15.03 Reports.**

10 15.03.1 CITY Reports. Except as set forth in this Agreement or as
11 requested by the City Representative, CITY shall generate operational reports and
12 information required to provide payment to CONTRACTOR, including the monthly
13 invoice. CONTRACTOR will have access to reports and information through the
14 Consolidated Utility Billing System related to the Service District(s) that are necessary,
15 in the opinion of the City Representative, for CONTRACTOR's operations and for
16 providing information requested by CITY. CONTRACTOR will have access to the
17 Consolidated Utility Billing System's report writer function.

18 15.03.2 CONTRACTOR Reports. CONTRACTOR shall submit reports
19 through the Consolidated Utility Billing System for daily collection data and processing
20 data as described in Exhibit 10. CONTRACTOR shall submit to the City
21 Representative daily, monthly, quarterly and annual reports containing the information,
22 in the format, and at the times described in Exhibit 10. CONTRACTOR may not
23 change the format, sections or categories of these reports without written approval of
24 CITY.

25 15.03.3 Transition Reports. CONTRACTOR shall submit periodic
26 transition status reports to CITY. CONTRACTOR shall provide these reports monthly
27 from October 2006 through February 2007; biweekly in March 2007 and April 2007;
28 and weekly from May 2007 through October 2007. In addition, CONTRACTOR shall
29 continue periodic reporting as requested by CITY June 30, 2008.

30 15.03.4 Transition Timeline. CONTRACTOR will provide an extensive
31 transition timeline, attached to and included herein as **Exhibit 16** ("TRANSITION
32 TIMELINE") that identifies specific dates for receiving critical equipment and facility
33 permits. Prior to July 1, 2007, CONTRACTOR may make changes to the timeline,
34 provided that the change is approved by CITY, is made at least 48 hours before the
35 listed due date, CONTRACTOR submits a plan to mitigate the delays, and none of the
36 changes extends the start-up date beyond July 1, 2007. Administrative charges may
37 be assessed as set forth in Section 17.04 cc., for failure to meet the following critical
38 milestones:

- 1 ▪ Written confirmation of vehicle order (body and chassis) from vehicle
2 manufacturer/supplier
- 3 ▪ Written confirmation of processing equipment order from
4 manufacturer/supplier
- 5 ▪ Written confirmation of cart order from manufacturer/supplier
- 6 ▪ Written confirmation of close of escrow or execution of facility lease for
7 each site
- 8 ▪ Submission of land use permit applications which are deemed complete
9 by the City's Department of Planning, Building and Code Enforcement
- 10 ▪ Submission of permit applications to any regulatory agencies outside the
11 City of San Jose, e.g. County of Santa Clara, Santa Clara Water District,
12 RWQCB, etc.
- 13 ▪ Written confirmation of occupancy permit sign-off
- 14 ▪ Written confirmation of start-date of developer/support resource for C-
15 UBS application
- 16 ▪ Written confirmation of installation date of all applicable
17 hardware/software for C-UBS application
- 18 ▪ Written confirmation of hire-date for displaced workers
- 19 ▪ Submission of transition Public Education and Outreach Plan
- 20 ▪ Submission of initial route plan
- 21 ▪ Submission of contingency plan to remedy any delays in equipment
22 delivery and/or facility readiness
- 23 ▪ Submission of applications for building permits for facility improvements

24 **ARTICLE 16. NONDISCRIMINATION & WAGE POLICY**

25 **16.01 Nondiscrimination.** In the performance of all work and services
26 under this Agreement, CONTRACTOR shall not discriminate against any person on
27 the basis of such person's race, sex, color, national origin, religion, marital status or
28 sexual orientation or disability. CONTRACTOR shall comply with all applicable local,
29 state and federal laws and regulations regarding nondiscrimination, including those
30 prohibiting discrimination in employment.

31 **16.02 Wage Policy.** CONTRACTOR and its approved subcontractors, as set
32 forth on **Exhibit 9**, ("APPROVED SUBCONTRACTORS") shall pay those employees

1 performing work related to this Agreement those specified wage rates as set forth in
2 **Exhibit 12** ("WAGE POLICY") and shall meet the documentation and reporting
3 requirements set forth therein.

4 **ARTICLE 17. QUALITY OF PERFORMANCE OF CONTRACTOR**

5 **17.01 Intent.** CONTRACTOR acknowledges and agrees that among CITY's
6 primary goals in entering into this Agreement are to ensure that the SFD Recycling
7 Services are of the highest caliber, that Service Recipient satisfaction remains at the
8 highest level, that maximum diversion levels are achieved, and that materials collected
9 are put to the highest and best use to the extent possible.

10 **17.02 Service Supervisor.** CONTRACTOR shall assign a qualified
11 supervisor to be in charge of the SFD Recycling Services within the Service District(s)
12 and shall provide the name of that person in writing to the City Representative on or
13 before May 1, 2007, and annually by July 1st of each subsequent Agreement Year of
14 the term of this Agreement, and any other time the person in that position changes.
15 The supervisor shall be physically located in the Service District(s) and available to the
16 Contract Manager through the use of telecommunication equipment at all times that
17 CONTRACTOR is providing SFD Recycling Services. In the event the supervisor is
18 unavailable due to illness or vacation, CONTRACTOR shall designate an acceptable
19 substitute who shall be available and who has the authority to act in the same capacity
20 as the supervisor.

21 **17.03 Contract Manager.** CONTRACTOR shall designate a Contract
22 Manager and shall provide the name of that person in writing to the City
23 Representative within thirty (30) calendar days of the Effective Date of this Agreement,
24 and annually by July 1st of each subsequent Agreement Year of this Agreement and
25 any other time the person in that position changes. The Contract Manager shall be
26 available to the City Representative, the City Manager and CITY's Director of
27 Environmental Services through the use of telecommunications equipment at all times
28 that CONTRACTOR is providing SFD Recycling Services in the Service District(s).
29 The Contract Manager shall provide CITY with an emergency phone number where
30 the Contract Manager can be reached outside of normal business hours.

31 **17.04 Administrative Charges.** It shall be the duty of CONTRACTOR to
32 perform services under this Agreement in such a manner as to implement practices,
33 policies and procedures designed to achieve the goals set forth in Section 17.01
34 above. In the event CONTRACTOR fails to perform the services as set forth in this
35 Agreement, CITY may assess an administrative charge against CONTRACTOR and
36 may deduct such charge from any monies due or which may become due to
37 CONTRACTOR as set forth below. During the period July 1, 2007 through July 7,

- 1 2007, CITY will allow CONTRACTOR one (1) additional Work Day to comply with the
2 provisions of item a. below and will not apply the provisions of items j., k. o, p or x.

List of Administrative Charges (Applies to Each Service District)		
a.	Failure or neglect to resolve each complaint within the time set forth in this Agreement.	\$500.00 per incident per Service Recipient.
b.	Failure to clean up spillage or litter caused by CONTRACTOR.	\$300.00 per incident per location.
c.	Failure to repair damage to customer property caused by CONTRACTOR or its personnel.	\$500.00 per incident per location.
d.	Failure to maintain equipment in a clean, safe, and sanitary manner.	\$500.00 per incident per Work Day.
e.	Failure to have a vehicle operator properly licensed.	\$500.00 per incident per Work Day.
f.	Failure to maintain office hours as required by this Agreement.	\$500.00 per incident per Work Day.
g.	Failure to maintain or timely submit to CITY all documents and reports required under the provisions of this Agreement.	\$500.00 per incident per Work Day.
h.	Failure to properly cover materials in collection vehicles.	\$500.00 per incident.
i.	Failure to display CONTRACTOR's name and CITY's customer service phone number on collection vehicles.	\$500.00 per incident per Work Day.
j.	Failure to comply with the hours of operation as required by this Agreement.	\$500.00 per incident per Work Day.
k.	Failure or neglect to complete at least 90 percent of each route on the regular scheduled collection Work Day.	\$1,000.00 for each route not completed.
l.	Changing routes without proper notification to the City Representative.	\$500.00 per incident per Work Day.
m.	Commingling Residential Solid Waste with Recyclable Materials.	\$5,000.00 per incident.
n.	Commingling of materials in collection vehicles collected inside and outside the City of San José.	\$5,000.00 per incident.
o.	Failure to repair or replace damaged carts within the time required by this Agreement.	\$100.00 per incident per Work Day.
p.	Failure to deliver or exchange carts within the time required by this Agreement.	\$100.00 per incident per Work Day.
q.	Failure to provide adequate primary and alternate capacity to accept and process Recyclable Materials.	\$1,000.00 per Work Day.

List of Administrative Charges (Applies to Each Service District)		
r.	Failure of CONTRACTOR's field personnel to carry photographic identification or wear uniform shirts.	\$100.00 per incident per Work Day.
s.	Disposal of Recyclable Materials or Residue in the Disposal Facility without first obtaining the required permission of CITY.	\$500.00 per occurrence
t.	Failure to provide required communications equipment.	\$100.00 per incident per Work Day.
u.	Failure to deliver any collected materials to the Disposal Facility, as appropriate, except as otherwise expressly provided in this Agreement.	\$5,000 first failure \$25,000 each subsequent failure
v.	Failure to deliver any collected materials to the Materials Recovery Facility, or Yard Trimmings Processing Facility, except as otherwise expressly provided in this Agreement.	\$5,000 first failure \$25,000 each subsequent failure
w.	Failure to meet the minimum Large Item diversion requirements of this Agreement (calculated per calendar year per Service District).	Diversion less than 50% \$10,000 per District
x.	Failure to comply with the provisions of the "plans" set forth in Exhibit 7 to this Agreement.	\$500 per incident per Work Day.
y.	Failure to follow the Materials Recovery Delivery and Processing protocol of this Agreement.	\$1,000 per incident per Work Day
z.	Failure to provide access for CITY (CITY Staff or CITY designee) to CONTRACTOR'S or Subcontractors operating or Processing Facilities.	\$1,000 per incident per Work Day
aa.	Failure to complete any item in the annual outreach plan by the due date set forth therein.	\$500 per item per month overdue
bb.	Distribution of public education and outreach material prior to approval by the City Representative.	\$1,000 per incident
cc.	Failure to meet transition timeline milestones set forth in Section 15.03	\$5,000 per milestone per day
dd.	Shipment or sale of unprocessed Recyclable Materials	\$5,000 per incident

1 **17.05 Procedure for Review of Administrative Charges.** The City
2 Representative may assess administrative charges pursuant to this Article 17 by
3 issuing a written notice to CONTRACTOR ("Notice of Assessment") of the
4 administrative charges assessed, if any, and the basis for each assessment.

5 17.05.1 The administrative charges assessment shall become final
6 unless, within ten (10) calendar days of the date of the Notice of Assessment,

1 CONTRACTOR submits a written request for a meeting with the Director of
2 Environmental Services ("Director") to present evidence that the assessment should
3 not be made.

4 17.05.2 The City Representative shall schedule a meeting between
5 CONTRACTOR and the Director or the Director's designee as soon as reasonably
6 possible after timely receipt of CONTRACTOR's request.

7 17.05.3 The Director or the Director's designee shall review
8 CONTRACTOR's evidence and render a decision sustaining or reversing the
9 administrative charges as soon as reasonably possible after the meeting. Written
10 notice of the decision shall be provided to CONTRACTOR.

11 17.05.4 In the event CONTRACTOR does not submit a written request
12 for a meeting within ten (10) calendar days of the date of the Notice of Assessment,
13 the City Representative's determination shall be final and CITY may deduct the
14 administrative charges from amounts otherwise due to CONTRACTOR.

15 **17.06 Exercise of Rights.** CITY's assessment or collection of administrative
16 charges shall not prevent CITY from exercising any other right or remedy, including the
17 right to terminate this Agreement, for CONTRACTOR's failure to perform the work and
18 services in the manner set forth in this Agreement.

19 **ARTICLE 18. PERFORMANCE BOND**

20 **18.01 Performance Bond.** Within ten (10) calendar days from the Effective
21 Date, CONTRACTOR shall furnish to the City Clerk, and keep current, a performance
22 bond in a form substantially as set forth in **Exhibit 4** ("FORM OF PERFORMANCE
23 BOND") to this Agreement or in such other form as is acceptable to the City Attorney,
24 for the faithful performance of this Agreement and all obligations arising hereunder in
25 the following amounts:

26 18.01.1 For the term of this Agreement, an amount not less than Three
27 Million Eight Hundred Thousand Dollars (\$3,800,000).

28 **18.02 Licensed Surety.** The performance bond shall be executed by a
29 surety company licensed to do business in the State of California; having an "A-" or
30 better rating by A. M. Best or Standard and Poors; and included on the list of surety
31 companies approved by the Treasurer of the United States. If the term of the
32 performance bond is shorter than the term of this Agreement, CONTRACTOR shall
33 submit proof of renewal or extension at least thirty (30) calendar days prior to the
34 performance bond expiration date.

1 **ARTICLE 19. INSURANCE**

2 **19.01 Insurance Policies.** CONTRACTOR shall secure and maintain
3 throughout the term of this Agreement insurance against claims for injuries to persons
4 or damages to property which may arise from or in connection with CONTRACTOR's
5 performance of work or services under this Agreement. CONTRACTOR's
6 performance of work or services shall include performance by CONTRACTOR's
7 employees, agents, representatives and subcontractors.

8 **19.02 Minimum Scope of Insurance.** Insurance coverage shall be at least
9 as broad as:

10 19.02.1 Insurance Services Office Commercial general Liability
11 coverage ("occurrence" from CG 0001), including products and completed operations,
12 X, C, U (Explosion, Collapse and Underground) where applicable.

13 19.02.2 Insurance Services Office Form No.CA 0001 covering
14 Automobile Liability, code 1 "any auto", or code 2 "owned autos" and endorsement CA
15 0025. Coverage shall also include code 8, "hired autos" and code 9 "non-owned
16 autos".

17 19.02.3 Workers' Compensation insurance as required by the
18 California Labor Code and Employers Liability Insurance.

19 19.02.4 Hazardous Waste and Environmental Impairment Liability
20 Insurance.

21 **19.03 Minimum Limits of Insurance.** CONTRACTOR shall maintain
22 insurance limits no less than:

23 19.03.1 Comprehensive General Liability: \$3,000,000 combined single
24 limit per occurrence for bodily injury, personal injury and property damage. If
25 Commercial General Liability insurance with a general aggregate limit is used, either
26 the general aggregate limit shall apply separately to this Agreement or the general
27 aggregate limit shall be \$5,000,000.

28 19.03.2 Automobile Liability: \$3,000,000 combined single limit per
29 accident for bodily injury and property damage.

30 19.03.3 Workers' Compensation and Employers Liability: Workers'
31 Compensation limits as required by the California Labor Code and Employers Liability
32 limits of \$3,000,000 per accident.

33 19.03.4 Hazardous Waste and Environmental Impairment Liability:
34 \$3,000,000 per occurrence.

1 **19.04 Deductibles and Self-Insured Retention.** Any deductibles or self-
2 insured retention must be declared to, and approved by, CITY's Risk Manager. At the
3 option of CITY, either: the insurer shall reduce or eliminate such deductibles or self-
4 insured retention as respects CITY, its officers, employees, agents and contractors; or
5 CONTRACTOR shall procure a bond guaranteeing payment of losses and related
6 investigations, claim administration and defense expenses in an amount specified by
7 CITY's Risk Manager.

8 **19.05 Endorsements.** The policies are to contain, or be endorsed to
9 contain, the following provisions:

10 19.05.1 General Liability and Automobile Liability Coverage.

11 19.05.1.1 The City of San José, its officers, employees, agents
12 and contractors are to be covered as additional insureds as respects: Liability arising
13 out of activities performed by, or on behalf of, CONTRACTOR; products and
14 completed operations of CONTRACTOR; premises owned, leased or used by
15 CONTRACTOR; and automobiles owned, leased, hired or borrowed by
16 CONTRACTOR. The coverage shall contain no special limitations on the scope of
17 protection afforded to CITY, its officers, employees, agents and contractors.

18 19.05.1.2 CONTRACTOR's insurance coverage shall be primary
19 insurance as respects CITY, its officers, employees, agents and contractors. Any
20 insurance, or self-insurance maintained by CITY, its officers, employees, agents or
21 contractors shall be in excess of CONTRACTOR's insurance and shall not contribute
22 with it.

23 19.05.1.3 Any failure to comply with reporting provisions of the
24 policies shall not affect coverage provided to CITY, its officers, employees, agents, or
25 contractors.

26 19.05.1.4 Coverage shall state that CONTRACTOR's insurance
27 shall apply separately to each insured against whom claim is made or suit is brought,
28 except with respect to the limits of the insurer's liability.

29 19.05.2 All Coverage. Each insurance policy required by this
30 Agreement shall be endorsed to state that coverage shall not be suspended, voided,
31 canceled, or reduced in limits except after thirty (30) days prior written notice has been
32 given to CITY's Risk Manager.

33 **19.06 Acceptability of Insurers.** Insurance is to be placed with insurers
34 acceptable to CITY's Risk Manager.

35 **19.07 Verification of Coverage.** CONTRACTOR shall furnish CITY with
36 certificates of insurance and with original endorsements affecting coverage required by
37 this Agreement. The certificates and endorsement for each insurance policy are to be

1 signed by a person authorized by that insurer to bind coverage on its behalf.
2 CONTRACTOR shall furnish CITY with a new certificate of insurance and
3 endorsements on each renewal of coverage or change of insurer.

4 19.07.1 Proof of insurance shall be mailed to the following address or
5 any subsequent address as may be directed in writing by the CITY's Risk Manager:
6

7 Risk Management
8 Finance
9 City of San José
10 200 East Santa Clara Street,
11 San José, California 95113-1905

12 **19.08 Subcontractors.** CONTRACTOR shall include all subcontractors as
13 insureds under its policies or shall obtain separate certificates and endorsements for
14 each subcontractor.

15 **19.09 Modification of Insurance Requirements.** The insurance
16 requirements provided in this Agreement may be modified or waived by CITY's Risk
17 Manager, in writing, upon the request of CONTRACTOR if CITY's Risk Manager
18 determines such modification or waiver is in the best interest of CITY considering all
19 relevant factors, including exposure to CITY.

20 **19.10 Rights of Subrogation.** All required insurance policies shall preclude
21 any underwriter's rights of recovery or subrogation against CITY with the express
22 intention of the parties being that the required insurance coverage protects both
23 parties as the primary coverage for any and all losses covered by the above-described
24 insurance. CONTRACTOR shall ensure that any companies issuing insurance to
25 cover the requirements contained in this Agreement agree that they shall have no
26 recourse against CITY for payment or assessments in any form on any policy of
27 insurance. The clauses "Other Insurance Provisions" and "Insured Duties in the Event
28 of an Occurrence, Claim or Suit" as it appears in any policy of insurance in which CITY
29 is named as an additional insured shall not apply to CITY.

30 **ARTICLE 20. INDEMNIFICATION**

31 **20.01 Indemnification.** CONTRACTOR shall indemnify and hold harmless
32 CITY, CITY's contractors, and CITY's public officials, officers, directors, employees,
33 agents and other contractors of each of them, from and against any and all claims,
34 costs, losses and damages (including but not limited to all fees and charges of
35 engineers, architects, attorneys and other professionals as well as all Court or other
36 dispute resolution costs), liabilities, expenditures or causes of action of any kind

1 (including negligent, reckless, willful or intentional acts or omissions of
2 CONTRACTOR, any subcontractor, any supplier, or any person or organization directly
3 or indirectly employed by any of them to perform or furnish any services or anyone for
4 whose acts any of them may be liable), arising from, relative to or caused by the
5 performance of the services under this Agreement. This indemnity includes but is not
6 limited to claims attributable to bodily injury, sickness, disease or death and to injury or
7 destruction of tangible property. CONTRACTOR agrees, at CONTRACTOR's
8 expense, after written notice from the City Attorney, to defend any action against CITY
9 that falls within the scope of this indemnity, or CITY, at CITY's option, may elect not to
10 tender such defense and may elect instead to secure its own attorneys to defend any
11 such action and the reasonable costs and expenses of such attorneys incurred in
12 defending such action shall be payable by CONTRACTOR. Additionally, if
13 CONTRACTOR, after receipt of written notice from the CITY, fails to make any
14 payment due under this Agreement to CITY, CONTRACTOR shall pay any reasonable
15 attorneys' fees or costs incurred by CITY in securing any such payment from
16 CONTRACTOR. Payment of any amount due pursuant to the foregoing indemnity
17 shall, after receipt of written notice by CONTRACTOR from CITY that such amount is
18 due, be made by CONTRACTOR prior to CITY being required to pay same, or in the
19 alternative, CITY, at CITY's option, may make payment of an amount so due and
20 CONTRACTOR shall promptly reimburse CITY for same.

21 **20.02 Consideration.** It is specifically understood and agreed that the
22 consideration inuring to CONTRACTOR for the execution of this Agreement includes
23 the promises, payments, covenants, rights and responsibilities contained in this
24 Agreement.

25 **20.03 Obligation.** The execution of this Agreement by CONTRACTOR shall
26 obligate CONTRACTOR to comply with the foregoing indemnification provision;
27 however, the collateral obligation of providing insurance must also be complied with as
28 set forth in Article 20 above.

29 **20.04 Subcontractors.** CONTRACTOR shall require all subcontractors to
30 enter into a contract containing the provisions set forth in Section 20.01 in which
31 contract the subcontractor fully indemnifies CITY in accordance with this Article.

32 **20.05 Exception.** Notwithstanding Sections 20.01, 20.02 and 20.03 above,
33 CONTRACTOR's obligation to indemnify, hold harmless and defend CITY, its officers
34 and employees shall not extend to any loss, liability, penalty, complaint, damage,
35 action or suit arising or resulting from acts or omissions constituting willful misconduct
36 or gross negligence on the part of CITY, its officers or employees.

37 **20.06 Damage by CONTRACTOR.** If CONTRACTOR's employees or
38 subcontractors cause any injury, damage or loss to CITY property, including but not

1 limited to CITY streets or curbs (excepting normal wear and tear), CONTRACTOR
2 shall reimburse CITY for CITY's cost of repairing such injury, damage or loss. Such
3 reimbursement is not in derogation of any right of CITY to be indemnified by
4 CONTRACTOR for any such injury, damage or loss. With the prior written approval of
5 CITY's Director of Environmental Services, CONTRACTOR may repair the damage at
6 CONTRACTOR's sole cost and expense.

7 **ARTICLE 21. DEFAULT OF AGREEMENT**

8 **21.01 Termination.** CITY may terminate this Agreement, except as
9 otherwise provided below in this Article, by giving CONTRACTOR thirty (30) calendar
10 days advance written notice, to be served as provided in Section 23.20, upon the
11 happening of any one of the following events:

12 21.01.1 CONTRACTOR shall take the benefit of any present or future
13 insolvency statute, or shall make a general assignment for the benefit of creditors, or
14 file a voluntary petition in bankruptcy (court) or a petition or answer seeking an
15 arrangement for its reorganization or the readjustment of its indebtedness under the
16 Federal bankruptcy laws or under any other law or statute of the United States or any
17 state thereof, or consent to the appointment of a receiver, trustee or liquidator of all or
18 substantially all of its property; or

19 21.01.2 By order or decree of a Court, CONTRACTOR shall be
20 adjudged bankrupt or an order shall be made approving a petition filed by any of its
21 creditors or by any of the stockholders of CONTRACTOR, seeking its reorganization or
22 the readjustment of its indebtedness under the Federal bankruptcy laws or under any
23 law or statute of the United States or of any state thereof, provided that if any such
24 judgment or order is stayed or vacated within sixty (60) calendar days after the entry
25 thereof, any notice of default shall be and become null, void and of no effect; unless
26 such stayed judgment or order is reinstated in which case, said default shall be
27 deemed immediate; or

28 21.01.3 By, or pursuant to, or under the authority of any legislative act,
29 resolution or rule or any order or decree of any Court or governmental board, agency
30 or officer having jurisdiction, a receiver, trustee or liquidator shall take possession or
31 control of all or substantially all of the property of CONTRACTOR, and such
32 possession or control shall continue in effect for a period of sixty (60) calendar days; or

33 21.01.4 CONTRACTOR has defaulted, by failing or refusing to pay in a
34 timely manner the administrative charges or other monies due CITY and said default is
35 not cured within thirty (30) calendar days of receipt of written notice by CITY to do so;
36 or

1 21.01.5 CONTRACTOR has defaulted by allowing any final judgment
2 for the payment of money to stand against it unsatisfied and said default is not cured
3 within thirty (30) calendar days of receipt of written notice by CITY to do so; or

4 21.01.6 In the event that the monies due CITY under Section 21.01.4
5 above or an unsatisfied final judgment under Section 21.01.5 above is the subject of a
6 judicial proceeding, CONTRACTOR shall not be in default if the sum of money is
7 bonded. All bonds shall be in a form acceptable to the City Attorney; or

8 21.01.7 CONTRACTOR has defaulted, by failing or refusing to perform
9 or observe the terms, conditions or covenants in this Agreement or any of the rules
10 and regulations promulgated by CITY pursuant thereto or has wrongfully failed or
11 refused to comply with the instructions of the City Representative relative thereto and
12 said default is not cured within thirty (30) calendar days of receipt of written notice from
13 CITY to do so, or if by reason of the nature of such default, the same cannot be
14 remedied within thirty (30) calendar days following receipt by CONTRACTOR of
15 written demand from CITY to do so, CONTRACTOR fails to commence the remedy of
16 such default within said thirty (30) calendar days following such written notice or
17 having so commenced shall fail thereafter to continue with diligence the curing thereof
18 (with CONTRACTOR having the burden of proof to demonstrate (a) that the default
19 cannot be cured within thirty (30) calendar days, and (b) that it is proceeding with
20 diligence to cure said default, and such default will be cured within a reasonable period
21 of time). However, notwithstanding anything contained herein to the contrary, for the
22 failure of CONTRACTOR to provide SFD Recycling Services for a period of three (3)
23 consecutive Work Days, CITY may secure CONTRACTOR's records and SFD
24 Recycling Services equipment on the fourth (4th) Work Day in order to provide interim
25 SFD Recycling Services until such time as the matter is resolved and CONTRACTOR
26 is again able to perform pursuant to this Agreement; provided, however, if
27 CONTRACTOR is unable for any reason or cause to resume performance at the end
28 of thirty (30) calendar days, all liability of CITY under this Agreement to
29 CONTRACTOR shall cease and this Agreement may be deemed terminated upon
30 notice by the City Manager. In the event CITY secures CONTRACTOR's equipment in
31 order to provide interim services, ownership of such equipment shall remain with
32 CONTRACTOR and shall not transfer to CITY but CITY shall be obligated to make the
33 outstanding debt payments, if any, on such equipment attributable to the interim period
34 and CITY shall make all payments that would otherwise have been made by
35 CONTRACTOR for vehicle operations (including insurance, fuel and repairs) required
36 to comply with CONTRACTOR's debt obligation to CONTRACTOR's lenders. CITY's
37 responsibility for such outstanding debt payments and other payments shall end at
38 such time as CITY ceases use of such equipment to provide interim services. In the
39 event CITY secures CONTRACTOR's equipment, CITY may utilize CONTRACTOR's
40 office, corporation yard and other facilities on the same terms as for the use of

1 CONTRACTOR's equipment; provided, however, that such use shall not include use of
2 CONTRACTOR's MRF, any Alternate Facility (if applicable), the equipment located at
3 such facilities, other facilities or equipment owned by CONTRACTOR but not
4 employed in the performance of this Agreement, or any real property that is owned by
5 CONTRACTOR or CONTRACTOR's affiliated companies.

6 **21.02 Violations.** Notwithstanding the foregoing and as supplemental and
7 additional means of termination of this Agreement under this Article, in the event that
8 CONTRACTOR's record of performance shows that CONTRACTOR has frequently,
9 regularly or repetitively defaulted in the performance of any of the covenants and
10 conditions required herein to be kept and performed by CONTRACTOR, in the opinion
11 of the City Manager and regardless of whether CONTRACTOR has corrected each
12 individual condition of default, CONTRACTOR shall be deemed a "habitual violator",
13 shall be deemed to have waived the right to any further notice or grace period to
14 correct, and all of said defaults shall be considered cumulative and collectively shall
15 constitute a condition of irredeemable default. The City Manager shall thereupon issue
16 CONTRACTOR a final warning citing the circumstances therefore, and any single
17 default by CONTRACTOR of whatever nature, subsequent to the occurrence of the
18 last of said cumulative defaults, shall be grounds for immediate termination of this
19 Agreement. In the event of any such subsequent default, the City Manager may
20 terminate this Agreement upon giving of written final notice to CONTRACTOR, such
21 termination to be effective upon the date specified in the City Manager's written notice
22 to CONTRACTOR. Upon such termination, all contractual fees due hereunder plus
23 any and all charges and interest, if any, shall be payable to the date of termination, and
24 CONTRACTOR shall have no further rights hereunder. Immediately upon the
25 termination date specified in such final notice CONTRACTOR shall cease any further
26 performance of SFD Recycling Services under this Agreement.

27 **21.03 Effective Date of Termination.** In the event of the aforesaid events
28 specified in Sections 21.01 and 21.02 above, and except as otherwise provided in said
29 Sections, termination shall be effective upon the date specified in the City Manager's
30 written notice to CONTRACTOR and upon said date this Agreement shall be deemed
31 immediately terminated and upon such termination all liability of CITY under this
32 Agreement to CONTRACTOR, other than payment of moneys due, shall cease, and
33 CITY shall have the right to call the Performance Bond and shall be free to negotiate
34 with other contractors for the performance of the services specified in this Agreement.
35 In the event of CONTRACTOR's failure to perform, CONTRACTOR shall reimburse
36 CITY for all direct and indirect costs incurred by CITY in providing interim SFD
37 Recycling Services.

38 **21.04 Immediate Termination.** The City Manager may terminate this
39 Agreement immediately upon written notice to CONTRACTOR in the event

1 CONTRACTOR fails to provide and maintain the Performance Bond as required by
2 this Agreement, CONTRACTOR fails to obtain or maintain insurance policies
3 endorsements as required by this Agreement, CONTRACTOR fails to provide the
4 proof of insurance as required by this Agreement, or CONTRACTOR offers or gives
5 any gift prohibited by Chapter 12.08 of the San José Municipal Code.

6 **21.05 Termination Cumulative.** CITY's right to terminate this Agreement is
7 cumulative to any other rights and remedies provided by law or by this Agreement.

8 **ARTICLE 22. FUND APPROPRIATION**

9 **22.01 Fiscal Year Authorization.** CONTRACTOR understands and agrees
10 that CITY, during any fiscal year, is not authorized to expend money, incur any liability
11 or enter into any contract which, by its terms, involves the expenditure of money in
12 excess of the amounts appropriated as available for expenditure during such fiscal
13 year; that any contract or agreement, verbal or written, made in violation of this
14 provision is null and void; and that consequently, no money may be paid on such
15 contract or agreement beyond such limits. Nothing contained in this Agreement shall
16 prevent the making of agreements or contracts for periods exceeding one (1) year, but
17 any agreement or contract so made shall be executory only for the value of the
18 services to be rendered or agreed to be paid for in succeeding fiscal years. If the City
19 Council does not appropriate funds for the services under this Agreement by June 30th
20 of each year, CITY shall so notify CONTRACTOR and CONTRACTOR shall suspend
21 services under this Agreement until CITY provides written verification that the funds
22 necessary for CONTRACTOR's compensation and other necessary expenditures are
23 budgeted as available within the appropriate fiscal year budget.

24 **22.02 Adoption.** CITY does not represent that said appropriation item will
25 be actually adopted, said determination being the determination of the City Council at
26 the time of the adoption of the appropriation.

27 **ARTICLE 23. MISCELLANEOUS PROVISIONS**

28 **23.01 Modifications.** CITY shall have the power to make changes in this
29 Agreement as the result of changes in law, changes in the City of San José Municipal
30 Code, or both, to impose new rules and regulations on CONTRACTOR under this
31 Agreement relative to the scope and methods of providing SFD Recycling Services as
32 shall from time-to-time be necessary and desirable for the public welfare. CITY shall
33 give CONTRACTOR notice of any proposed change and an opportunity to be heard
34 concerning those matters. The scope and method of providing SFD Recycling
35 Services as referenced herein shall also be liberally construed to include, but is not

1 limited to the manner, procedures, operations and obligations, financial or otherwise,
2 of CONTRACTOR.

3 **23.02 Change in Law.** CITY and CONTRACTOR understand and agree
4 that the California Legislature has the authority to make comprehensive changes in
5 Solid Waste Management legislation and that these and other changes in law in the
6 future which mandate certain actions or programs for counties or municipalities may
7 require changes or modifications in some of the terms, conditions or obligations under
8 this Agreement. CONTRACTOR agrees that the terms and provisions of the City of
9 San José Municipal Code, as it now exists or as it may be amended in the future, shall
10 apply to all of the provisions of this Agreement and the Service Recipients of
11 CONTRACTOR located within the Service Districts. In the event any future change in
12 the San José Municipal Code, materially alters the obligations of CONTRACTOR, then
13 the affected service rates, as established in Exhibit 1 of this Agreement shall be
14 adjusted. Nothing contained in this Agreement shall require any party to perform any
15 act or function contrary to law. CITY and CONTRACTOR agree to enter into good
16 faith negotiations regarding modifications to this Agreement which may be required in
17 order to implement changes in the interest of the public welfare or due to change in
18 law. When such modifications are made to this Agreement, CITY and CONTRACTOR
19 shall negotiate in good faith, a reasonable and appropriate compensation adjustment
20 for any increase or decrease in the services or other obligations required of
21 CONTRACTOR due to any modification in the Agreement under this Article. CITY and
22 CONTRACTOR shall not unreasonably withhold agreement to such compensation
23 adjustment.

24 **23.03 Acknowledgement Of Legal Representation.** It is acknowledged
25 that each party was, or had the opportunity to be, represented by counsel in the
26 preparation and negotiation of this Agreement and had the opportunity to contribute to
27 the terms and conditions of this Agreement and, accordingly, the rule that a contract
28 shall be interpreted strictly against the party preparing the same shall not apply herein
29 due to the joint contributions of both parties.

30 **23.04 Financial Interest Representation.** CONTRACTOR warrants and
31 represents that no elected official, officer, agent or employee of CITY has a financial
32 interest, directly or indirectly, in this Agreement or in the compensation to be paid
33 under it and, further, that no CITY employee who acts as a "purchasing agent" as
34 defined in the appropriate Section of California Statutes, nor any elected or appointed
35 officer of CITY, nor any spouse or child of such purchasing agent, employee or elected
36 or appointed officer, is a partner, officer, director or proprietor of CONTRACTOR and,
37 further, that no such CITY employee, purchasing agent, CITY elected or appointed
38 officer, or the spouse or child of any of them, alone or in combination, has a material

1 interest in CONTRACTOR. Material interest means direct or indirect ownership of
2 more than five percent (5%) of the total assets or capital stock of CONTRACTOR.

3 **23.05 CONTRACTOR's Personnel Requirements.** CONTRACTOR shall
4 employ and assign qualified personnel to perform all services set forth herein.
5 CONTRACTOR shall be responsible for ensuring that its employees comply with all
6 applicable laws and regulations and meet all federal, state and local requirements
7 related to their employment and position.

8 23.05.1 CITY may request the transfer of any employee of
9 CONTRACTOR who materially violates any provision of this Agreement, or who is
10 wanton, negligent, or discourteous in the performance of his duties.

11 23.05.2 CONTRACTOR shall require its field operations personnel to
12 wear a clean uniform shirt bearing CONTRACTOR's name. CONTRACTOR's
13 employees who normally come into direct contact with the public, including drivers,
14 shall bear some means of individual photographic identification such as a name tag or
15 identification card.

16 23.05.3 Each driver of a collection vehicle shall at all times carry a valid
17 California driver's license and all other required licenses for the type of vehicle that is
18 being operated.

19 23.05.4 Each driver of a collection vehicle shall at all times comply with
20 all applicable local, state and federal laws, regulations and requirements.

21 23.05.5 CONTRACTOR's employees, officers, and agents shall at no
22 time be allowed to identify themselves or in any way represent themselves as being
23 employees of CITY.

24 **23.06 Exempt Waste.** CONTRACTOR shall not be required to collect
25 Exempt Waste, but may offer such services. Collection and disposal of Exempt Waste
26 is not regulated under this Agreement, but if provided by CONTRACTOR shall be in
27 strict compliance with all federal, state and local laws and regulations.

28 **23.07 Independent Contractor.** In the performance of services pursuant to
29 this Agreement, CONTRACTOR shall be an independent contractor and not an officer,
30 agent, servant or employee of CITY. CONTRACTOR shall have exclusive control of
31 the details of the services and work performed and over all persons performing such
32 services and work. CONTRACTOR shall be solely responsible for the acts and
33 omissions of its officers, agents, employees, contractors and subcontractors, if any.
34 Neither CONTRACTOR nor its officers, employees, agents, contractors or
35 subcontractors shall obtain any right to retirement benefits, Workers' Compensation
36 benefits, or any other benefits which accrue to CITY employees and CONTRACTOR
37 expressly waives any claim it may have or acquire to such benefits.

1 **23.08 Law To Govern.** The law of the State of California shall govern the
2 rights, obligations, duties and liabilities of CITY and CONTRACTOR under this
3 Agreement and shall govern the interpretation of this Agreement.

4 **23.09 Venue.** Any litigation between CITY and CONTRACTOR concerning
5 or arising out of this Agreement shall be filed and maintained exclusively in the
6 Superior Courts of Santa Clara County, State of California, or in the United States
7 District Court for the Northern District of California to the fullest extent permissible by
8 law. Each party consents to service of process in any manner authorized by California
9 law.

10 **23.10 Assignment.** No assignment of this Agreement or any right occurring
11 under this Agreement shall be made in whole or in part by CONTRACTOR without the
12 express written consent of the Director of Environmental Services. CITY shall have full
13 discretion to approve or deny, with or without cause, any proposed or actual
14 assignment by CONTRACTOR. Any assignment of this Agreement made by
15 CONTRACTOR without the express written consent of the Director of Environmental
16 Services shall be null and void and shall be grounds for CITY to declare a default of
17 this Agreement and immediately terminate this Agreement by giving written notice to
18 CONTRACTOR, and upon the date of such notice this Agreement shall be deemed
19 immediately terminated, and upon such termination all liability of CITY under this
20 Agreement to CONTRACTOR, other than the payment of moneys due as of the date
21 of termination, shall cease, and CITY shall have the right to call the performance bond
22 and shall be free to negotiate with other contractors, CONTRACTOR, or any other
23 person or company for the services which are the subject of this Agreement. In the
24 event of any assignment, the assignee shall fully assume all the liabilities of
25 CONTRACTOR.

26 **23.11 Subcontractors.**

27 23.11.1 The use of a subcontractor to perform services under this
28 Agreement shall not constitute delegation of CONTRACTOR's duties provided that
29 CONTRACTOR has received prior written authorization from the Director of
30 Environmental Services to subcontract such services and the Director of
31 Environmental Services has approved a subcontractor who will perform such services.
32 CONTRACTOR shall be responsible for directing the work of CONTRACTOR's
33 subcontractors and any compensation due or payable to CONTRACTOR's
34 subcontractor(s) shall be the sole responsibility of CONTRACTOR. The Director of
35 Environmental Services shall have the right to require the removal of any approved
36 subcontractor for reasonable cause. The subcontractors listed in Exhibit 9 to this
37 Agreement, are hereby approved by CITY as to the scope of work specified in Exhibit
38 9 for each such subcontractor. Additional subcontractors may be used upon the

1 written approval of the Director of Environmental Services in accordance with this
2 Section 23.11.

3 23.11.2 CITY acknowledges that CONTRACTOR has entered into that
4 certain Transition Services Agreement with Garden City Sanitation. ("GCS"), as set out
5 in **Exhibit 15** ("TRANSITION SERVICES AGREEMENT") to this Agreement, whereby
6 CONTRACTOR and GCS have agreed to provide equipment and personnel to each
7 other to enable each of them to perform its obligations under this Agreement or the
8 agreement between CITY and GCS for residential solid waste collection services
9 during the period from July 1, 2007, to December 31, 2007. CONTRACTOR's use of
10 equipment and/or personnel as provided in the Transition Services Agreement shall
11 not constitute the use of a subcontractor under this Section 23.11 nor an assignment
12 under Section 23.10. CONTRACTOR acknowledges that the Transition Services
13 Agreement is incorporated into this Agreement and that CITY may enforce the terms of
14 the Transition Services Agreement as a third party beneficiary.

15 **23.12 Compliance With Laws.** In the performance of this Agreement,
16 CONTRACTOR shall comply with all applicable laws, regulations, ordinances and
17 codes of the federal, state and local governments, including without limitation the
18 Charter of the City of San José and the San José Municipal Code.

19 **23.13 Amendments To Municipal Code.** CITY shall provide written notice
20 to CONTRACTOR of any planned amendment to Chapter 9.10 of the San José
21 Municipal Code that would substantially affect the performance of CONTRACTOR's
22 services pursuant to this Agreement. Except in the case of an amendment determined
23 by the City Council to be an urgency measure, such notice shall be provided at least
24 thirty (30) calendar days prior to the City Council's approval of such an amendment.

25 **23.14 Permits And Licenses.** CONTRACTOR shall obtain, at its own
26 expense, all permits and licenses required by law or ordinance and maintain same in
27 full force and effect throughout the term of this Agreement. CONTRACTOR shall
28 provide proof of such permits, licenses or approvals and shall demonstrate compliance
29 with the terms and conditions of such permits, licenses and approvals upon the
30 request of the City Representative.

31 **23.15 Ownership Of Written Materials.** All reports, documents, brochures,
32 public education materials, and other written, printed, electronic or photographic
33 materials developed by CITY or CONTRACTOR in connection with the services to be
34 performed under this Agreement or in connection with the Recycle Plus Program,
35 whether developed directly or indirectly by CITY or CONTRACTOR shall be and shall
36 remain the property of CITY without limitation or restrictions on the use of such
37 materials by CITY. CONTRACTOR shall not use such materials in connection with
38 any project not connected with this Agreement without the prior written consent of the

1 City Representative. This Section 23.15 does not apply to ideas or concepts
2 described in such materials and does not apply to the format of such materials.

3 **23.16 Waiver.** The waiver by CITY or CONTRACTOR of any breach for
4 violation of any term covenant or condition of this Agreement shall not be deemed to
5 be a waiver of any other term, covenant or condition or any subsequent breach or
6 violation of the same or of any other term, covenant or condition. The subsequent
7 acceptance by CITY of any fee, tax, or any other monies which may become due from
8 CONTRACTOR to CITY shall not be deemed to be a waiver by CITY of any breach for
9 violation of any term, covenant or condition of this Agreement.

10 **23.17 Prohibition Against Gifts.** CONTRACTOR represents that
11 CONTRACTOR is familiar with CITY's prohibition against the acceptance of any gift by
12 a CITY officer or employee, which prohibition is found in Chapter 12.08 of the San
13 José Municipal Code. CONTRACTOR shall not offer any CITY officer or designated
14 employee any gift prohibited by said Chapter. The offer or giving of any gift prohibited
15 by Chapter 12.08 shall constitute a material breach of this Agreement and, in addition
16 to any other remedy CITY may have in law or in equity, CITY may terminate this
17 Agreement for such breach as provided in Section 21.04 of this Agreement.

18 **23.18 Disqualification Of Former Employees.** CONTRACTOR represents
19 that CONTRACTOR is familiar with the provisions of Chapter 12.10 of the San José
20 Municipal Code relating to the disqualification of former officers and employees of
21 CITY in matters that are connected with former duties or official responsibilities
22 ("Revolving Door Ordinance"). CONTRACTOR shall not utilize, either directly or
23 indirectly, any officer, employee, or agent of CONTRACTOR to perform services under
24 this Agreement, if in the performance of such services the officer, employee or agent
25 would be in violation of the Revolving Door Ordinance.

26 **23.19 Point Of Contact.** The day-to-day dealings between CONTRACTOR
27 and CITY with respect to this Agreement shall be between CONTRACTOR's General
28 Manager and the City Representative.

29 **23.20 Notices.**

30 23.20.1 Except as otherwise provided in this Agreement, whenever
31 either party desires to give notice to the other, the notice must be in writing and given
32 as provided in this Section 23.20. For the present, the parties designate the following
33 as the respective persons and places for giving of notice:

34 To CITY:
35 Director
36 Department of Environmental Services
37 200 East Santa Clara Street, 10th Floor

1 San José, CA 95113
2 Fax: (408) 292-6212

3 With a copy to:

4 City Representative
5 Recycle Plus Program
6 Department of Environmental Services
7 200 East Santa Clara Street, 10th Floor
8 San José, CA 95113
9 Fax: (408) 292-6212

10 To CONTRACTOR:

11 Kristina Duong, Chief Financial Officer
12 1005 Timothy Street
13 San Jose, CA 95133
14 Fax (408) 292-0833
15

1 With a copy to:

2 Ken Etherington, General Manager
3 1005 Timothy Street
4 San Jose, CA 95133
5 Fax (408) 292-0833
6

7 23.20.2 Notices shall be effective when deposited in the U. S. mail,
8 postage prepaid, or when personally delivered to the address specified above or to
9 such other address as designated by a party by providing written notice of a change in
10 address. Notice may also be sent by facsimile transmission and shall be effective
11 when received, provided that facsimile transmissions received (i.e. printed) after 4:30
12 p.m. or on weekends or holidays, will be deemed received on the next Work Day. The
13 original of items that are transmitted by facsimile must also be mailed or personally
14 delivered as provided above within three (3) Work Days of the facsimile transmission.

15 23.20.3 Notice by CITY to CONTRACTOR of a collection or other
16 Service Recipient problem or complaint may be given to CONTRACTOR orally by
17 telephone at CONTRACTOR's local office with confirmation sent to CONTRACTOR
18 through the Consolidated Utility Billing System by the end of the Work Day.

19 **23.21 Transition to Next Contractor.** In the event CONTRACTOR is not
20 awarded an agreement to continue to provide SFD Recycling Services following the
21 expiration or early termination of this Agreement, CONTRACTOR shall cooperate fully
22 with CITY and any subsequent contractor(s) to assure a smooth transition of services
23 described in this Agreement. Such cooperation shall include but not be limited to
24 transfer of computer data, files and tapes; providing routing information, route maps,
25 vehicle fleet information, and list of Service Recipients; not less than one hundred
26 twenty (120) calendar days prior to the termination of this Agreement, providing a list
27 of workers who will be displaced by the transfer of services to a successor contractor;
28 providing a complete inventory of all Recycling Carts; providing adequate labor and
29 equipment to complete performance of all SFD Recycling Services required under this
30 Agreement; taking all actions necessary to transfer ownership of Recycling Carts, as
31 appropriate, to CITY including transporting such containers to a location designated by
32 the City Representative; coordinating collection of materials set out in new containers if
33 new containers are provided for in a subsequent Agreement, and providing other
34 reports and data required by this Agreement.

35 **23.22 Contractor's Records.**

36 23.22.1 CONTRACTOR shall maintain any and all letters, books of
37 account, invoices, vouchers, canceled checks, and other records or documents
38 evidencing or relating to charges for services or expenditures and disbursements

1 charged to CITY for a minimum period of three (3) years, or for any longer period
2 required by law, from the date of final payment to CONTRACTOR pursuant to this
3 Agreement.

4 23.22.2 CONTRACTOR shall maintain all documents and records
5 which demonstrate performance under this Agreement for a minimum period of three
6 (3) years, or for any longer period required by law, from the date of termination or
7 completion of this Agreement.

8 23.22.3 Any records or documents required to be maintained pursuant
9 to this Agreement shall be made available for inspection or audit, at any time during
10 regular business hours, upon written request by the City Representative, the Director
11 of Environmental Services, City Attorney, City Auditor, City Manager, or a designated
12 representative of any of these officers. Copies of such documents shall be provided to
13 CITY for inspection at the Environmental Services Department office when it is
14 practical to do so. Otherwise, unless an alternative site is mutually agreed upon, the
15 records shall be available at CONTRACTOR's address indicated for receipt of notices
16 in this Agreement.

17 23.22.4 Where CITY has reason to believe that such records or
18 documents may be lost or discarded due to the dissolution, disbandment or
19 termination of CONTRACTOR's business, CITY may, by written request or demand of
20 any of the above named officers, require that custody of the records be given to CITY
21 and that the records and documents be maintained in City Hall. Access to such
22 records and documents shall be granted to any party authorized by CONTRACTOR,
23 CONTRACTOR's representatives, or CONTRACTOR's successor-in-interest.

24 **23.23 Use Of Recycled Products.** For services rendered pursuant to this
25 Agreement, CONTRACTOR shall use recycled paper for all printed material such as
26 brochures, reports, studies, and promotional literature, that exceeds ten (10) pages, or
27 if the cumulative total number of pages per document or printed material times the
28 number of copies made is in excess of ten (10) pages.

29 23.23.1 For the purposes of this Section, "recycled paper" means a
30 paper or wood pulp product with not less than fifty percent (50%) off its total weight
31 consisting of secondary and post consumer waste and with not less than thirty percent
32 (30%) of its total weight consisting of post consumer waste. "Post consumer waste"
33 means a finished material that would normally be disposed of as a solid waste, having
34 completed its life cycle as a consumer item. "Secondary waste" means fragments of
35 products or finished products of a manufacturing process that has converted a virgin
36 resource into a commodity of real economic value and includes post consumer waste
37 but does not include fibrous waste generated during the manufacturing process such

1 as fibers recovered from waste water or trimmings of paper machine rolls (mill broke),
2 wood slabs, chips, sawdust, or other wood residue from a manufacturing process.

3 23.23.2 CONTRACTOR may request an exemption from the
4 requirements of this Section by submitting such request in writing to CITY's Director of
5 Environmental Services. Such a request may be approved or denied, in whole or in
6 part, at said Director's sole discretion. CONTRACTOR shall not use, in the
7 performance of services under this Agreement, any product or material that does not
8 meet the standards set forth above without the prior written approval of said Director.

9 **23.24 Entire Agreement.** This Agreement and the Exhibits attached hereto
10 constitute the entire agreement and understanding between the parties hereto, and
11 this Agreement shall not be considered modified, altered, changed or amended in any
12 respect unless in writing and signed by the parties hereto. This Agreement
13 incorporates and includes all prior negotiations, correspondence, conversations,
14 agreements and understandings applicable to the matters contained in this Agreement
15 and the parties agree that there are no commitments, agreements or understandings
16 concerning the subject matter of this Agreement that are not contained in this
17 document. Accordingly, it is agreed that no deviation from the terms of this Agreement
18 shall be predicated upon any prior representations or agreements, whether oral or
19 written.

20 **23.25 Severability.** If any provision of this Agreement or the application of it
21 to any person or situation shall to any extent be held invalid or unenforceable, the
22 remainder of this Agreement and the application of such provisions to persons or
23 situations other than those as to which it shall have been held invalid or unenforceable,
24 shall not be affected, shall continue in full force and effect, and shall be enforced to the
25 fullest extent permitted by law.

26 **23.26 Right To Require Performance.** The failure of CITY at any time to
27 require performance by CONTRACTOR of any provision hereof shall in no way affect
28 the right of CITY thereafter to enforce same. Nor shall waiver by CITY of any breach
29 of any provision hereof be taken or held to be a waiver of any succeeding breach of
30 such provision or as a waiver of any provision itself.

31 **23.27 Headings.** Headings in this document are for convenience of
32 reference only and are not to be considered in any interpretation of this Agreement.

33 / /

34 / /

35 / /

1 **23.28 Exhibits.** Each Exhibit referred to in this Agreement forms an
2 essential part of this Agreement. Each such Exhibit is a part of this Agreement and
3 each is incorporated by this reference.

4 **IN WITNESS WHEREOF,** CITY and CONTRACTOR have executed this
5 Agreement on the respective date(s) below each signature.

APPROVED AS TO FORM

CITY OF SAN JOSE, a municipal corporation

SUSAN DEVENCENZI
Senior Deputy City Attorney

By:

LES WHITE
City Manager

Date:

CALIFORNIA WASTE SOLUTIONS,
INC.

By:

DAVID DUONG
President

Date:

6

EXHIBITS

- 1 Compensation Rates
- 2 Recycle Plus Service Districts
- 3 Refuse Rate Index
- 4 Form of Performance Bond
- 5 Cart Specifications and Performance Criteria
- 6 Small Civic Service Units
- 7 Plans
- 8 Central Business District and Transit Mall Zone
- 9 Approved Subcontractors
- 10 Data and Reporting Requirements
- 11 Contractor Outreach Requirements
- 12 Wage Policy
- 13 Contractor Electronic interface Requirements
- 14 Large Items List
- 15 Transition Services Agreement (Need MS Word electronic copy of actual document)
- 16 Transition Timeline

EXHIBIT 1

COMPENSATION RATES

Beginning for services performed in July 2007, CITY shall compensate CONTRACTOR for services performed in accordance with this Agreement at the following rates.

	Monthly Rates Per SFD Recycling Service Unit	Monthly Rates Per SFD Recycling Service Unit
	District A	District C
A. BASE SERVICE RATES		
1. SFD Recycling Collection Service	\$7.65/Unit/Mo	\$8.23/Unit/Mo
2. SFD Used Oil Collection Service	\$0.00/Unit/Mo	\$0.00/Unit/Mo
3. TOTAL BASE SERVICE RATE (Nos. 1. – 2.)	\$7.65/Unit/Mo	\$8.23/Unit/Mo
B. ADDITIONAL SERVICE RATES		
1. Subscription On-Premise Collection ¹	\$49.50/Unit/Mo	\$49.50/Unit/Mo
2. Cart Exchanges in Excess of Once per Year	\$56.24/Occurrence	\$86.45/Occurrence
3. Large Item Collection (Increments of up to 3 Items)	\$19.35/Collection	\$19.35/Collection
Notes to Exhibit 1:		
1. This rate will be added to the Base Service Rate (line A.3) for each Service Unit receiving Subscription On-Premises SFD Recycling Service		

EXHIBIT 1

COMPENSATION RATES

Beginning for services performed in July 2007, CITY shall compensate CONTRACTOR for services performed in accordance with this Agreement at the following rates.

EMERGENCY SERVICE RATES		
Labor Position or Equipment Type	Make & Model	Hourly Rate
Driver and fully automated side loader	Peterbilt 320 –McNeilus 30yd Street Force	\$156.95
Driver and Knuckleboom Loader	Peterbilt 335 – 22 foot stake	\$144.16
Driver and Cart Delivery Truck	Ford 450 - CNG	\$141.89
Supervisor and Pick-Up	Chevy 2500 - CNG	\$116.32
Driver CDL Class B	N/A	\$81.40
Laborer	N/A	\$62.90

EXHIBIT 2

RECYCLE PLUS SERVICE DISTRICTS

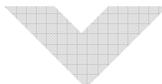
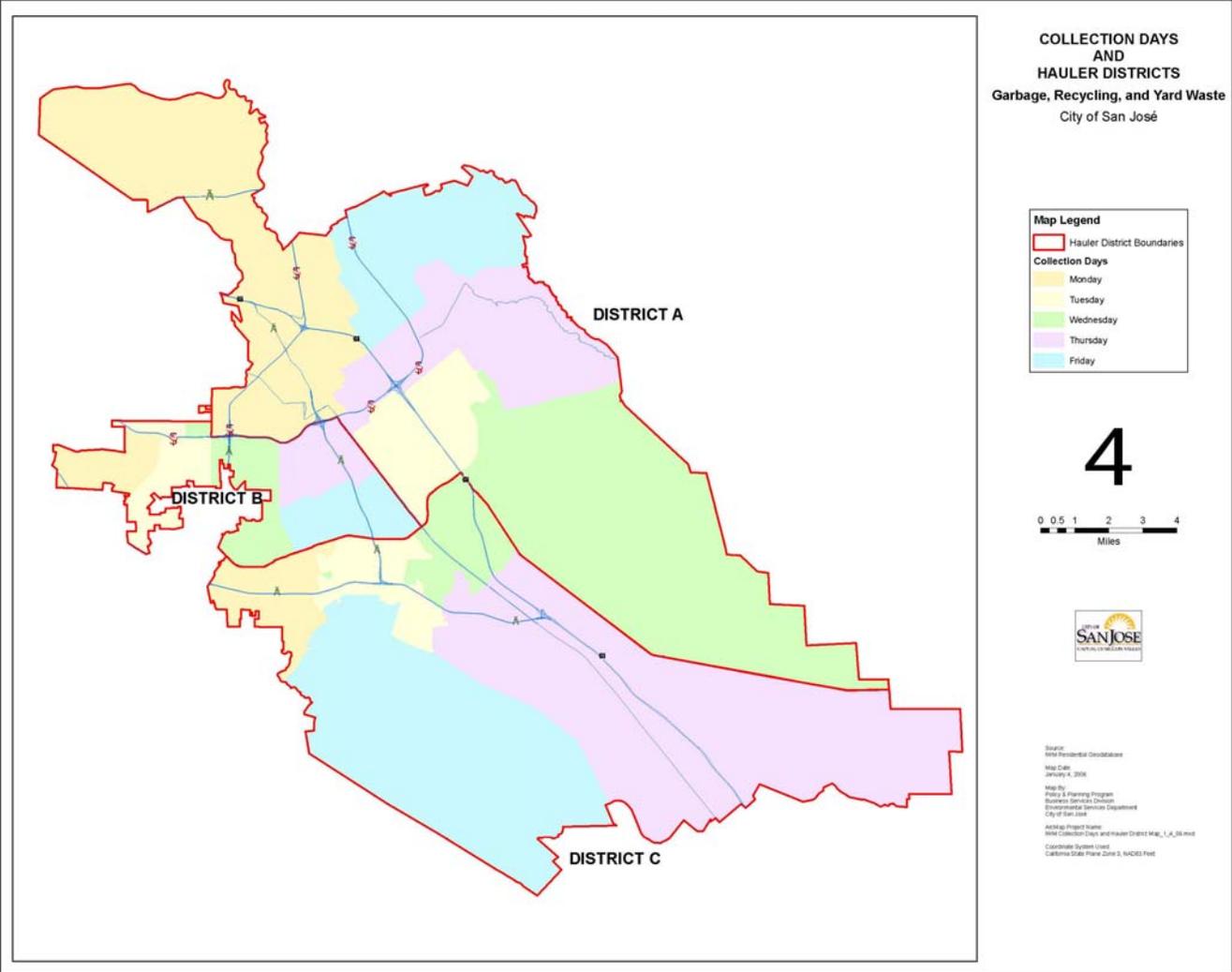


EXHIBIT 3
REFUSE RATE INDEX

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

1. The expenses of the collection services for the designated fiscal period shall be prepared in the format set forth in the Operating Cost Statement - Description on the following page of this Exhibit.
2. The expenses of the collection services shall be broken down into the following five cost categories: Labor; Diesel Fuel; Vehicle Replacement; Maintenance and All Other. Each cost category is assigned a weighted percentage factor on that cost category's proportionate share of the total of the costs shown for all cost categories.
3. The following indices published by the United States Department of Labor, Bureau of Labor Statistics (BLS), are used to calculate the adjustment for each cost category. The change in each index is calculated on a twelve-month fiscal period in accordance with the terms of the Agreement. In the event any index is discontinued, a successor index shall be selected by CITY. Successor indices shall be those indices that are most closely equivalent to the discontinued indices as recommended by the BLS.

<u>Cost Category</u>	<u>Index</u>
Labor	Series ID: cis201s000000000i Service-Producing Industries
Diesel Fuel	Series ID: wpu057303 #2 Diesel Fuel
Vehicle Replacement	Series ID: pcu3362113362111 Truck, bus, car, and other vehicle bodies, for sale separately
Vehicle Maintenance	Series ID: pcu3339243339243 Parts and attachments for industrial work trucks
All Other	Series ID: cuur0000sa0 seventy-five percent (75%) of Consumer Price Index, All Urban Consumers, All Items

4. The percentage weight for each cost category is multiplied by the change in each appropriate index to calculate a weighted percentage for each cost category. The weighted percentage changes for each cost category are added together to calculate the Refuse Rate Index (see Example).

EXHIBIT 3

REFUSE RATE INDEX

Operating Cost Statement - Description

Labor: List all administrative, officer, operation and maintenance salary accounts.

List payroll tax accounts directly related to the above salary accounts.

Diesel Fuel: List all diesel fuel accounts.

Vehicle Replacement:

List all collection and collection related vehicle depreciation accounts.

List all vehicle lease or rental accounts related to collection or collection related vehicles.

Vehicle Maintenance:

List all collection or collection related vehicle parts accounts.

All Other: List all other expense accounts related to the services provided under this Agreement. This category includes all insurance including general liability, fire, truck damage, extended coverage and employee group medical and life; rent on property, truck licenses and permits; real and personal property taxes; telephone and other utilities; employee uniforms; safety equipment; general yard repairs and maintenance; non-diesel fuel; office supplies; postage; trade association dues and subscription; advertising; employee retirement or profit sharing contributions; and miscellaneous other expenses.

EXHIBIT 3
REFUSE RATE INDEX

Example

Item #	Category	Data Source	Percentage Change ⁽¹⁾	Item Weight ⁽²⁾	Weighted Percentage Change ⁽³⁾
1	Average Hourly Earnings	Series ID: cis201s000000000i Service-Producing Industries	2.19%	49.05%	1.07%
2	Diesel Fuel	Series ID: wpu057303 #2 Diesel Fuel	4.74%	13.15%	0.62%
3	Vehicle Replacement	Series ID: pcu3362113362111 Truck, bus, car, and other vehicle bodies, for sale separately	6.79%	2.57%	0.17%
4	Vehicle Maintenance	Series ID: pcu3339243339243 Parts and attachments for industrial work trucks	0.16%	13.46%	0.02%
5	CPI All Items	Series ID: cuur0000sa0 Seventy-five percent Consumer Price Index, All Urban Consumers, All Items	1.70%	21.77%	0.28%
Total				100.00%.	2.16%

- (1) Assume these are the percentage changes in the indices from year to year.
- (2) Assume the categories represent these percentages as a total of CONTRACTOR's operating costs.
- (3) Represents the product of Percentage Change x Item Weight

In this example, the Refuse Rate Index is 2.16%.

EXHIBIT 4
FORM OF PERFORMANCE BOND

_____ **SERVICES**
FOR THE
CITY OF SAN JOSE, CALIFORNIA

KNOW ALL MEN BY THESE PRESENTS: that

(here insert full name and address or legal title of contractor)

as Principal, hereinafter called Contractor, and,

(Name of insurer)

as Surety, hereinafter called Surety, are held firmly bound unto the CITY OF SAN JOSE, CALIFORNIA as Obligee, hereinafter called the City, in the amount of ***(to be inserted) DOLLARS (\$x,xxx,xxx.xx)*** for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written agreement dated _____, 2006, entered into an Agreement with the City for providing (to be inserted) Services in accordance with RFP specifications and Agreement of the CITY OF SAN JOSE, CALIFORNIA, which Agreement is by reference made a part hereof, and is hereinafter referred to as the Agreement.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said Agreement, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the City.

Whenever Contractor shall be, and declared by the City to be in default under the Agreement, the City having performed the City's obligations thereunder, the Surety may promptly remedy the default, or shall promptly perform one of the following:

1. Complete the Agreement in accordance with its terms and conditions.

EXHIBIT 4

FORM OF PERFORMANCE BOND

- 2. Obtain a bid or bids for completing the Agreement in accordance with the terms and conditions, and upon determination by the Surety of the lowest responsible bidder, or if the City elects, upon determination by the City and the Surety jointly of the lowest responsible bidder, arrange for an agreement between such bidder and the City, and make available as work progresses (even though there should be a default or a succession of defaults under the Agreement or Agreements of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Agreement price; but not exceeding, including costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the Agreement price," as used in this paragraph, shall mean the total amount payable by the City to Contractor under the Agreement and any amendments thereto, less the amount properly paid by the City to Contractor.

Any suit under this bond must be instituted before the expiration date of the Agreement or if extended for an additional term by the City, the expiration of the extended term.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the City named herein or the executor, administrator or successors of the City of San José, California.

Signed and sealed this ____ day of _____, 2006.

(Principal) (Seal)

(Witness)

(Title)

Surety (Seal)
(Name of Insurer)

(Witness)

By:

(Attorney-in-Fact)

EXHIBIT 5

CART SPECIFICATIONS AND PERFORMANCE CRITERIA

CONTRACTOR shall provide Recycling Carts that meet the following specifications and minimum performance criteria.

Specifications and Performance Criteria For 32-, 64-, and 96-Gallon Capacity	
Volumetric Capacity – Recycling Carts	<ul style="list-style-type: none">• 32-gallons +/- 12%, 64-gallons +/- 12%, and 96-gallons +/- 12%, excluding volume resulting from a crowned lid in the closed position
Minimum Load Rating	<ul style="list-style-type: none">• 32-gal: 100 lb.• 64-gal: 175 lb.• 96-gal: 250 lb.
Compatibility	<ul style="list-style-type: none">• Compatible with commercially available fully automated lifting mechanisms that are or will be used in San José
Standards of Design	<ul style="list-style-type: none">• Designed to meet all relevant sections of American National Standards Institute (ANSI) Z245.30-1999 and Z245.60-1999• Designed such that wastes flow freely out of the cart when dumped by a fully automated lifting mechanism
Materials of Construction & Recycled Content	<ul style="list-style-type: none">• Body of cart: HDPE• At least 20% post-consumer recycled content
Dimensions & Design	<ul style="list-style-type: none">• Maximum width of 31” including lid and wheels• Leak proof
Lid	<ul style="list-style-type: none">• Manufactured from the same material as the body of the cart.• Rotate at least 270 degrees• Watertight, must prevent rain entry when closed, with or without latches• Snug-fitting and must overlap the cart rim• Self-draining
Handle	<ul style="list-style-type: none">• Handle mounts must either:<ol style="list-style-type: none">1. be an integrally molded part of the cart body; or2. if bolt-on handle mounts are used, they must be designed such as to prevent them from working loose over the active life of the cart

EXHIBIT 5

CART SPECIFICATIONS AND PERFORMANCE CRITERIA

Specifications and Performance Criteria For 32-, 64-, and 96-Gallon Capacity	
Wheels	<ul style="list-style-type: none">• Minimum tire diameter: 10 inches for 64- and 96-gal carts, 8 inches for 32-gal carts• Minimum tread width: 1.5 inches• Tire material must be natural rubber or polymeric compound• Each wheel must be rated for the minimum load rating of the carts and not deform plastically when subjected to the rated load of the carts• Axle must pass through the cart body outside of the area for waste storage• Wheels must have a locking device to secure them to the cart axle
Fasteners	<ul style="list-style-type: none">• No fasteners are to penetrate the body of the cart where waste will be contained• All fasteners are to be corrosion resistant and free of sharp edges
Finish Surfaces	<ul style="list-style-type: none">• Interior surface must be smooth with a semi- or high-gloss finish• Exterior surface must be suitable for hot stamping on lid and body• Exterior must be free of sharp edges and corners, protrusions, or other structures that could pose a nuisance or hazard to humans
Assembly	<ul style="list-style-type: none">• Carts must be easy to assemble• Nuts must be self-locking• Nuts and/or rivets must be designed such that they cannot be removed with ordinary tools by the public

EXHIBIT 5

CART SPECIFICATIONS AND PERFORMANCE CRITERIA

Specifications and Performance Criteria For 32-, 64-, and 96-Gallon Capacity	
Performance	<ul style="list-style-type: none">• Carts must pass ANSI standards 245.30-1999, clauses 7.2.4.2 (testing requirements for two-wheeled carts) for the following parameters:<ol style="list-style-type: none">1. volumetric loading capacity2. slope stability3. durability during pulling4. loading and unloading (cycle test)5. center of balance position6. force to tip cart7. lid (collapse)• All metal components of the cart must meet the corrosion resistance requirements of 500 hours of salt spray exposure as described in ASTM B117• Carts must pass the Leakage performance test (Appendix A)• Empty carts must pass the Wind Stability performance test (Appendix A)
Testing	<ul style="list-style-type: none">• Performance testing of production samples shall be conducted at a frequency of 3 per 1000 units manufactured
Environmental	<ul style="list-style-type: none">• Ultra-violet stability: All plastic components must contain UV inhibitors and the cart must maintain performance during the warranty period when exposed to ultra-violet radiation of the sun• Temperature stability: Cart must not plastically deform when subjected to temperatures in the range of 25 deg F to 170 deg F and a compressive load of 200 lb

EXHIBIT 5

CART SPECIFICATIONS AND PERFORMANCE CRITERIA

Specifications and Performance Criteria For 32-, 64-, and 96-Gallon Capacity	
Identification & Markings	<ul style="list-style-type: none">• The lid must have a suitable area to affix a label for recycling education• The following must be hot-stamped on the lid:<ol style="list-style-type: none">1. facing street arrow• The following must be hot-stamped on the cart body:<ol style="list-style-type: none">1. City's logo2. serial number (sequentially numbered)3. production batch number and date4. maximum load weight rating5. cart type, per clause 4.2.1f of ANSI Z245.30-99
Color	<ul style="list-style-type: none">• Recycling: Gray body with blue lid
Warranty	<ul style="list-style-type: none">• Minimum 10 years for all parts of cart; not prorated; any failure under warranty shall be replaced with a newly manufactured whole cart, which is defined to be the body of the cart, wheel, lid, handles, other ancillary features and fasteners

EXHIBIT 5

CART SPECIFICATIONS AND PERFORMANCE CRITERIA

Appendix A

PERFORMANCE TESTS

Wind Stability

This test is designed to assure that a cart will remain stationary and in the upright position under severe wind conditions.

The cart must be able to remain upright and stationary in a wind flow of 25 mph. The test surface shall be a flat finished asphalt surface. Place one sidewall of cart perpendicular to a horizontal flow of air at 25 mph for one minute. Record whether or not the cart tips over and distance, if any, the cart slides or rolls. Repeat the test for each of the other sides.

To pass this test, the cart shall not tip over, or slide or roll more than 6.0 in., in any of the tests.

Leakage

The purpose of this test is to determine if the cart is designed to minimize leakage.

The cart shall be filled with water to a level within 8 in. from the inside bottom of the container. The container shall be covered with its own lid. The filled container shall then be placed in a covered area over a dry drip pan to collect any leakage and allowed to stand for a period of 24 hour exposed to temperatures within the range of 65 to 75 F. The water level within the container after the test shall be measured and recorded to within the nearest 0.1 in. The results of the test shall be reported in terms of final water level, ambient temperature, visible leakage, and quantity of water collected in the drip pan. Containers that exhibit any leakage shall fail the test.

EXHIBIT 6

SMALL CIVIC SERVICE UNITS

CONTRACTOR shall provide SFD Recycling Collection Services at the Small Civic Service Units listed in Service Districts A & C.

Department	Facility Name	Facility Address	Facility Street	Facility Zip	Service District
Library	East Branch Carnegie	1102	E. Santa Clara St.	95112	A
Library	Empire Branch	491	Empire Street	95112	A
Fire	Station 7	800	Emory	95110	A
Fire	Station 8	802	Santa Clara E.	95112	A
Fire	Station 10	511	S Monroe St.	95128	A
Fire	Station 11	2840	The Villages Parkway	95135	A
Fire	Station 19	1025	Piedmont Road	95132	A
Fire	Station 21	1749	Mt Pleasant Rd	95122	A
Fire	Station 23	1771	Via Cinco De Mayo	95132	A
Fire	Station 24	2525	Aborn Rd	95121	A
Fire	Station 25	1590	Gold Street	95002	A
Fire	Station 30	454	Auzerais Ave	95126	A
Fire	Station 31	3200	Ruby Avenue	95135	A
Fire	Station 12	502	Calero	95123	C
Fire	Station 17	1494	Ridgewood	95118	C
Fire	Station 22	6461	Bose Lane	95120	C
Fire	Station 27	6027	San Ignacio Ave	95119	C
Fire	Station 28	20399	Almaden Exp	95120	C

CITY may add or delete Small Civic Service Units to the list above upon written notice to CONTRACTOR.

EXHIBIT 7

PLANS

Transition Plan

Diversion Plan

Public Education and Outreach Plan

Customer Service Plan

Collection Operations Plan

MRF Processing Operations Plan

Equipment Plan

Employee and Labor Relations Plan

EXHIBIT 7

PLANS



California Waste Solutions

Recycling & Waste Management

City Of San José

Recycle Plus Agreement for Recycling Services

Exhibit 7

EXHIBIT 7

PLANS

COLLECTIONS TRANSITION

INTRODUCTION

On Monday, July 2, 2007, San José residents in Districts A and C will have their recyclables collected by California Waste Solutions (CWS). CWS will have implemented the following transition plan in the professional manner expected and required by the City of San José.

The nearly one year between contract award and implementation is intended to provide time to develop a sophisticated and detailed routing; conduct employee hiring and training; and receive special order collection vehicles and carts.

CWS has constructed recyclables collection and processing schedules that will guide this transition from award of contract to implementation. This document presents a combined service plan for Districts A and C.

This narrative corresponds with CWS' detailed Transition Work Schedule, constructed in Microsoft Project, and follows initial meetings with ESD staff. While recognizing that transitions evolve as unforeseen contingencies arise and variables change, every effort was and will continue to be made to include all known and predictable activities with their corresponding timeframes. To assure project accountability, the corresponding project schedule specifies regular meetings with San Jose's Environmental Services Department (ESD).

This narrative describes the process of placing orders for equipment and data analysis that prepares CWS to implement routing and C-UBS. During the transition period training material will be developed for all new personnel; beta testing of C-UBS and CWS' interface will be performed and fleshed out; and, recycling collection equipment begins arriving at five per week beginning the first week of April, 2007, with delivery completed by the end of May. Large item collection vehicles and supervisors' trucks will be acquired by CWS in April 2007.

Processing of recyclables will occur at the 1005 Timothy Drive Material Recovery Facility owned by CWS. CWS has entered negotiations to lease property for the Vehicle Yard and the Large Item Handling Operations. That property is located at 1901 Junction Avenue in San José.

These facilities will be permitted by early 2007 and ready for operation on July 2, 2007. CWS' MRF is already processing the material from Districts A and C and will continue to

EXHIBIT 7

PLANS

do so. CWS has proposed to enhance the MRF to improve processing capability. One of these changes, glass sorting, has already been completed. Proposed changes and permitting designs will be completed by early 2007, with enhancements completed in 2007.

Labor Peace assurance activities and personnel hiring will be done in conjunction with City Staff and San Jose's two other waste collections contractors (Garden City Sanitation and Green Waste). CWS proposes to have several meetings with these companies and Teamsters Local 350 to prepare for the April 2007 job fair. Employees transitioning from Norcal to CWS will be trained on the weekends beginning in May 2007. Drivers will learn their routes before July 2, 2007.

PARTNERSHIP

CWS believes that every aspect of this initiative is a partnership with the City of San José and feels encouraged by direct and early engagement with ESD.

CITY PROCUREMENT

City Council approved the MOU on September 12, 2006. Contract negotiations continue thereafter with City Council ratification expected in 45 days or as soon thereafter as possible.

MANAGEMENT

The CWS Contract Manager and Management Team will oversee and manage all activities related to transition efforts, establish accountability for quality, work closely with the City through a series of formal/informal meetings and other communications .

The CWS Contract Manager will coordinate, control and monitor tasks in concert with appropriate CWS Transition Team members. Written submissions will be reviewed to ensure consistency and quality and draft reports will be approved by CWS' Chief Operating Officer or an appropriate CWS designee prior to submission to the City. An established format for transition reports will be agreed upon by the City and uniformly applied.

TEAM

As shown in the Organization Chart, the CWS Transition Team will be led by CWS' General Manager, who will be readily available for briefings with City management and other appropriate staff during the course of the transition. At this time, the General Manager will also serve as the Contract Manager and be responsible for day-to-day management and supervision of the individual tasks. The General Manager will also be a prime contact for City staff.

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The CWS transition team consists of all CWS management personnel based in its San Jose facility and is augmented by solid waste and associated professionals from Gershman, Brickner & Bratton, Inc., Sweetser & Associates, Kneal Resource System, Inc., and consultant Paul Rottenberg.

Gershman, Brickner & Bratton, Inc. will utilize their experience to generally assist CWS during the transition period, and specifically with the large item and plastic textile bag pilot programs.

Sweetser & Associates will provide assistance with permitting and regulatory compliance issues related to development of the new facilities and modifications to the MRF and assist with Transition coordination efforts.

Kneal Resource System, Inc. will partner with CWS to develop and direct implementation of the public education program, including the Public Education and Outreach Plan; provide additional related community outreach, as appropriate; and assist in activities related to the Reuse Advisory Group. Kneal Resource System will also assist with Transition coordination efforts.

Consultant Paul Rottenberg will provide support related to contract compliance, materials processing and marketing, equipment specifications, facility development, government relations and assist with Transition coordination efforts.

Team members will meet face-to-face as well as communicating through e-mail, land lines, and cell phones. Internal meetings will be scheduled as needed. Each Transition Team member will evaluate submittals to which each contributed.

As much as possible, data including that concerning meetings, transition status, policy issues, and other pertinent information, will be electronically conveyed to CWS Transition Team members.

Close monitoring and regular updating of the MS Project schedule will help to ensure a successful and timely transition from the current contractor to CWS.

MEETINGS

Project meetings between designated ESD and CWS staff will occur every third Thursday at 10 AM at San Jose City Hall. Meeting agenda items are due in writing to ESD by the immediately preceding Wednesday. It is anticipated that these meetings will address transition status, coordination, new and evolving issues and problem resolution.

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PROGRESS REPORTS

Written progress reports delivered to ESD in a standardized format will summarize the tasks and/or percentage of work completed to date. The report will also note significant occurrences, exceptions, unanticipated contingencies and variables, problems or difficulties encountered or projected, additional information as requested by ESD, a forecast of upcoming activities based on the Transition Schedule, and include an updated project schedule. The progress reports are required monthly from October 2006 through February 2007. Starting in March 2007 through April 2007, reports are due every other week. Weekly reports are due from May 2007 through October 2007. Periodic reports, as requested by the City, will continue throughout the transition period.

These reports will be generated by the CWS Transition Team using MS Word and MS Project, converted to .pdf format and delivered to the City by e-mail. Each report with any supporting documents will be delivered by the tenth day of the month following the reporting period. A hard copy will be provided if requested.

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EQUIPMENT

Delivery of the manufacturers' training program will be detailed In accordance with the transition timeline.

REPORTING

As required, CWS will submit to ESD its estimated equipment list and a vehicle and major equipment inventory list.

VEHICLES

CWS placed its truck order on September 18, 2006. This order specifies delivery of five trucks per week beginning the first week of April and ending the final week in May. This assures timely delivery such that all modifications, such as GPS and RFID, can be done in sufficient time to begin collections on July 2, 2007. The delivery schedule also allows ample time for employees to be thoroughly trained on the equipment, with the manufacturer providing onsite operation and maintenance training for CWS personnel.

CARTS

CWS will define the number of carts needed in its inventory, execute a contract with the cart vendor, and place an order to have them at CWS' San José facility in June 2007.

CWS will service existing City-owned carts and stock an inventory of new carts to replace damaged and stolen carts and respond to new service requests. CWS' Oakland cart repair staff will work closely with the CWS transition team and cart vendor to sufficiently train San Jose personnel on cart repair, cart inventory and asset control best practices, and work-order protocol.

GPS

Collection vehicles will be equipped with GPS tracking equipment so that their locations can be identified at any time. The specific product will be identified early in the transition process and demonstration models tested well in advance of collection truck delivery to allow for any identified changes. GPS's will be installed on collection vehicles as they are delivered.

RADIO FREQUENCY IDENTIFICATION DEVICE

Each collection vehicle will be outfitted with a Radio Frequency Identification Device (RFID), a truck-mounted transponder that provides electronic identification, to facilitate and speed truck weigh-in at the processing facility. The specific product will be identified early in the transition process and demonstration models tested well in advance of

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collection truck delivery to allow for any identified changes. RFIDs will be installed on collection vehicles as they are delivered.

MECHANICAL SUPPORT

CWS will hire four mechanics to operate the light duty vehicle shop for minor maintenance such as oil changes, replacement of air filters, hoses, and repairs to brakes and tires. Coast Counties Peterbilt will do all warranty work on collection vehicles.

TRUCK CONTINGENCY

In the event that the collection truck manufacturer is unable to adhere to the committed delivery schedule, CWS will go on the open market to rent or buy fill-in trucks that, although not designed and customized as the ordered trucks, would be adequate for the short term. In addition, CWS and Garden City have signed a mutual aid agreement to assist each other with use of vehicles.

SUPERVISOR AND CART VEHICLES

Pickup trucks for CWS supervisors and the cart repair vehicle will be ordered, modified as required and delivered to CWS in April 2007.

LARGE ITEM VEHICLES

Large item vehicles will be acquired, modified and ready for service as indicated in the schedule.

FACILITIES

CWS will utilize two facilities for the Recycle Plus program. One is its current Materials Recovery Facility at Timothy Drive. The other property will be the yard that will become the light duty shop, and provide parking for the collection vehicles and a wash system for the trucks. This facility will also be the location of CWS' large item reuse exchange and recycling site. The cart inventory will also be stored at this location.

There will be comprehensive permitting coordination meetings with City Staff and CWS to ensure that all parties are aware of the proposed activities and the permitting requirements and schedule. This will verify the number of permits and the schedule for approval for each of these facilities. These permits shall include but not be limited to the permits of conditional/special use, hazardous material plan, storm water drainage, and building permits. We will also be coordinating utilities installation. Permitting and construction of these two facilities will start concurrently. CWS will notify the City if an alternative consolidated facility will be utilized.

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CWS has entered negotiations to lease property for the Vehicle Yard and the Large Item Handling Operations. That property is located at 1901 Junction Avenue in San José. As a contingency, CWS has also discussed lease options at several other properties including several outside of San José that are already conducting similar activities as proposed by CWS.

VEHICLE YARD

The vehicle yard will provide collection vehicle parking, a facility for maintenance activities, and an area for collection of the curbside used oil. CWS employees will conduct preventative maintenance operations and minor repair activities at the yard including: oil and filter changes, air filter and hose replacements, minor transmission adjustments, and brake and tire repairs. All major maintenance activities will be covered under the comprehensive truck warranty and will be conducted by Coast Counties Truck. Major repairs will occur at their facility on North 4th Street. Road service will be performed by CWS and Coast Counties, depending on the nature of the problem.

As collection vehicles are delivered by the manufacturer beginning in April 2007, they will be stored in a designated area of the Vehicle Yard. Construction activities will continue on the remainder of the facility.

LARGE ITEM HANDLING FACILITY

The CWS Large Item Handling facility will provide the opportunity for reuse and recycling of collected items as described in the Collection Operations Plan.

Building, conditional/special use, and other permits for construction for the large item facility will be initiated concurrently with the vehicle yard. Construction and renovation of this facility will be less complicated than the vehicle yard since the property already has a large building on site. Numerous additional permits and approvals are needed and will be obtained prior to operation.

Drivers and facility personnel will receive appropriate training prior to operations and refresher training as needed.

OFFICE

The 1005 Timothy Drive headquarters will be modified to include the additional personnel by mid-April 2007.

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ROUTING

The City has set two major milestones that will be met by CWS; provision of initial routing to the City and subsequent transmission of routing maps in digital form.

DEVELOP ROUTES

CWS' General Manager will lead the route development participants.

CWS received initial customer databases and routing information from City Staff in October, 2006 and review the demographic, participation information, and logistical details. CWS will use routing software and test routes by actually driving them. CWS will work closely with the City to assure that new construction and other recent changes in Districts A and C are accounted for and put in CWS' routing software.

Over the first portion of the transition year, CWS will review existing recycling and Large Item collection routes. CWS will use route optimization software and its Geographic Information System (GIS) to integrate recent census data and on-site observation to maximize the productivity of each collection vehicle. Route maps and driving instructions will be developed and resulting routes will be test driven. Supervisors and drivers will be trained on these routes during the thirty days prior to July 2, 2007.

Regular updates will be provided by CWS' routing team that includes CWS employees and a representative from RouteSmart. Route day boundaries will not be changed without written City permission.

PERSONNEL

CWS' Human Resource Department will work closely with appropriate City departments and representatives to assure a smooth transition.

EMPLOYEE TRANSITION

CWS' Human Resources Department will meet with prospective and current contract employees during an April 2007 Job Fair. CWS will provide company and contract information, instructions for resume/application submittals and timelines, and collect current employees' resumes and applications. CWS will work to make this transition as smooth and positive as possible.

ADDITIONAL HIRING

CWS' HR Department is preparing to recruit additional workforce in the event that an insufficient number of current contract employees to fill all required positions transfer to CWS. CWS will work with various staffing agencies, community outreach entities,

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specialized trade schools, labor bargaining units, internal postings/website, and online recruitment and employee referrals to meet hiring goals.

TRAINING

A combination of manufacturers, contractors, and CWS human resource personnel will train new employees. City representatives will be afforded an opportunity to address various sessions to provide literature and/or address trainees and communicate City concerns and policies.

CWS' Human Resources will work with the City to insure proper training on all aspects of curbside collections and customer relations. This training will also address, but not necessarily be limited to:

- Employee relations
- Diversity
- Substance abuse
- Violence in the workplace
- Pre and post-trip equipment inspection
- Defensive driving
- Vehicle operation
- Recyclables collection
- Proper equipment handling and usage
- Hazardous, medical, universal, and other prohibited wastes
- Illness and injury prevention
- Personal protective equipment/health and safety

The Human Resources Manager will lead substance abuse training. All new personnel will take part in an initial session and supervisors and managers will be provided further education. Managers and supervisors will be specifically trained on:

- Why it is important to have a substance abuse-free work zone
- Statistics on workplace drug abuse
- Identifying workplace drug-use: job performance, abnormal behavior, physical signs and paraphernalia
- Appropriate and legal manners to approach employees suspected of drug abuse.
- Appropriate and legal manners in which to drug test

Each driver will be required to attend further training involving operation of collection vehicles. The Waste Equipment Technology Association (WASTEC) group of the Environmental Industry Associations publishes the Manual of Recommended Safety

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Practices and training materials designed specifically for the waste industry. These and other materials will be utilized by CWS in the training program.

CWS will also deliver training on workplace violence. Employees will be trained in constructive methods to resolve conflicts. Further, CWS will institute an internal team that works with management to assess the potential for workplace violence.

CURRICULA

CWS will review and develop training material on safety, recycling awareness, substance abuse, equipment review, obstacle course driving, customer service, sexual harassment, diversity, GPS, routes, and mechanics. Most of these materials will be compiled in the first quarter of 2007 and updated as necessary.

DELIVERY

Drivers, mechanics, route auditors, customer service representatives and others who are transferring from their present employer will be trained on weekends and evenings. These employees will be trained in sections so that not all are in the same class at one time.

Drivers will be introduced to the new trucks in a large parking lot so that they can become familiar with them in a contained environment. Each driver will work the collection vehicle through an obstacle route so that mistakes will be made in a controlled situation. Drivers will learn route maps and driving directions before the first actual day of collection.

CUSTOMER SERVICE

CWS will create a new customer service center that includes an integrated system of phones, computers, and software prepared to interface with the City's Utility Billing Service. CWS will utilize its Tower software program and has planned to do a Beta test of the Tower/C-UBS interface, possibly beginning in December and going live with data in April of the following year. The new customer service infrastructure will augment CWS' reporting ability. Reports for the City will be designed with the City's input and approval.

Customer service representatives will be hired to handle the call center. Training will be on-going to continually improve and streamline processes. It is anticipated that ESD customer service personnel will work with CWS to assure that transition between the two centers is smoothly integrated. CWS will have four personnel dedicated as Customer Service Representatives (CSRs) including existing employees, personnel transferring

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from Norcal, and new employees. These CSRs will be utilized full time if needed. Other personnel will assist with CSR duties as necessary.

CUSTOMER SERVICE COORDINATION

Prior to transition, CWS will create a dedicated customer call center. This center will be located at CWS' San José headquarters. CWS will use the customer service package included with its Tower software system and will develop the data interface between Tower and the City's Consolidated Utility Billing System (PeopleSoft RM) during the Transition.

During the transition period, Customer Service staff will be increased as necessary to efficiently handle incoming service calls. Given that customer calls are expected to increase immediately upon start of service by two or three times regular volume, CWS will work with the City to review the appropriate number of additional temporary CSR's fully trained and in place by July 2, 2007. This increased staffing will consist of trained CWS employees and qualified temporary workers. Following the Job Fair, should insufficient customer service staff be available for transfer from the existing contractor, new employees will be recruited. Staff will be regularly updated and trained on the transition plan and proper information to provide to callers. It is anticipated that CWS staff will work with the City's customer service personnel to assure that information between the two call centers is appropriately integrated.

CWS will upgrade its existing customer call center to ensure an adequate number of phone lines, broadband internet connectivity, and required modifications to the CWS Tower customer service software system to allow for C-UBS interface. System training of existing and new customer service staff will be completed in adequate time before the first collection.

The systems will be tested and modified where warranted, with Customer Service Technicians completely trained before the first collection takes place. There will be a redundant system to enable the customer call center to service residents in an emergency.

CITY COORDINATION

CWS' team will work closely with the designated City Staff.

CUSTOMER ASSURANCE RESPONSE

It is anticipated that trained employees, a solid customer service center and effective public education will mitigate problems to a large degree, but cannot prevent all of them. Some residents may be accustomed to a specific collection time at their house and will

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place carts out just before the expected arrival. However, CWS may run its routes differently and a resident's collection time could change; resulting in increased resident calls because carts are placed at the curb too late for the new schedule. In these instances, CWS will adhere to the missed collection protocol and response time requirements of the contract. To accomplish this during the transition period, CWS will have a Customer Collection Assurance team comprised of personnel in satellite collection vehicles responding to such incidents until customers become accustomed to their new collection schedule.

TOWER/C-UBS INTERFACE

CWS' IT Team will lead in integrating the City's Consolidated Utility Billing System (C-UBS) into CWS' operations system. This team will integrate and report communications for work-orders, billing, invoicing, and report generation.

CWS will work closely with the City of San José's designated representative(s) to assure the timely and thorough implementation of this important system.

TECHNOLOGY

TELEPHONE

CWS is evaluating its current telephone system to determine capacity to accommodate additional stations and what additional equipment will be required. It is anticipated that the current system will be upgraded and more lines added to handle the projected volume of incoming calls.

NETWORK INFRASTRUCTURE

CWS is evaluating its current network infrastructure to determine capacity to accommodate the demands of increased staff utilization, computers, and customer service data processing and handling. It is anticipated that the current system will be upgraded.

PUBLIC EDUCATION

CWS is focused on reducing the current contamination levels in San José's recycling carts and believes that the two-pronged approach of public education and route auditors are the key to this success.

CWS will partner with ESD to develop a transition education program to inform residents of the pending change in collectors and program education campaigns to reduce the contamination of recyclable materials set out by households. CWS will be supported in these activities by contracted public education experts.

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TRANSITION

CWS will propose and present to ESD for approval transition public education initiatives that are designed to:

- Prepare customers for noticeable changes such as different trucks and/or multiple collection vehicles on their streets, and other operational changes such as different pick-up times, etc.

Pending approval by ESD, transition education and communications tactics may include some or all of the following:

- Reviewing with ESD existing customer information materials and web site to identify recommended changes.
- Creating multi-lingual, direct distribution printed customer materials that:
 - Alert and subsequently remind impacted residents of the July, 2007 change with pick-up schedules etc., and provide instructions on recyclables, Large Item collection, set-out instructions etc.
- Inviting appropriate individuals on field trips to the CWS MRF and to observe test-drives of new collection vehicles

ADMINISTRATION

REGISTRATIONS AND PERMITS

According to regulating agencies requirements, CWS will apply to the Department of Conservation for the required Curbside Registration, California Highway Patrol (CHP) for the Motor Carrier Permit, and enroll employees in the CHP Compliant Testing Program.

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PROCESSING TRANSITION

CWS will make a number of facility improvements to the operations of the 1005 Timothy Drive Materials Recovery Facility (MRF) including:

- Glass Clean-up System
- Infeed Conveyor System
- Optical Sorting System for Plastics
- Plastic Bag Recycling at the MRF
- Evaluate Increased Finishing Capability

In order to have these plant improvements completed by December 31, 2007, numerous permits must be obtained. To accomplish this expedited timeline, major coordination meetings are proposed between the City agencies and CWS. A Processing Timeline has been prepared for implementation of the Timothy Drive MRF improvements.

CWS is scheduling these improvements to occur during evenings and weekends when possible to minimize disruptions to the ongoing operations.

In addition, this plan includes the installation of the used oil tank at the Timothy MRF.

CWS will work closely with the San Jose Local Enforcement Agency to ensure that any changes to the solid waste permit are completed.

GLASS CLEAN-UP SYSTEM

In 2004, CWS received a grant from the California Department of Conservation, Market Expansion Section to obtain a glass clean-up system to be integrated into the existing processing equipment. Installation and permitting of this system is completed. It redirects the "unders" conveyor from the current glass pile into the Titus Fines Recovery System that separates the material into broken glass, metal, fines, and solid waste residual. The reduced quantities of residuals are then added to the other residual from the plant.

INFEEED CONVEYOR SYSTEM

CWS is reviewing options to lengthen the pit conveyor, allowing the loader operator to feed the system more evenly and minimizing opportunities to overload the conveyors. Additionally, a burden-depth leveler will be installed over the inclined conveyor. This device will limit the burden depth on the conveyor and break up clumps that form on the conveyor. Even loading on the inclined conveyor will result in more uniform feed onto the pre-sort conveyor which in turn allows a slower conveyor speed, resulting in an increased efficiency of the picking operation.

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PLASTICS OPTICAL SORTING SYSTEM

CWS' San Jose facility was constructed in 2000 with a manual sorting process to separate mixed plastics into marketable grades, such as natural PET, and remove contaminants. However, considerable technical advances in sensing and automated separation of materials have been made over the last five years and in response, CWS has had Machinex design an automated plastics sorting modification to its existing San Jose facility. The outcome will be reduced contamination in each marketable grade of plastic, increased processing capacity, and lower overall cost resulting in increased diversion of a cleaner and higher quality product.

PLASTIC BAG RECYCLING

To capture recoverable plastic film, CWS plans to install a vacuum system. Sorters would be required to lift plastic bags high enough off of the belt to be caught by the air current. These enhancements should result in increased recovery and less contamination of plastic film.

INCREASED CAPABILITY

CWS is evaluating the feasibility of increased processing capability and redundancy in its San Jose MRF.

USED OIL TANK STORAGE

Drivers will place used oil and filters collected from the route in the designated used oil collection area for bulking. CWS will install a used oil tank at the Timothy Drive MRF. This system will be operational before July 1, 2007

Alternative Processing and/or Storage Facility

CWS is seeking approval of 3300 Wood St, Oakland, CA as the primary and 1820 Tenth St., Oakland, CA as the secondary Alternative Processing and/or Storage Facilities for processing materials when the Timothy Drive MRF is unable to fully process the incoming materials. City pre approval is required prior to use of any alternative facility.

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DIVERSION

CWS has a business incentive to limit contamination and diminish the amount of trash in recycling carts, and increase the amount of recyclables and number of set-outs.

Individual programs that will be implemented for recycling services during the transition period and service contract are listed in the table below with the estimated annual diversion tonnage for Each District. Table 1 is only provided as an estimated diversion by each program and is not intended as a success measurement for each program.

In order to receive diversion credit for processed materials, CWS must meet the requirements specified in the Agreement. Only those recyclable items approved by the City will receive diversion credit. CWS can request City approval to include additional approved materials. Materials not approved in advance will be considered residue when calculating CWS' annual diversion rate.

Recycling Awareness Training

CWS is a recycling company and as such places an emphasis on recycling starting with the set out at the curb. CWS will train its recycling collection vehicle operators to view their positions as having a powerful influence on the success of the program. This will, when reinforced by Route Auditors, supervisors, and management, result in less contamination of recyclables by garbage and vice versa. CWS estimates that it will reduce the residue in Districts A and C recyclables by two percent with half of that becoming marketable recyclables.

CWS will use route auditors to train and assist drivers to provide notice to and work with residents who place prohibited material in their recycling carts. These route auditors will also assist with direct verification of acceptable materials placed in carts and one-on-one educating customers where warranted. During the first two years of the franchise, CWS will employ two full-time route auditors. Route auditor effectiveness will be evaluated at or near the end of this period to determine how, whether and with how many FTE's this function will continue.

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Table 1
Estimated Diversion by Program for Recycling Services

Program Description	Estimated Diversion (Tons per Year)	
	Districts A	District C
Driver Recycling Sensitivity Training	824	544
Multi-Service Benefit	824	544
Glass Clean-Up System	1500	990
Optical Sorting System for Plastics	200	132
Diversion and Recycling	1,600	1,960
Large Item Diversion	430	450
Plastic Bag Recycling at the MRF	6	4
Bag the Bag (Plastic bag recycling education)	240	160
Recycling Dollars	5,400	3,500
Textile Bag Program	200	120
Total	11,224	8,404

TIMOTHY MRF IMPROVEMENTS

The Timothy MRF improvements are discussed in the Transition Plan Section.

PLASTIC BAG RECYCLING

The City currently guides residents to place plastic grocery bags inside of one such bag that is then tied; however this guideline is rarely followed. As part of the PEOP, CWS is proposing, in conjunction with the City, to implement a targeted education program to increase the percentage of plastic bags received at the processing facility in the form requested. This program could include ads, flyers on carts and inclusion of Bag the Bags in a possible Recycling Dollars program. This approach could reduce the number of loose bags in the recyclable materials processing stream that contaminate final paper product bales, resulting in a higher quality paper product and additional plastic bag recycling.

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RECYCLING DOLLARS

In conjunction with ESD, CWS proposes to develop a recycling incentive program tentatively called “Recycling Dollars”. With this program, CWS would periodically inspect recycling set-outs in a given geographic area. Set-outs with the highest conformance with City guidelines would receive a cash award. These awards would be publicized to encourage others to participate. CWS could also discuss this program with local merchants to obtain goods and services to add to the “Recycling Dollars” award. These awards will be targeted at neighborhoods that have low recycling rates and made in conjunction with a local community organization for maximum visibility. This program could also target different aspects of recycling to provide variety and novelty in the awards.

TEXTILE BAG PILOT PROGRAM

The City of San José has collected textiles in the past and CWS would like to continue and enhance this program. CWS is in communication with Industrial Wiper (IW) and Resourceful Bag & Tag Inc. regarding development of a uniform collection system. With the City’s approval, IW would join CWS in a pilot program in which the service resident receives a bag to collect textiles for recycling. Full bags would be placed along side of collection carts and collected at the curb at the same time as other recyclables, and an empty bag left. At the MRF the full textiles bags would be loaded into an IW provided transport container and sent to IW’s San José facility. Evaluation criteria for reporting pilot results will be determined by CWS and City staff. Criteria could include diversion, number of missed pick ups, and processing and collection efficiency.

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PUBLIC EDUCATION AND OUTREACH

Strategy, content and implementation details of the Public Education and Outreach Plan (PEOP) for Recycling will be developed from meetings with the City, Best Practices research, and defined goals and objectives aimed at reducing the amount of contaminants in carts as well as increasing recycling participation overall. Proposed plans may also address specific campaigns focused on innovations that may be proposed by CWS.

CWS will propose and present a PEOP to ESD for annual approvals outlined in the contract.

OBJECTIVES

Preliminary objectives may include:

- Ensure high compliance with residents' cart set-out instructions
- Reduce contamination in the recycling carts.
- Reduce number of customer service calls
- Increase overall citizen participation in recycling

TACTICS

Tactics may include:

- Reviewing City-provided materials on "problem" areas of service area
- Engaging key community influencers
- Creating greater awareness among children of the importance of participating in recycling
- Developing specific information materials in appropriate languages to be distributed door-to-door in areas with low participation and/or high contamination
- Creating appropriate community information presentations in multiple languages
- Developing hand-out materials in multiple languages for distribution at community meetings.
- Establishing relationships with neighborhood and other community organizations within service areas.
- Staffing information table/kiosk at street fairs, fiestas, parades, other community events to distribute informational materials.
- Participating in the Bay Area "Stop Junk Mail" campaign, with publicity and advertising on how residents can remove their names from direct mail lists.
- Creating and maintaining a Web site linked to City's Recycle Plus site that includes relevant information and regularly updated content.
- Developing an interactive section of the CWS Web site that offers engaging and lively activities for children 5 through 10 years of age.

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CAMPAIGNS

Specific education campaigns might be developed using various themes and could utilize ethnic newspapers, radio PSA ads and other publicly visible media as well as tie-ins with retailers, etc. Following are examples of topics, themes or strategies that such campaigns might address or include.

- A visibility campaign built around collection vehicle drivers, featuring 3-4 actual drivers in service area. City-approved posters with photo of driver to be attached to trucks with personal statements of their pride in their job and requests for help from residents with reducing litter, complying with universal and hazardous waste requirements, etc.
- Educational ads and publicity on how to dispose of plastic shopping bags correctly
- Universal and Hazardous Waste campaign to create awareness of what should not be placed in waste carts – tie in with major electronics retailers such as Fry's, Best Buy, and CompUSA to create awareness of alternatives to inappropriate disposal.
- Earth Day - each year develop a unique theme to increase awareness of and participation in recycling activities. This campaign could be tied to the children's poster contest.
- The issue of electronic waste/recycling might be addressed by including in the Earth Day campaign elements of Pass It On Week (April 16 to 23) and/or 100 Percent Day, an outreach effort to collect 100,000 personal computers throughout the US.
- America Recycles Day, November 2007 and subsequent years – each year develop a theme for America Recycles day to motivate participation specifically for reusable items. Campaign could encourage pre-holiday donation of textiles and other reusable items through the curbside recycling program. A media event that includes prominent San Jose elected officials, community leaders and other citizens could kick off the drive that would culminate in another event during which the total collected for re-use would be announced

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CUSTOMER SERVICE

Customer service involves the front line interaction of our collection crews and our customer call center.

CALL CENTER

CWS currently operates a customer call center for Oakland. An additional call center will be established at the San José headquarters for the Recycle Plus contract and our Customer Service Technicians are trained to treat callers with the utmost professionalism. As previously noted, CWS uses the Tower software system, including the customer service package, and will develop the data interface between Tower and the City's Consolidated Utility Billing System (PeopleSoft RM) in accordance with the requirements of the agreement.

It takes skill to make the most difficult caller feel that the interaction has been positive; an outcome that could reduce repeat calls. To achieve the goal of one hundred percent customer satisfaction, the Customer Service Representatives will be trained in response best practices. A Customer Call Center Coach will continually motivate the Customer Service Technicians to provide optimal customer support in a courteous, helpful, and solution-oriented manner.

The Customer Service Department in San José will be staffed by four staff members adequately trained to handle calls coming in from Districts A and C. CWS will cross train other office staff that are members of the approved bargaining unit to assist with CSR duties as necessary and CWS will have access to bargaining unit qualified casual pool workers to assist in providing additional staffing as needed.

SYSTEMS

Systems will be installed and tested and the Customer Service Representatives completely trained on them before the first collection occurs. Prior to the first collection, CWS will complete upgrades to the existing customer center with the necessary number of phone lines, adequate broadband internet access, and any required modifications to the CWS Tower customer service software system. This equipment will allow the Customer Service Representatives to look up addresses and provide immediate information on collection day, large item collection appointments and C-UBS work order information.

Since CWS' Tower Customer Service System allows for expanded reporting, incoming calls will be tracked by type, location, date and service route. These reports will enhance CWS' ability to refine services. With assistance from Tower software

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engineers, CWS will develop an interface with the C-UBS system to meet the reporting and coordination requirements in the Service Agreement. The systems will be modified and tested and the Customer Service Representatives completely trained.

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COLLECTION OPERATIONS

VEHICLES

The planned numbers of collection and support vehicles are provided in Tables 2 and 3 below. As described more fully below in the Collection Equipment Plan, CWS will use a single collection vehicle with a single-compartment body. These vehicles will be operated by a single driver with the required level of California driver's license and who meets all other federal, State of California and CWS requirements. The routes for these collection vehicles will be developed using GIS-based, RouteSmart™ route optimization software currently owned by CWS. Routes will be adjusted for balance during the initial operating period; specifically with regard to load size and the goal of keeping the current day assignments. The driver will be provided with specific route path maps, driving instructions and customer sequence lists.

Table 2
Daily Collection Vehicles

Type	Districts A and C
Collection Vehicle	38
Large Item Collection Vehicle	2
Supervisor Pick-up	4
Cart Vehicle	1

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Table 3
Back-up Collection Vehicles

Type	Districts A and C
Collection Vehicle	6
Large Item Collection Vehicle	1

Staffing requirements necessary to collect recyclables from Districts A and C are shown in Table 4. Reserve staffing will be available on a part-time basis as necessary.

Table 4
Recycling Collection Staffing Requirements

Position Description	Districts A and C	Reserve Staff (%)
Collection Vehicle Operator	38	18
Large Item Vehicle Operator	2	18
Supervisor/ Route Auditor	4	
Cart Vehicle Operator	1	18
Total	45	

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USED OIL

Used oil containers and oil filters will be stored on racks under the collection vehicle body. These leak proof racks with oil absorbent pads on the bottom will hold 24 one-gallon oil containers. They will be sized to store a full day's collection and unloaded at the vehicle storage yard. The used oil containers will empty into a 3,000 gallon tank in secondary containment. An oil filter crusher will extract remaining oil from the filters that will also be recycled. The oil filters will be sent to an approved recycling facility. The extracted oil will be added to the oil collection tank.

LARGE ITEMS

CWS will have a vehicle to collect large items in response to call-in requests delivered by the City to CWS. Routes will be developed daily and trucks will be staffed by two qualified drivers. The number of collection and support vehicles is provided above in Tables 1 & 2.

Potentially reusable or recyclable items will be inspected and categorized by the facility staff, segregated, graded and prepared for shipment at the designated CWS Large Item area. Preliminary arrangements were discussed with Goodwill Industries to take usable items such as furniture, tools, recreational equipment and other items. Usable construction materials, dimensional lumber, plywood sheets, sinks, toilets, etc. will be taken for reuse. White goods and other appliances containing environmentally harmful materials such as CFCs will be processed for removal of these materials by a licensed and certified staff member. CFCs will be captured and marketed. Other hazardous wastes from appliances, such as mercury switches and capacitors, will be sent for proper treatment or disposal. All items and materials that are not reusable or directly recyclable will be disposed of in an environmentally safe and regulated manner. If the City of San José establishes a Reuse Center, CWS will provide the City with the right of first refusal for all usable items.

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MATERIALS DISPOSITION

Collected materials will be marketed and otherwise directed as shown in Table 5 below.

Table 5
Disposal Arrangements with Facility Locations

Material	Disposal Facility Name	Location	Facility Type	Fee (Per Ton)
Mixed Fiber	Domestic & International Markets		Warehouse	Market Value
Mixed Plastics	Domestic & International Markets		Warehouse	Market Value
Aluminum Cans	Domestic & International Markets		Warehouse	Market Value
Tin/Bimetals	American Metal & Iron	11665 Berryessa Road San Jose, CA 95133	Warehouse	Market Value
Glass	CRA	31775 Hayman St Hayward, CA 94544	Warehouse	Market Value
Scrap Metal	American Metal & Iron	11665 Berryessa Road San Jose, CA 95133	Warehouse	Market Value
Sharps	Stericycle Inc	1345 Doolittle Dr , San Leandro, CA 94577	Warehouse	TBD
Used Oil	Evergreen Environmental	6880 Smith Avenue Newark, CA 94650	Yard	TBD
Used Oil Filters	Evergreen Environmental	6880 Smith Avenue Newark, CA 94650	Yard	TBD
Large Items	American Metal & Iron	11665 Berryessa Road San Jose, CA 95133	Warehouse	TBD
Appliances	American Metal & Iron	11665 Berryessa Road San Jose, CA 95133	Metals Processor	TBD
Freon, CFC	Freon Free	PO Box 5607 Vacaville, CA 95696	Yard	TBD
Furniture, etc	Goodwill, Salvation Army, etc.		Warehouse	TBD
Electronics	American Metal & Iron	1165 Berryessa Road San Jose, CA 95133	Warehouse	TBD
Tires	Roman Tires	800 Laurelwood Road Santa Clara, CA 95054	Yard	TBD
CRTs	American Metal & Iron	1165 Berryessa Road San Jose, CA 95133	Warehouse	TBD
Batteries	American Best Battery	29588 Mission Blvd. Hayward, CA 94544	Warehouse	TBD
Antifreeze/Coolant	Evergreen Environmental	6880 Smith Avenue Newark, CA 94650	Warehouse	TBD

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Material	Disposal Facility Name	Location	Facility Type	Fee (Per Ton)
Propane/ Helium Tanks	Freon Free	PO Box 5607 Vacaville, CA 95606	Yard	TBD
Hazard Waste	Teris, LLC	880 West Verdulera St. Camarillo, CA 93010	Warehouse	TBD

OFFICE AND YARD LOCATIONS

The CWS corporate headquarters and management staff for the Recycle Plus Program are located at 1005 Timothy Drive, San José, California 95133. A collection vehicle storage yard is being considered at 505 Burke Street and an adjacent property located in San José. An alternate site for these yards might be selected.

OPERATIONS SCHEDULE

It is anticipated that collection vehicles and large item vehicles will be unloaded twice per day, or as necessary.

PHYSICAL EXAMINATIONS

CWS has physical examination requirements for collection employees and prospective employees. These are designed to protect workers and provide assurance that collection employees are capable of meeting the strenuous demands of this job. Specific requirements are contained in the CWS Physical Examination Policy. The responsibility for managing these requirements rests with the CWS Human Resources Manager.

SUBSTANCE ABUSE

CWS maintains a drug-free workplace and requires drug screening for employees and prospective employees. These screenings are designed to protect employees and provide assurance to CWS that its employees are meeting the drug free policy. Responsibility for managing these requirements rests with the CWS Human Resources Manager aided by individual supervisors and line managers as noted in the policy.

The CWS policies on physical examinations and drug testing meet all federal and State of California requirements.

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VEHICLE MAINTENANCE AND REPAIR

CWS purchased new collection vehicles from Coast Counties Truck and Equipment Co. with a six-year comprehensive warranty. This warranty covers all major maintenance items and during the covered period major warranty repairs will be performed at their facility centrally located on North 4th Street at the junction of Highways 880 & 101. This site is more than five acres, with ample room for staging equipment prior to delivery with a 24-bay maintenance facility. The service and parts departments are open from 7:30 a.m. to 6:30 p.m. Monday thru Friday; with parts also open on Saturday morning. In addition, Coast Counties has outside repair capabilities with their thoroughly outfitted mobile maintenance trucks.

During the contract period, CWS will perform oil changes and other preventive maintenance functions on the schedule provided by the equipment manufacturers and Coast Counties. The goal of the CWS fleet maintenance approach is to minimize unscheduled repairs. CWS will perform maintenance activities on a scheduled basis in keeping with fleet operation Best Practices.

Road service will be performed by Coast Counties and CWS. Estimated response time will be a maximum of 60 minutes for replacement in the southern portion of Districts A. Should a breakdown occur while a vehicle is in service, the operator will notify the CWS Collection Supervisor who will generate a Service Order. This will be transmitted from CWS to Coast Counties to fix the vehicle. Replacement collection vehicles will be dispatched by CWS from the vehicle storage yard and specific time for any replacement will be determined by breakdown location and traffic conditions. The number of spare collection vehicles and other vehicles required for each proposed option are shown in Table 2.

Road service tires for CWS vehicles will be provided through the maintenance Service Order system. CWS estimates that the tire service response time will be a maximum of 60 minutes for replacement response from each District.

Maintenance records will be kept on all vehicles by CWS.

Major item repair records will be generated and maintained by Coast Counties using automated fleet maintenance software provided by TruckCare Connect. These repair records will be transmitted to CWS so that the Collection Supervisor has a complete file on each vehicle to aid in predicting availability and anticipating related issues.

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Collection vehicle cleaning will be done at the CWS Collection Vehicle Yard using a portable pressure washer system once per week. Individual drivers are responsible for keeping cabs clean as part of their daily post trip inspection.

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PROCESSING OPERATIONS

This Processing Operations Plan sets out the operational and contingency plans for the CWS facility at 1005 Timothy Drive, San José, California. It may be subject to reasonable revisions by CWS management over time and as circumstances dictate, to conform to changed conditions, incorporate new operations, techniques and practices, facilitate the acceptance of materials from other sources, or to address other operational issues. Revisions to the Processing Operations Plan are subject to review and approval by the City of San José in accordance to Article 11 of the Agreement.

CWS and ESD have developed criteria to be used in selecting Alternative Processing and/or Storage Facilities for processing materials when the Timothy Drive MRF is unable to fully process the incoming materials. City pre-approval is required prior to use of any alternative facility. CWS will not load materials from the tip floor into transport or storage containers without prior written authorization from the City Representative

CWS is committed to labor peace and will maintain collective bargaining agreements with its local unions and/or ensure that not less than the prevailing wage is paid at all times for all classes of non-exempt workers

FACILITY

ACCESS

Days & hours of operation:

The normal processing operations day shift days and hours are Monday through Friday from 4:00 a.m. to 2:30 p.m. Second processing shift operating hours are 3:00 p.m. to 11:30 p.m. The facility closes for three holidays during each year: Thanksgiving, Christmas and New Years Day. From time to time, it may be necessary to add time or days to shift operations. The facility is permitted for processing 24 hours per day for increased flexibility. Shift hours will not be changed without an amendment to the operations plan, but the second shift may be down-staffed or eliminated at any time if deemed appropriate by plant management.

Based on need and permit limitations, the facility may also be opened for processing, administrative activities and outbound materials transport only during earlier or later hours on Monday through Friday, or on designated Saturdays.

Days and hours of materials receipt:

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Materials are typically received at the facility Monday through Friday between the hours of 6:00 a.m. and 7:00 p.m. The facility is permitted to accept materials during these same hours on Saturdays.

Days and hours of materials departure:

Materials are typically shipped at the facility Monday through Friday between the hours of 6:00 a.m. and 7:00 p.m. The facility is permitted to ship materials during these same hours on Saturdays.

MAINTENANCE

INTERNAL

Processing plant:

Internal facility maintenance largely consists of keeping the floor and related work areas free of excessive amounts of debris. Special attention is given to keeping walkways clear. Given the nature of materials recovery operations, the presence of a certain amount of debris on the floor is unavoidable. At a minimum the floor is swept once per shift, at the end of each shift. Beyond this set schedule, additional sweeping may occur when upon visual inspection the Plant Manager or Plant Supervisor determines that the level of debris buildup presents an unsafe situation, in which case operations may be stopped to clear walkways. Additionally, the floor may also be swept when there is equipment or other operational downtime.

The facility is equipped with a misting system for control of dust and odor. Primary maintenance of this system consists of clearing clogs as needed. Spare nozzles are kept on site to do immediate repairs. A contractor is brought in as needed to do overall system cleaning and check-up.

Administrative offices and employee rest areas:

Once daily, a contracted janitorial service cleans all restrooms, empties all waste receptacles, mops the employee break room floor, and vacuums building carpeting.

EXTERNAL

Litter:

CWS strives to prevent litter from migrating off-site through the following actions:

- On-site Collection - CWS utilizes a company-owned 8-foot Lay-Mor Sweeper that circulates around the main drive area at a minimum of once daily, no later than the end of the first shift. Additional circulations may be required under windy conditions, precipitation is expected or there is a high level of vehicle traffic generating additional litter.

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- Gate Control – An automatic rear gate controlled by a remote control maintained in the scale house prevents litter from blowing outside the fence line.
- As a general rule, the gate remains open when trucks are entering the yard. The gate will remain closed when there is no truck traffic.
- The scale house operator has a clear view of the gate, and will allow for ingress and egress of trucks as needed.
- The areas surrounding storm drains are included in the regular exterior sweeping schedule. Also, weather conditions direct additional efforts related to litter around storm drains. During the summer, particularly during windy conditions, drains may be covered with plastic to protect them from litter. During rainy weather, litter tends to stick to the ground and not blow or migrate. Storm drains are cleaned and inspected on the regular basis required by storm drain management regulations.

The following actions address off-site litter:

- CWS employs one fulltime employee who is dedicated to continuously patrolling the building inside, yard internal and external perimeter as well as the neighboring property along Yard Court and Timothy Drive during the daytime operating hours.
- During the second shift, a sorter may be reassigned to address litter issues as needed and available.
- Each employee assigned to this responsibility is directed to pick-up any observed litter near the CWS facility.

Landscaping:

Exterior landscaping consists of grass, ground cover and trees. Grass is watered daily with an automatic sprinkler system. A contracted gardening service maintains all exterior landscaping bi-weekly.

Building Appearance:

CWS regularly monitors the condition of the building exterior and has contractors immediately available to paint and repair as needed.

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EQUIPMENT INVENTORY

The following equipment in Table 6 is in use at the Timothy MRF. Equipment will be replaced as necessary and appropriate.

Table 6

Processing Equipment

Equipment Type	Age (years)
1 950 Caterpillar Loader, 8 cubic yard capacity	2004
1 928G Caterpillar Loader, 4.5 cubic yard capacity	2003
1 906 Caterpillar Loader, 2 cubic yard capacity	2004
Machinex, single-stream sorting system, rated at 50 tons per hour	2002
2 Enterprise double ram baler	Purchased 1/06
5 Forklifts, Toyota 5,000 pound lifts, One with rotating forks	2002
3 Lindy Forklifts	Purchased 1/06
Lay-Mor Sweeper	2002
Debris boxes and bins for recyclables	Various ages

The Machinex single-stream sorting system was purchased new and consists of many components including the following equipment:

- Two inclined infeed conveyors
- Two Presort conveyors with 22 sorting station
- Five fiber rigid sorting screens
- Sorting conveyors
- The main sorting platform has 25 sorting stations
- A container sorting line with 5 sorting stations
- An eddy current separator
- A four compartment container bunker
- An aluminum bunker
- Five bunkers for temporary storage of OCC and other fibers and trash
- Glass fines bunker
- The two balers referenced above

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PLANT SPECIFICATIONS

Plant equipment specifications are listed below.

PRODUCTION CAPACITY

Overview

CWS' single-stream equipment is rated at 50 tons per hour (TPH) with a clean single-stream of materials. A clean single-stream is defined as 10% or less non-recyclable material present in incoming material. This equipment, which includes two belts is typically run at a combined average speed of approximately 45 TPH. Belt speed may be adjusted as necessary by the Plant Manager and/or Plant Supervisor based on the quality of incoming material.

These decisions are relative and based on the staffing level at a specific point in time, and quality/composition of the materials, which may vary by load on a daily basis. Factors that influence the speed, and therefore system capacity may include, but not be limited to materials' moisture content, amounts of materials that must be removed, and residual content (more or less than 10%).

Belt Speed

Belt speed determines the amount of material processed through the system. If belts are moving too fast, the material balls up and rollback occurs. In a "rollback" situation, material gets hung up in an area of the conveyor and does not break free. The material on the bottom of the ball comes out very thin, and material approaching the ball only adds to the ball. Belt speed is adjusted to avoid this problem, and allow material to flow smoothly through the plant.

Based on the condition and content of incoming materials, the Plant Supervisor and/or Plant Manager determine(s) and direct(s) the speed at which belts run, as well as the amount of material loaded onto infeed belts, two critical determinations that are important in managing the process. This allows materials to spread out on the presort lines, rendering most major contaminants, scrap metals and corrugated cardboard visible to the materials classifiers who are working on the presort line. Note that presort lines move faster than infeed lines, so that materials do not move down the presort lines at the same height at which they are loaded onto the infeed belts.

Examples of factors that influence belt speed determinations include, but may not be limited to:

- Presence of contamination above 10%
- Material moisture content

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- Material compaction or fluffiness
- System overload
- Screen(s) efficiency in separating the material
- Consistency in flow
- Screen(s) overload

Balers

There are two double ram balers installed in the MRF that can operate at the rate of 25 tons per hour each.

Maintenance

Preventive maintenance is done on a regularly scheduled maintenance program as outlined by the manufacturer. Each piece of equipment has specific continual and periodic requirements. The manufacturer, Machinex, has forms for each piece of equipment describing the actions to be taken and a schedule for those actions. These forms are filled out as maintenance occurs and they are maintained in the CWS archives.

Training

Employees are trained in facility and equipment operation commensurate with job responsibilities. Training includes procedures for plant start-up and shut-down, material classification, safety, hazardous materials recognition, and emergency procedures.

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MATERIAL RECOVERY

STAFFING

Table 7 presents the number, types, and primary responsibilities of regular day and evening shift employees. The evening shift is subject to change according to material volumes.

Table 7

Staffing

Title	Day Employees	Evening Employees	Primary Job Responsibilities
Plant Manager	1		Oversee all plant activities and personnel
Supervisor	1	1	Supervise facility operations
Scale House Operator	1	1	Supervise & conduct scale house operations; control litter gate
Forklift/Sweeper Operator	3	3	Operate the forklift and keep inside gates clear of litter
Loader Operator	2	2	Operate the wheel loader in the materials unloading area
Baler Operators	1	1	Operate balers
Sorters	26*	26	Sort materials on the processing conveyors
Litter Patrol Monitor	1	Reassigned as needed	Keep premises, streets and neighboring business clear of litter
Bale Cleaners	1	1	Prepare bales for market

* Of these, 12 sorters are stationed on the pre-sort lines, 6 per line.

WORK SCHEDULE

First Shift:

Materials receiving and processing related activities will generally be conducted in two work shifts that include staggered start times. From time to time, it may be necessary to extend shift operations. In these instances, a work schedule and staffing will be defined according to need and required duration. The Plant Manager will determine overtime and supplemental shift construction. It should be further noted that break and lunch times are

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approximate and subject to adjustment according to workflow and plant conditions. The Plant Manager and Supervisor are responsible for notifying employees of deviations in this schedule. No advance notice is required.

Second Shift:

The work schedule for the second shift does not contain staggered hours.

Overtime:

From time to time, overtime work may be required to compensate for processing time lost due to plant shutdowns, equipment failures, or belt slow-downs due to delivery of highly contaminated materials and resulting tipping floor back-up. The Plant Manager makes the decision to operate and authorize overtime, based on the volume of materials on the tipping floor and prognosis for keeping the floor adequately cleared from day to day. In cases where the need for overtime is identified, the Plant Manager is authorized to approve it only for the period necessary to clean the tip floor or catch up from a close-down.

Overtime employees may be engaged according to one of two possible methodologies:

- 1) Use of a voluntary sign-up sheet for employees desiring to work overtime.
- 2) Mandatory calls to work that require a twenty-four hour advanced notice to employees.

It should be noted that as management staff, the Plant Manager does not have a defined schedule. The person in that position is present during the day shift, but may also work additional hours as needed.

PROCESSING

A narrative description of the materials recovery process is provided below.

MATERIALS IDENTIFICATION

The term Materials as herein used refers to:

Program Materials:

CWS is required to follow the City of San José programs with regard to required material recovery. Material(s) not included in the program may be extracted at the discretion of CWS. Other recyclables, not covered by the Recycle Plus program, are listed in the Agreement.

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LOAD SCREENING

CWS' goal is to have all loads contain no more than 10 percent residual garbage. Residual garbage refers to all material remaining after program materials have been removed. CWS has extensive experience with the presence of hazardous and prohibited wastes detected in San Jose's recycling materials.

Employees assigned to the tipping floor are trained to evaluate loads as they are brought in and deposited on the tipping floor. Additionally, management is on the tipping floor on a regular basis. If an unacceptably bad load, or portion thereof, is suspected, the loader operator is directed to notify a supervisor through the use of plant radios. In addition, personnel on the pre-sort line remove any hazardous or prohibited wastes remaining in the recyclables.

One tool used for evaluating incoming loads is the 10 percent visual guideline provided by the California Integrated Waste Management Board (CIWMB). The image was adapted from CIWMB LEA Advisory Number 58 (Revised April 18, 2003), and is available on-line at: (<http://www.ciwmb.ca.gov/LEAAdvisory/58/default.htm>), Attachment 2A, Comparison Chart for Estimating Percentage Composition. CWS has adapted this visual as a tool to provide a comparison of the percent contamination in a load of solid waste.

LOAD ASSESSMENT

Upon visual inspection before unloading or when the material is deposited on the ground, CWS makes an assessment of the load. The assessment is based primarily upon visual observations of the load. CWS personnel will observe the load for indicators of the presence of prohibited materials, such as container shapes or labels. Prohibited materials include materials that are not on the City of San José's list of recyclable program materials, including garbage and hazardous materials.

Either the loader operator or a spotter will conduct this assessment. Workers must exercise caution and use safety precautions when observing loads from the rear of the vehicle. If necessary, the driver will be instructed to wait before discharging the load. This observation can be made from a distance and from the side of the vehicle. The spotter should be constantly aware of other incoming vehicles and equipment.

If a prohibited material is suspected, the spotter will instruct the driver to not discharge the load until a further investigation is conducted, or will secure the area around the deposited material until the material can be safely returned to the tipping floor or placed in a container for off site disposal. Based upon that assessment, CWS personnel may segregate partial or full loads as follows:

- Rejection of the entire load

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- Redirect truck to alternative unloading area
- Load is partially unloaded before rejecting the remainder of the load
- Entire load is unloaded

LOAD REJECTION:

An entire load is subject to rejection if it contains garbage far in excess of the ten percent contamination level, hazardous wastes, medical wastes, radioactive wastes, or other prohibited wastes that are observed when the hopper is raised. If the loader operator or spotter deems that the contamination is so extensive that separation of acceptable materials would be too time intensive or dangerous the entire load is rejected. If the load has not been dumped, the driver will be instructed to close the hopper and move the truck to a designated area to await further instructions. If the load has been dumped, the material will be inspected and either processed or placed in containers for off-site disposal under conditions and in a facility appropriate to the material. An example would be the presence of drums containing hazardous wastes.

Prohibited wastes include hazardous, medical, radioactive, or other materials that this facility is not permitted to process. Although this assessment is only for a small portion of the load, the presence of significant amounts of these materials would make the acceptability of the entire load questionable. In such an instance, the driver will be instructed to close the hopper and move the truck to a designated area to await further instructions. These instructions could range from directing the vehicle to another disposal facility or to await the arrival of regulatory agency emergency response personnel.

LOAD REDIRECTION:

A filled or partially filled delivery truck is subject to redirection to an alternative loading area, such as at the western end of the tipping area, if an additional content evaluation effort is deemed necessary. Redirection may occur when the load appears to contain contamination above 10 percent or the presence of hazardous or other prohibited materials is suspected. This redirection allows for an extended sorting operation without impacting on incoming vehicles. When time allows, the operator attempts to remove the worst materials from the load. Hazardous, medical or other prohibited wastes are to be removed and handled according to permit requirements prior to pushing the inspected material onto the conveyor.

PARTIALLY UNLOADED REJECTION:

If a prohibited material is suspected when the load is partially discharged, the supervisor may instruct the driver to cease discharging and close the tailgate. Personnel can reject

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a load or partial load based upon a suspicion that prohibited materials are present. For example, the presence of drums with hazardous waste labels and liquid contents are cause for rejection without verifying that hazardous wastes are contained in the container. In such cases, the subject truck will be directed to follow the CWS' protocol for handling, transporting and disposing of hazardous materials. The unloaded portion will either be processed or a portion of the load will be sent to the container for contaminated material.

ENTIRELY UNLOADED REJECTION:

CWS may elect to unload the entire contents of the compartment even if significant contamination is observed. The entire load may be loaded on the conveyor for processing or the loader operator may cleave off a portion of the load. This removed portion will be loaded into a debris box or other container. CWS will seek to minimize the loss of recyclable materials but given the imprecise nature of the loader, this removed portion may contain some recyclable program materials. The containerized material will either be processed later if there is sufficient time and capacity, or the load will be disposed of off-site.

NOTIFICATION

CWS' plant manager or his/her designee will notify the driver, route supervisor and designated City representative when an unacceptably contaminated load arrives and it is determined that the load will be or should be rejected. This notification will occur as soon as the determination is made. Route supervisor shall confer with driver and route auditor so as to find the source of the contamination and implement an education campaign to promote clean recyclables.

SORTING

CWS' strives to process material in the most effective and efficient manner, segregating final marketable product, MSW, and hazardous waste. Materials may be baled or bulk shipped depending upon the available market. Material is typically processed on a first-in, first-out basis so that specific material is not on site longer than 48 hours.

Once materials are dumped on the tipping floor the sorting process is as follows:

- Facility personnel will scan the materials for the presence of hazardous and other prohibited wastes including tires, cylinders, hoses, wood, metal, concrete, and large items. These materials will be removed to the appropriate storage location.
- Materials are loaded onto two infeed conveyor belts that transport them up to two pre-sort conveyor lines.
- Pre-sort activities are designed to separate cardboard, scrap metals, textiles, film plastic, prohibited wastes, and municipal solid waste (MSW). Sorters remove these items from the conveyor line and place them in chutes to the designated bunker or in containers. This is the primary point for removal of large items and difficult to handle items.

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- Remaining materials from the presort flow into a series of sorting machines with fiber rigid screens that mechanically separate newspaper and mixed paper from other materials such as plastic containers and aluminum cans.
- Separated paper goes to a final sort line for removal of any residual MSW and maybe sorted to various marketable commodity levels.
- Mixed paper and newspaper are consolidated into bunkers and when enough of either material is available, it is directed onto one of the two baler infeed conveyors for baling.
- Recyclable materials from the paper reclaiming process go onto a transfer conveyor, where they are then taken to the container sort line.
- The container sort line is designed to separate three types of plastics, aluminum cans, ferrous metal scraps and cans, textiles, trash and glass.
- Ferrous metals, aluminum, and plastic types are accumulated in their respected bunkers until enough of each respective material type has accumulated for baling or bulk shipment.
- Each material is then directed onto a baler infeed conveyor for baling or is deposited in a container for bulk shipping.
- Glass is directed to a glass sort line where it is stored in bunkers. It is then loaded into end-dump trailers for sale. CWS has received a grant from CIWMB to subsidize the cost of the machinery needed to process glass bottles and jars to a greater degree.
- Baler productivity varies by material type and is dependent on the physical properties and quantity of each material being baled.

HAZARDOUS AND OTHER PROHIBITED WASTE

Once the incoming materials are unloaded on the receiving area and throughout the sorting process, any potentially hazardous or other prohibited wastes that are detected will be removed from the incoming materials and placed in the designated staging area. As necessary, or at the end of each day's shift, collected hazardous or prohibited wastes will be moved to the designated outside storage area. Hazardous wastes include those materials deemed to be hazardous pursuant to federal, state, or local requirements. Typical characteristics of hazardous wastes include toxicity, corrosivity, flammability, and reactivity. Examples may include: lead acid batteries, cathode ray tubes, compressed gas containers, used oil and filters, solvents, paints, and pesticides. Containers that meet the regulatory definition of "empty" are not considered hazardous. Many of these prohibited wastes are diverted as recyclable materials.

The determination of a hazardous waste is based upon visual observations of containers and labels. If suspicious odors or reactions are observed, personnel will utilize caution when investigating the material and follow its hazardous waste protocol.

MEDICAL WASTES

Prohibited medical waste includes those materials deemed as regulated medical waste and certain non-regulated wastes. Non-regulated medical wastes can include sharps,

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needles, and other items from sources exempt from regulation such as households. Regulated medical waste could include biohazardous or infectious wastes from the treatment of humans or animals, and materials used in research or testing that contain body fluids.

SOLID WASTES

Any prohibited municipal solid waste detected in the incoming material, either at the tipping area on the presort line, will be removed. Rejected materials are placed either into a storage container or designated bunker. Prohibited solid wastes include any putrescible and nonputrescible solid and semisolid waste material, including garbage and rubbish and any other non-program materials that are not accepted into the City-designated recycling cart.

STORAGE

CWS contains material in a lawful manner and strives to do so as effectively and efficiently as possible. Permitted storage areas are designated on site maps that have been approved by the City of San José and are a part of the Conditional Use Permit, Fire Permits, and the Hazardous Materials Business Plan. The types of materials received and processed at the facility are not expected to contain materials that produce significant odors.

Potential nuisances are eliminated or minimized by thoroughly cleaning the station, prompt loading of wastes into containers or trailers, transferring the wastes to the landfill within forty-eight hours, and implementing litter control programs. A dust suppression system is installed in the unloading area. This system also serves to reduce potential odors and may be used in conjunction with an odor suppressant or neutralizer. The processing area is typically cleaned of potentially odorous material on a nightly basis.

INCOMING RAW MATERIAL

Material is processed according to a first-in, first-out (FIFO) model. CWS is not currently processing material from any other jurisdiction in its San José MRF and all materials are therefore accounted for as being from San Jose

Prior to any future CWS acceptance of any materials other than those collected through San Jose's Recycle Plus program, the City and CWS will determine a protocol for creating and maintaining separate documentation and reporting consistent with the City's AB 939 reporting requirements.

Unprocessed materials that have not been transported up to the pre-sort line remain on the tip floor overnight. The following morning, unprocessed materials are moved from

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the back of the tipping floor area to the front of the tipping floor area, to insure that it is processed in a timely fashion (the “front” of the tipping area is defined as the area near the pit conveyers and the “back” is defined as the area towards the loading dock). A concerted effort is made to clear all conveyor belts of materials by the end of the shift. All recyclables materials/residual wastes received during an operating day shall be removed from the site within 48 hours of arrival.

OUTGOING PRODUCT AND RESIDUE

Bales of paper, aluminum and other metals, plastic, textiles, and other recyclable materials are stored awaiting transport to offsite facilities. Stored bales must be placed so that there is a minimum of three feet clearance from the facility walls. Walkways between bales will be at least 44 inches wide. Outside storage areas have been authorized by a conditional use permit and subsequent amendments with no outside bale storage located within 10 feet of the property line.

Outgoing Residue is staged near the back area of the tipping floor, under the canopy, awaiting pickup. It is then hauled to a landfill or alternative disposal facility that meets all environmental regulations.

Bales stored outside must not be higher than six feet and bales stored inside must not be higher than twelve feet unless permitted under a high pile permit from the Fire Prevention Bureau. Areas designated for bale storage are noted on the Site Plan.

HAZARDOUS WASTE

Any hazardous materials removed from incoming materials will be stored in the designated area. Materials deemed as hazardous waste must be labeled with the contents and accumulation date. Once sufficient quantities are accumulated, CWS will contract with a hauler or a transporter to schedule a removal. Records of these removals will be retained on site for at least three years.

DISRUPTIONS

Significant disruptions may occur in several ways, including:

- Failure of equipment due to introduction of non-recyclable materials, non-compliant (non-programmatic) materials (e.g. large metals, chemicals, etc. getting into the system)
- Failure of equipment due to normal operating stresses that may be avoided by preventive maintenance or may occur in spite of appropriate preventative maintenance measures
- Hazardous materials incidents
- Regulatory actions
- Fires, earthquakes, floods, labor actions, etc.
- Loss of markets, shipping capacity, fuel, power, etc.

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RESPONSE

Significant disruptions in processing ability detrimentally impact the company's operations, marketing, labor relations and customer relations. Such disruptions may also cause recyclables to be reduced in value or lost to contamination. CWS will notify the City Representative within two hours of any significant event that negatively impacts its ability to process materials

CWS regards any disruption of more than four hours to be significant. One of the first tasks of the Plant Manager in evaluating a processing disruption is to determine the probable duration of the disruption. The criteria by which the impact of the disruption is to be judged are as follows:

- Level of hazard associated with the disruption and its cause
- Probable duration of the disruption
- Available space on the tipping floor relative to amount of material anticipated during the probable duration of the disruption
- Available outlets for the current and anticipated inventories of processed and unprocessed materials during the disruption

Mitigation of the disruption begins immediately upon its discovery. If the situation presents a hazard or permit violation situation, CWS will take all prudent action. The order of priority in handling materials in a processing disruption is as follows:

- If the disruption does not allow for partial operation of the sorting system and there is more than four hours of storage available on the tipping floor, then store unprocessed materials on the tipping floor to its capacity
- If the disruption is significant but partial and processing throughput will be reduced but not ceased, reschedule processing to allow for longer hours at lower throughput sufficient to process all materials
- If there is insufficient space on the tipping floor for storage then contact City Representative to request permission to ship materials to CWS' Alternative Processing Facility
- If the alternative processing facility is unable to accept the material, then contact City Representative to request permission to ship to a second approved Alternative Processing Facility

EMERGENCIES

Emergency response situations may occur at the facility. Potential emergency situations would include power outages, natural disasters, fire, and hazardous materials releases. CWS has implemented emergency response procedures. During an emergency, the designated emergency coordinator for the shift initiates the evacuation procedures by activating the emergency alarm or horn. The shift supervisor is responsible for notifying emergency services and starting the emergency procedures. Additionally, if as a result of an emergency storm drains are threatened by discharge the, openings are covered with a plastic cover.

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Emergency coordinators and shift supervisors receive periodic training on emergency response. Each shift periodically practices evacuation drills.

Emergency incidents are recorded in the Log of Special Occurrences required for solid waste facilities.

BASIC RESPONSE

Whenever there is an indication of imminent or actual emergency situation, the following steps are taken:

- Designated emergency coordinator conducts an assessment of the nature and extent of the emergency
- If determined necessary, emergency communications are activated to instruct employees to evacuate the facility
- Facility shut-down procedures are initiated if necessary
- Emergency response agencies are notified as appropriate and identified in the CWS Emergency Response Plan
- Facility emergency personnel take appropriate measures to resolve the situation or minimize the spread to other parts of the facility
- If storm drains might be impacted by any emergency release, specified personnel seal off the potentially impacted drains. Storm Drain emergency response protocols are contained in storm drain management documentation

Prior to commencing operations after an emergency situation, designated management personnel will assess the facility to ascertain that the hazard has been mitigated. Designated management personnel will review the incident and determine if any changes to the emergency procedures are necessary.

CWS' MRF at 3300 Wood Street in Oakland has been proposed as the primary Alternative Processing Facility if in the case of an emergency or any other unavailability of the Timothy Drive facility. Upon approval, the secondary Alternative Processing Facility would be CWS' MRF at 1820 Tenth St., Oakland.

On or before June 30, 2007 and annually thereafter CWS will propose an Alternate Processing Facility and a secondary Alternate Processing Facility. City will utilize the agreed upon criteria in deciding whether to approve the facilities. Once approved, the designation will be valid for one year. However, CWS will still be required to obtain written permission to use the Alternate Facilities on an as needed basis.

EQUIPMENT

The following equipment is available for responding to emergencies:

- Fire extinguishers are located throughout the facility
- Emergency eye wash stations
- First aid kits
- Stormwater spill carts containing

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- Absorbent
- Spill pillows
- Spill boom
- Personal protective equipment
- Baking soda absorbent for battery storage area
- Storm drain cover
- Radios for emergency communication
- Personal protective equipment

In addition, loaders and other site equipment can assist with emergency response efforts.

TRAINING

Training for emergency response situations will be commensurate with an employee's responsibility. Employees will be directed that they are not to respond to any emergency situation where they are not comfortable. Training topics will include:

- Evacuation procedures
- Assessment of response situations
- Facility shutdown procedures
- Use of fire extinguishers
- Spill prevention and response
- Personal protective equipment
- Notification of emergency agencies
- Cleanup and mitigation of spills

Records of employee training will be documented and maintained.

TRANSPORTATION

Traffic entering the facility property can generally be classified into three types: Incoming loads of unprocessed materials, outgoing loads of processed materials, and personnel, visitors and tradesmen arriving and leaving the facility grounds. Since this site is private property, only vehicles belonging to people with business with CWS are authorized to park in the designated parking areas. If an unauthorized vehicle is inappropriately parked it may be subject to towing.

The facility is capable of handling approximately 36 collection trucks at any one time. This consists of the following as depicted in the Site Plan (Appendices). It should be noted that parking of vehicles other than designated trucks is not allowed in this area.

- Seven trucks queuing behind the 70' entrance scale
- One truck on the 70' entrance scale
- Six trucks unloading on the unloading area
- Twenty-two trucks queuing in the parking spaces at the northeast side of the property

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INBOUND TRUCK TRAFFIC

Trucks bringing unprocessed materials to the facility constitute the greatest impact on the facility in terms of traffic, noise and hazard. All of these trucks are to enter the facility grounds from Timothy Drive and are instructed to approach the facility from the south end of Timothy and not to turn onto Timothy from Mabury. Once on site, collection trucks proceed to the 70' entrance scale. After being weighed, collection trucks maneuver to the unloading area to discharge materials.

OUTBOUND TRUCK TRAFFIC

Trucks arriving empty to remove processed materials are usually 18-wheel tractor-trailer combinations or roll-off trucks. These trucks shall enter the facility from Timothy Drive and proceed to the designated area within the site for loading. The 18-wheel tractor-trailer combinations shall weigh in and out on the scale closest to Timothy Drive and shall exit onto Timothy Drive turning left only. Roll-off trucks may exit on Yard Court as they are likely to be pointing in that direction.

TRUCK QUEUING

Trucks traveling to CWS Timothy Drive facility are not permitted to queue in the streets. At any time when the truck queue appears to be approaching the entrance, the loader operators and the scale operators are to direct trucks on the scales to the back staging area of the facility until the queue clears.

TRUCK STAGING

Trucks staged at the back of the facility will back into their parking spots and remain until instructed by authorized facility personnel to proceed to the scales (if they have not been weighed) or to the tipping floor (if they have been weighed) to continue their unloading sequence. In general, the facility operates on a first-in first-out basis.

CLOSING AND NOTIFICATIONS

If for any reason truck staging is overflowing and no room is available for the trucks to dump, materials delivery trucks will be turned away and the gate closed. In the unlikely event that such a closing should occur or appears imminent, CWS will notify all drivers immediately and request that they keep their trucks on the routes until the jam is cleared at the facility.

PASSENGER AND LIGHT COMMERCIAL VEHICLE TRAFFIC

Personnel, tradesmen and visitors will almost exclusively enter the facility from Timothy Drive and are not proscribed from turning right when exiting onto Timothy. With

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clearance from responsible company personnel, tradesmen may enter the Yard Court gate.

HAZARDOUS WASTE TRANSPORT VEHICLES

Only authorized haulers are utilized for removal of any recyclable hazardous, universal, and any other wastes from the facility. CWS will be contractually responsible for arranging for the disposal of prohibited wastes. CWS will retain documentation on the removal of these wastes.

PERMITS AND LICENSES

A listing of site and operational permits and licenses is provided below:

- Solid Waste Facility Permit, 43-AN-0024
- Conditional Use Permit, City of San Jose, CP 01-12-108
- Building Permit, City of San Jose – Application submitted
- Occupancy Permit, City of San Jose
- Environmental Protection Identification Number CAL000266187
- Hazardous Materials Business Plan, City of San Jose, Bureau of Fire Prevention
- Hazardous Waste Generator Permit, County of Santa Clara, Department of Environmental Health
- Combustible Material Storage Permit, City of San Jose, Bureau of Fire Prevention
- Places of Assembly Permit, City of San Jose, Bureau of Fire Prevention
- Liquefied Petroleum Gas (LPG) Permit, City of San Jose, Bureau of Fire Prevention
- Air Pressure Tank Permit, District of Occupational Safety and Health,
- Industrial Storm Water General Permit Order 97-03-DWQ, State Water Resources Control Board, Facility WDID No. 2 43S017556

CERTIFICATIONS

Facility scales are certified by Santa Clara County according to their standards and methodology. The County schedule is to certify annually.

REPORTING

CWS will provide all reports as required in the Service Agreement and in conformance with Exhibit 10 of the City's Service Agreement.

PROPOSED FACILITY MODIFICATIONS

Currently CWS has one modification in implementation and several additional modifications that are proposed for implementation as part of the Transition Plan. These modifications are designed to improve the operation of the CWS facility by increasing the quantity of recovered materials, improving the quality of the recovered materials, and/or improving the MRF efficiency. Each of these modifications is described in the following paragraphs. Some of these modifications have been discussed previously in the

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Diversion Plan. This section is focused on the equipment and related operations that are proposed to be operational before July 2007 but no later than the end of December 2007.

INFEEED CONVEYOR SYSTEM

CWS will provide the loader operator the ability to feed the system more evenly and minimize opportunities to overload the conveyors. A burden-depth leveler will be installed over the incline conveyors. This device will limit the burden depth on the conveyor and break up any clumps that might form on the conveyor. The depth of material on the conveyor can be varied to provide optimal sorting. Even loading on the incline conveyor will result in more uniform feed on the pre-sort conveyor which will allow a slower conveyor speed resulting in an increase in the efficiency of the picking operation.

GLASS CLEAN-UP SYSTEM

In 2004, CWS submitted a grant application to the California Department of Conservation, Market Expansion Section for a glass clean-up system. This application is for \$231,845 which is to fund the system at the 50 percent level. Subsequent to the award of the grant, CWS has completed installation of this system.

OPTICAL SORTING SYSTEM FOR PLASTICS

The CWS facility in San Jose was constructed in 2000 with manual sorting to separate the mixed plastics into marketable grades such as natural PET and to remove contaminants. CWS has had its primary machinery company, Machinex, design an automated plastics sorting modification to its existing San Jose facility. The benefits will be reduced contamination in each marketable grade of plastic, increased processing capacity and lower overall cost. Increased diversion of a cleaner and higher quality product will also result.

INCREASED FINISHING CAPABILITY

CWS is evaluating the feasibility of increasing the processing capability and redundancy in the MRF. This would be accomplished by installing parallel finishing lines to the existing ones and installing an eddy current separator to mechanically remove aluminum from the other containers. The evaluation and planning for these improvements are addressed in a task in the Transition Plan.

PLASTIC BAG RECYCLING AT THE MRF

Currently at the CWS facility in San José, plastic bags are pulled from the sort line by hand and placed in a bag next to each sorter. This is a time-consuming maneuver on the part of the sorter and many potentially-recoverable plastic bags currently wind up in the residue. CWS will install a vacuum system over the fiber sort line which will terminate in a baler. This system would consist of a materials handling fan, ductwork

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over the sort lines and a baler. The effect of these enhancements should be that more of the less-contaminated or otherwise recoverable plastic film would be captured. The evaluation and planning for these improvements are to be addressed in a task in the Transition Plan.

SALES AND MARKETING PLAN

CWS has been in the business of operating MRFs for 14 years. The company's principals have been in the business for more than 25 years and the combined recycling industry experience of the five key managers is more than 120 years. All these years of experience, however, are not enough to ensure that recyclables get recycled both for the highest and best use and for the highest dollar value if that experience is not continuously updated.

As a recycling company, CWS has always derived significant revenues from commodity sales. Because of the uncertainty of markets and the company's reliance on those uncertain returns, the company's principals have committed to work with all markets -- but especially emerging foreign markets -- to ensure that while the rest of the industry may be experiencing radical fluctuations in price and demand, CWS can always move materials.

Now more than ever, the ability to sell materials in foreign markets is critical to the success of any recycling endeavor, as we see increasing American reliance on Asian paper and plastics markets while domestic markets weaken and tighten. Through extensive and regular visits to Asian commodity end users and through his own brokering business, CWS' president, David Duong, makes sure that CWS' materials move.

CWS' marketing model has a wide array of tools so the material moves during both high and low demand cycles. CWS relies on long-term supply contracts, aggregation of orders from multiple plants, brokerage, off-site storage, and is in an Associate Partnership with a paper mill in Vietnam for fiber products. Through these techniques, CWS distinguishes itself as a leader in the secondary materials supply market in the western United States.

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Among the materials CWS markets are:

- Newspaper (6-8)
- Telephone books (#1)
- Mixed paper (1)
- NCR computer paper
- Carbon computer paper
- Laser computer paper
- Laser-free computer paper
- White ledger paper
- Colored ledger paper
- Card stock
- Boxboard furnish
- Coated white overruns
- News scrap
- Glass bottles and jars in three colors
- Aluminum cans
- Aluminum foil
- Non-ferrous scrap
- Tin, steel, bi-metal cans
- Ferrous scrap
- PET clear
- PET colored
- HDPE natural
- HDPE colored
- Mixed plastics 3-7
- Injection molded HDPE of miscellaneous types
- LDPE natural film
- LLDPE films
- HDPE films
- Specialty polymers
- Wood
- Textiles
- Lead acid batteries
- Tires
- Compressed gas cylinders
- Inerts (glass fines for ADC, asphalt, concrete, dirt, rock, brick)
- White goods and small appliances
- E-waste including CRTs and integrated circuit boards
- Used motor oil
- Used motor oil filters

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COLLECTION EQUIPMENT

The number of collection vehicles and support vehicles for recycling collection in Districts A and C are provided in Table 1 and 2 in the Collection Equipment Plan. The staffing requirements necessary to collect recyclables are shown in Table 3. The specific plans for this equipment are provided in the following paragraphs.

COLLECTION VEHICLES

CWS will purchase new collection vehicles to collect recyclables. These vehicles will meet all the requirements of the agreement.

A single collection vehicle with a single-compartment body will be assigned to collect recyclables from each route. These trucks will be automated side-loaders with low-level hoppers to facilitate manual loading of items such as extra materials and separately-bagged textiles. The specifications for the collection vehicles selected are:

- Chasses: Peterbilt 320 single-steer, right-hand sit-down
- Bodies: McNeilus, StreetForce, 31 cubic yard

These trucks will be equipped with engines that meet the California Air Resources Board Heavy Duty Engine Standards as proposed to be in CCR Title 13, Section 2021 et seq, and the Federal EPA Highway Diesel Fuel Sulfur regulations. Some of the vehicles have low-entry cabs with stand up right-hand drive. The collection vehicles will be equipped with enclosed racks to hold empty used oil containers, full used oil containers, and oil filters lined with oil absorbent pads as we currently operate in the City of Oakland. These features minimize the effort by the operators when they leave the cab to service bagged materials, on-premise collection and disability collection. This produces the advantage of increasing operator efficiency, lowering the potential for fatigue and injury and lowering overall operational costs.

All the CWS collection vehicles and collection support vehicles will be equipped with radio frequency identification (RFID) units and global positioning system (GPS) location equipment. The RFID will allow the collection vehicles to be positively identified as they enter processing and/or disposal facilities so that the scale systems can maintain tare weights for each vehicle. This reduces queuing requirements and speeds collection vehicle turnaround at this facility. The GPS system will allow CWS to track the location of each collection vehicle in real time. This capability will assist in assuring that CWS crews minimize missed collections and facilitate the Route Supervisors ability to provide the quality assurance for collection and provide support needed for the crews. The collection vehicles will be painted with the San José logo graphic.

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For large item collection, CWS will use a 22-foot bed open body truck with a hydraulic knuckle boom crane and a lift gate for loading.

CWS will purchase these collection vehicles from the local Peterbilt dealer, Coast Counties Truck & Equipment Co., located in San José, California. The Peterbilt chassis will be delivered to McNeilus to be fitted with the bodies prior to delivery to Coast Counties for quality control, final prep and licensing. The binding purchase contract between CWS and Coast Counties specifies the cost of the collection vehicles which are shown in Table 8.

Table 8
Collection Equipment and Costs

Type	Model	Cost Per Unit
Collection Vehicle, Single Compartment	Peterbilt 320 McNeilus	\$262,700
Large Item Collection Vehicle	Peterbilt 335	\$134,000
Supervisor Pick-up	Chevrolet 2500	\$37,000
Cart Vehicle	Ford 450	\$45,000

CARTS

The RFP indicates that the number of damaged carts averaged 14,412 units for Fiscal Year 2004-2005. These are divided between garbage and recycling at 8,448 and 5,964 respectively. In addition, the RFP indicates that the growth is 750 new stops per year. Each of these new stops will require a garbage cart and a recyclables cart. CWS, for planning purposes, has assumed that the distribution of the new and replacement carts by size will follow the size and color distribution presented in the RFP. CWS has made arrangements to purchase the recyclable carts from the OTTO Environmental Systems. CWS has an established relationship with OTTO based on the purchase of 40,000 Otto carts for the roll out of the single-stream curbside program in Oakland. These carts will meet all the requirements of the agreement.

CWS will place an initial order for approximately 6,000 carts of various sizes for staged delivery at 500 to 600 per month starting in June 2007. CWS will maintain several months of cart inventory to ensure that sufficient inventory is maintained at all times.

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The schedule for the order and delivery is shown in the Transition Plan. These carts will be delivered to the CWS Vehicle Yard.

CWS plans to field a single cart repair and replacement vehicle to service the carts in Districts A and C. This vehicle will be equipped with storage containers for storage of spare parts for all the different carts. The parts carried will include wheels, axles, nuts, and lids. The vehicle will be sufficient in size to accommodate the carts needed for replacement service orders for the day, based on the data provided in the RFP for new placements, repairs and replacements. The cart vehicle will be painted with the San José logo graphic as discussed in the Public Education and Outreach Plan.

EXHIBIT 7

PLANS

EMPLOYEE AND LABOR RELATIONS

The Employee and Labor Relations Plan for collection in Districts A and C is discussed below:

CWS recognizes the important role and tremendous contribution made by the current employees to the successful operation of the current San José solid waste collection system. CWS will offer employment to every non-exempt facility employees subject to the terms of the RFP and consequent service agreement. CWS has experience in hiring displaced workers in solid waste contracts and has no desire to upset the working and personal lives of current employees. CWS understands the uncertainty that workers feel when contracts are bid and believes it is essential that the employees understand that they will be retained and judged on their merits with a clean record going forward. If the current contractor has to have employed them full-time and continuously for 120 calendar days immediately before the effective date of the new agreement, CWS believes that they should be retained with no exceptional conditions.

Norcal managers may wish to apply for employment with CWS. We have deliberately left unassigned several key positions with the expectation that some will be filled by these current managers. CWS will work with the managers from Norcal and these working relationships will benefit the City with a smoother transition. CWS recognizes the important contributions and great customer service record made over the years by the current contractor's employees and is committed to respecting their hard work, positive attitude, and institutional knowledge.

UNION RELATIONS

CWS currently has employees represented by Teamsters Local 70, Teamsters Local 350, ILWU Local 6, and Machinists Local 190. The company has four separate collective bargaining agreements and excellent relations with all unions. We are willing and able to respect and work cooperatively with all unions and all employees, whether working under collective bargaining agreements or not.

EXHIBIT 8

CENTRAL BUSINESS DISTRICT AND TRANSIT MALL ZONE

Central Business District

The boundaries of the Central Business District are as follows: Commencing at Market and Julian Streets; east on Julian to Fourth Street; then south on Fourth Street to San Salvador; then west on San Salvador to South Market Street; then northwest on Market Street to San Carlos Street; then west on San Carlos to Almaden Boulevard; then north on Almaden Boulevard to Santa Clara Street; then east on Santa Clara Street to Market Street; then north on Market Street to West Julian Street, the point of beginning. Premises on both sides of the boundary streets shall be included in the Central Business District.

Recyclables collection from premises located within the Central Business District shall take place not earlier than 12:00 a.m. and shall be completed by 6:00 a.m. the same day. Solid waste collection regulations for the Central Business District are contained in Section 9.10.1500 of the San José Municipal Code.

Transit Mall Zone

The boundaries of the Transit Mall Zone are as follows: Commencing at Market and Julian Streets; then east on Julian Street to Third Street; then south on Third Street to San Carlos Street; then west on San Carlos Street to Market Street; then north on Market Street to Julian Street, the point of beginning; but excluding any premises which face Julian, Third, San Carlos, or Market Streets.

Recyclables collection from premises located within the Transit Mall Zone shall take place not earlier than 12.00 a.m. and shall be completed by 6:00 a.m. the same day. Solid waste collection regulations for the Transit Mall Zone are contained in Sections 9.10.1510 and 9.10.1520 of the San José Municipal Code.

EXHIBIT 8

CENTRAL BUSINESS DISTRICT AND TRANSIT MALL ZONE



EXHIBIT 9

APPROVED SUBCONTRACTORS

The subcontractors listed below are hereby approved by CITY as to the scope of work specified for each listed subcontractor. CONTRACTOR may employ additional subcontractors only with the prior written approval of CITY's Director of Environmental Services as to the subcontractor(s) and the scope of work to be performed by the subcontractor(s).

Name of Company/Firm	Address	Area of Responsibility
Gershman, Brickner & Bratton, Inc.		Large Item & Textile pilot program
Kneal Resource System, Inc.		Public Education & Outreach
Sweetser & Associates		Permitting & Regulatory Compliance
Paul Rottenberg		Contract Compliance, Transition Coordination & Materials Marketing & Processing

EXHIBIT 10

DATA AND REPORTING REQUIREMENTS

I. DAILY COLLECTION DATA

CONTRACTOR shall compile data on a daily basis and report the following information monthly by electronic format within ten (10) calendar days of the end of each calendar month following the month in which the service was completed.

A. Load Data for Recycling

CONTRACTOR shall provide data for each load collected and delivered to the Materials Recovery Facility. Data shall include, at a minimum, the following information:

1. Name or location of the Materials Recovery Facility receiving load
2. Weight tag number (unique, non-repeating number)
3. Date of collection
4. Day of week collected
5. Date delivered to the Materials Recovery Facility
6. Time of arrival at facility
7. Truck number
8. Net weight of load (in tons)
9. Route number(s)
10. District(s) serviced
11. Number of set-outs
12. Time on route(s) (collection, transport, and downtime)

B. Load Data for Large Item Collection Services

CONTRACTOR shall provide data for each load collected and delivered to the Materials Recovery Facility. Data shall include, at a minimum, the following information:

1. Name or location of the Materials Recovery Facility receiving load
2. Weight tag number (unique, non-repeating number)
3. Date of collection
4. Day of week collected
5. Date delivered to the Materials Recovery Facility
6. Time of arrival at facility
7. Truck number
8. Net weight of load (in tons)
9. District(s) serviced

EXHIBIT 10

DATA AND REPORTING REQUIREMENTS

10. Number of scheduled set-outs collected (in billable units, up to 3 Large Items per set-out)
11. Number of unscheduled set-outs collected (in billable units, up to 3 Large Items per set-out)

C. Non-Collection Notices Data

CONTRACTOR shall provide data for each non-collection notice issued. Data shall include, at a minimum, the following information:

1. Date issued
2. Day of the week issued
3. Route number
4. Service Recipient address
5. Service District
6. Reason for Non-Collection (codes and definitions of codes to be provided by CITY)

II. MONTHLY COLLECTION DATA

CONTRACTOR shall use the Consolidated Utility Billing System to report the following information on a monthly basis : within ten (10) calendar days of the end of each calendar month following the month in which the service was completed.

A. Data for Used Oil Collection Services

1. Data shall include, at a minimum, the following information:
2. Number of Used Oil Containers collected
3. Number of Used Oil Filter containers collected

B. Data for Non-Collection Notices

1. Number of Non-Collection Notices issued by reason

C. Courtesy Notices Data

1. Date issued
2. Total number of notices issued

III. PROCESSING DATA

EXHIBIT 10

DATA AND REPORTING REQUIREMENTS

CONTRACTOR shall compile data on a daily basis and report on a monthly basis (when materials are shipped out of processing center) the following information.

A. Recycling, Used Oil, and Used Oil Filter Processing

CONTRACTOR shall provide processing data. Data shall include, at a minimum, the following information:

1. Tons of recyclables Processed (by commodity)
2. Tons of residue disposed
3. Gallons of used oil processed
4. Tons of used oil filters processed
5. Gallons of Used Oil and number of Used Oil Filters that could not be Recycled and were disposed
6. Material sales information (separated for each commodity):
 - type of material
 - buyer
 - date purchased
 - tons shipped
 - average price per ton by month
 - invoice number
 - weight tag number
 - freight cost
 - number of bales
 - total revenue
7. Processing Equipment Breakdown Report(for significant events)
 - date of breakdown
 - type of equipment
 - duration of breakdown
 - reason for breakdown
 - impacts, if any, to processing operations
 - mitigation measures taken to avoid similar breakdowns
- 9 Rejected Loads Report
 - date
 - time
 - route number (if known)
 - estimated percentage of load rejected
 - tons rejected
 - final disposition of material

EXHIBIT 10

DATA AND REPORTING REQUIREMENTS

B. Large Item Processing

CONTRACTOR shall provide processing data. Data shall include, at a minimum, the following information:

1. Tons of large items reused
2. Tons of large items Recycled
3. Tons of large items disposed

IV. QUARTERLY AND ANNUAL REPORT REQUIREMENTS

A. Quarterly Reports

Contractor shall submit Quarterly Reports within thirty (30) days of the end of the previous calendar quarter. The Quarterly Report shall focus on analysis and narrative of quarterly activity, with trend comparisons to previous quarter and same quarter of previous year, if applicable.

B. Annual Reports

Contractor shall submit Annual Reports on or before February 15th for the previous calendar year. The first report, due February 15, 2008, shall cover the first six months of service. The final report covering the last six months of service under this Agreement shall be submitted by August 15th following the end of service. Annual Reports shall follow the designated format, with analysis and narrative to cover the reporting year activity.

REPORT OUTLINE

SECTION I - DATA

A. Collected Tonnage

This section shall include an analysis of tons of recycling collected and apparent trends and causes.

B. Residue Tonnage Disposed

This section shall include analysis of MRF residue level and apparent trends and causes.

C. Recyclable Tonnage Collected and Sold

This section shall focus on detailed analysis of the recyclable materials collected and sold (by major commodity), diversion, apparent trends and causes, and any challenges in the marketing of material.

EXHIBIT 10

DATA AND REPORTING REQUIREMENTS

D. Commodity Prices and Revenue

This section shall focus on detailed analysis of the recyclable markets and sales activity, apparent trends and causes.

E. Large Item Collection

This section shall focus on detailed analysis of the Large Item collection program, diversion, and apparent trends and causes. Additional analysis shall be provided on the following specific program aspects:

- Items collected
- Tons collected
- Material reused
- Material Recycled
- Tons disposed

F. Used Oil and Used Oil Filter Collection

This section shall include analysis of amounts of used oil and used oil filters collected and apparent trends and causes.

G. Non-Collection Notices

This section shall focus on detailed analysis of Non-Collection Notice activity, by category and type, and apparent trends and causes.

H. Missed Collections

This section shall focus on detailed analysis of the number missed collections, apparent trends and causes and possible remedies.

I. Cart Activity

This section shall focus on detailed analysis of recycling cart activity, apparent trends and causes.

J. Customer Calls

This section shall focus on detailed analysis of customer service activity, apparent trends, major issues and causes. Additional analysis shall be provided on specific service requests and complaint calls.

SECTION II – ROUTE AUDITS

EXHIBIT 10

DATA AND REPORTING REQUIREMENTS

In this section, CONTRACTOR shall include the route audits conducted during the quarter and the findings from the route audits. This section shall include all of the route audit information required in Section 7.03.2 of this Agreement.

SECTION III - VEHICLE INFORMATION

- A. Vehicle Inventory and Compliance Reports
- B. Vehicle Mileage Report
- C. Vehicle Maintenance/Preventative Maintenance Activity
- D. Status of State Inspection Requirements

SECTION IV – COMMUNITY OUTREACH SUMMARY

- A. List of Events
- B. Outreach Pieces, Distribution, Targeted Audiences
- C. Number of Customers Reached Through Each Campaign
- D. Results of Outreach Efforts

SECTION V - SIGNIFICANT EVENTS

This section shall discuss any significant events occurring in the organization.

SECTION VI – STRIKE CONTINGENCY PLAN (ONLY IF CONTRACTOR IS REPRESENTED BY A COLLECTIVE BARGAINING UNIT)

In this section CONTRACTOR shall detail how normal operations will be maintained to the fullest extent possible if a labor strike should occur. Plan should include but not be limited to: what steps will be taken to have replacement labor available to maintain operations, how security of the facilities will be maintained, who will be point of contact and spokes person for communication with the media and what measures will be taken to protect company non-union personnel

SECTION VII - CALENDAR

- A. Reports Delivered This Quarter
- B. Reports Due Next Quarter

EXHIBIT 11

CONTRACTOR OUTREACH REQUIREMENTS

SFD Recycling Services Outreach Requirements

A. Annual Outreach Plan

CONTRACTOR shall submit an annual Public Education and Outreach Program Plan (“Plan”) for each calendar year of the term of this Agreement. The plan must be submitted by September 30th of the preceding calendar year and must be approved by the City Representative. The Plan shall include a minimum of four public education and outreach campaigns designed to increase diversion. Campaigns should target certain recyclable materials or “problem” areas of CONTRACTOR’s service area where improvements can be maximized. Targets of outreach should be based on local trends and recycling patterns based on information obtained by both CITY and CONTRACTOR staff. Required elements of the annual plan include:

1. One direct mail piece. The piece must be submitted with the Plan, and must be approved by the City Representative before publication. CONTRACTOR shall distribute the piece to all SFD households, either through direct mail or by hand-delivery.
2. Grass roots, door to door interaction with residents.
3. Promotion and support of specific Recycle Plus programs, as directed by the City Representative.
4. A list of community events such as fairs, workshops, and cultural festivals CONTRACTOR will attend to promote the Recycle Plus program, as needed or directed by the City Representative.
5. Attendance at community and neighborhood association meetings as needed or directed by the City Representative.
6. School presentations.
7. Plans to distribute City-developed collateral materials at events, schools, community meetings, etc.
8. Display materials for events and school presentations.
9. Placement of CITY-provided signs on collection vehicles
10. Maintenance of a Website with direct links to City’s Recycle Plus Website (www.recycleplus.org). The Website must include relevant program information with regular updates as needed, or as directed by the City Representative. The Website must also allow for customer comments and questions.

EXHIBIT 11

CONTRACTOR OUTREACH REQUIREMENTS

B. Quarterly Coordination Meetings

CONTRACTOR shall attend quarterly coordination meetings with CITY. CONTRACTOR will report on outreach efforts, including quantifiable results and budget status. CITY staff will report on CITY outreach efforts, and provide input regarding CONTRACTOR's public education programs.

C. Additional Outreach Materials

CONTRACTOR may develop or distribute informational or promotional materials for CONTRACTOR's own use only with the express written permission of the CITY Representative. All materials shall be reviewed and approved by the CITY Representative prior to publication or distribution. All such materials developed by Contractor shall be printed at CONTRACTOR's expense without compensation from CITY.

EXHIBIT 12
WAGE POLICY

Pursuant to City of San José Prevailing Wage policy, Contractor and any subcontractor shall be obligated to pay Pursuant to City of San José Prevailing Wage policy, CONTRACTOR and any of CONTRACTOR's subcontractor shall be obligated to pay not less than the prevailing wage as set forth in this Exhibit 12.

I. CITY COUNCIL WAGE POLICY

A. PREVAILING WAGE POLICY

California Labor Code and/or Resolutions of the City of San José require the payment of not less than the general prevailing rate of per diem wages and rates for holiday and overtime and adherence to all labor standards and regulations.

Prevailing Wages established by the California Department of Industrial Relations shall be the General Prevailing Wage Determination made by the Director of Industrial Relations pursuant to California Labor Code Part 7, Chapter 1, Article 2, Sections 1770, 1773 and 1773.1. The General Prevailing Wage Rates may be adjusted throughout the term of this Agreement.

Prevailing Wages established by the City of San José shall mean the wages paid under a collective bargaining agreement between CONTRACTOR and a recognized union representing workers who perform services pursuant to this Agreement; or, if there is no collective bargaining agreement, not less than the prevailing rate of per diem wages for the employee craft/classification as determined by the City of San José's Office of Equality Assurance.

The City Prevailing Wage will be subject to annual adjustment on the first day of each July during the term of this Agreement. Adjustments will be based on the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index, All Items, for all Urban Consumers [CPI-U] for San Francisco-Oakland-San José).

B. REPORTS

The Office of Equality Assurance will monitor the payment of prevailing wage by requiring CONTRACTOR and all subcontractors to file a LABOR COMPLIANCE WORKFORCE STATEMENT and LABOR COMPLIANCE FRINGE BENEFIT STATEMENT with supporting documentation. CONTRACTOR shall submit all such reports as requested by the Office of Equality Assurance.

EXHIBIT 12

WAGE POLICY

CONTRACTOR and covered subcontractors shall also report such other additional information, including certified payrolls, as requested by the Director of Equality Assurance to ensure adherence to the Policy.

Labor compliance statements must be filed in the Office of Equality Assurance no later July 10, 2007 at the address below.

City of San José
Office of Equality Assurance
200 East Santa Clara Street
Fifth Floor
San José, CA 95113
Phone: 408.535-8430

C. EMPLOYEE RETENTION REQUIREMENTS

CONTRACTOR acknowledges that when collection services are transferred to CONTRACTOR, workers who perform services for City's current service provider will be displaced from their employment. CONTRACTOR shall offer employment to all qualified displaced workers who have been employed by the current service provider for at least 120 calendar days prior to July 1, 2007 provided that CONTRACTOR shall not be required to create additional positions that CONTRACTOR does not need nor to lay-off or discharge CONTRACTOR's employees in order to employ qualified displaced workers. A qualified displaced worker includes non-management workers of the current service provider who have been employed for at least 120 calendar days prior to July 1, 2007 and who would otherwise be laid-off. CONTRACTOR is prohibited from discharging any qualified displaced workers for at least 90 days after the Collection Start-up Date except for cause. After the initial 90 days, the continued employment of qualified displaced workers will be under the terms and conditions established for all of CONTRACTOR's workers in the particular job classification. CONTRACTOR shall submit displaced worker hiring status reports to the City Representative on the last working day of October 2007 and on the last working day of June 2008.

The following provisions are applicable to this RFP and will become part of the Agreement:

EXHIBIT 12

WAGE POLICY

1. Qualified Displaced Worker Defined

Qualified Displaced Worker means any person employed by the predecessor service provider or any subcontractor to the predecessor service provider who meets the following requirements:

- i. The person provides direct labor or service on the City Agreement;
- ii. The person is not an “exempt” employee under the Fair Labor Standards Act (FSLA); and
- iii. The person has been employed on the City Agreement by the predecessor service provider or subcontractor for at least 120 calendar days prior to July 1, 2007.

2. Current Eligible Retention Employee Defined

Current Eligible Retention Employee means a current employee of CONTRACTOR who meets the following requirements:

- i. The person has been employed by CONTRACTOR for at least the six month period prior to the date of the new service or labor contract;
- ii. The person would otherwise need to be terminated as a result of the implementation of the retention requirements; and
- iii. CONTRACTOR chooses to designate the person as a Current Eligible Retention Employee.

CONTRACTOR must establish requirements i. and ii. above by submitting payroll records or other reliable evidence satisfactory to the Director of Equality Assurance by the date specified in writing by the Director of Equality Assurance. If CONTRACTOR cannot submit such evidence, the employee cannot be designated a Current Eligible Retention Employee.

D. EMPLOYMENT OF DISPLACED WORKERS

CONTRACTOR shall offer continued employment to all Displaced Workers who are interested in such continued employment.

CITY’s Office of Equality Assurance will provide CONTRACTOR with information regarding which employees of the Predecessor are Qualified Displaced Workers.

EXHIBIT 12

WAGE POLICY

Notwithstanding anything to the contrary in this provision, CONTRACTOR may deem an employee not to be a Qualified Displaced Worker if, and only if:

1. The employee has been convicted of a crime that is related to the job or to his/her job performance; or
2. CONTRACTOR can demonstrate to the CITY's Office of Equality Assurance that the employee presents a significant danger to customers, co-workers or City staff.

In the event that CONTRACTOR does not have enough positions available to hire all Qualified Displaced Workers desiring continued employment and to retain its Current Eligible Retention Employees, CONTRACTOR shall hire Qualified Displaced Workers and retain Current Eligible Retention Employees by seniority within each employment classification. For any positions that become available during the initial ninety (90) day period of the Agreement, CONTRACTOR shall hire Qualified Displaced Workers and rehire its Current Eligible Retention Employees by seniority within each employment classification.

1. Retention Requirements

- a. Qualified Displaced Workers hired by CONTRACTOR may not be discharged without cause during the initial ninety (90) day period of their employment.
- b. CONTRACTOR shall offer continued employment to each Qualified Displaced Worker who receives a satisfactory performance evaluation at the end of the initial ninety (90) day period of employment. Such employment shall be offered under the same terms and conditions established by CONTRACTOR for all of its employees.

2. Third Party Beneficiary

Qualified Displaced Workers are third party beneficiaries of this Agreement, which means that the employee has the right to enforce the provisions of the Agreement independent of CITY's right to enforce the provisions of the Agreement. The third party rights are effective upon the Effective Date of this Agreement.

3. Obligations Upon Termination

Upon termination of this Agreement CONTRACTOR shall fully cooperate with all CITY requests regarding contacts with CONTRACTOR's

EXHIBIT 12
WAGE POLICY

employees to enable a transition in the workforce to a new service provider.

E. JOB FAIR

CONTRACTOR shall participate in a job fair for the displaced workers to be held on a CITY-scheduled day during the period April 1 to April 8, 2007 to discuss employment opportunities with such workers. The City Representative shall notify CONTRACTOR of the date and place of the job fair at least seven (7) calendar days in advance.

F. LABOR PEACE

CITY's Office of Equality Assurance has determined that the level of vulnerability of the proposed Agreement to service or labor disputes is sufficient to warrant that labor peace is essential to the propriety interests of CITY. Therefore, CONTRACTOR shall at all times comply with the provisions of CONTRACTOR's Employee and Labor Relations Plan set forth in Exhibit 7 to this Agreement.

G. ENFORCEMENT

1. General

CONTRACTOR acknowledges it has read and understands that, pursuant to the terms and conditions of this Agreement, it is required to pay workers prevailing wage ("Wage Provision") and to submit certain documentation to CITY establishing its compliance with such requirement. ("Documentation Provision.") CONTRACTOR further acknowledges that CITY has determined that the Wage Provision promotes each of the following (collectively "Goals"):

- a) It protects job opportunities and stimulates CITY's economy by reducing the incentive to recruit and pay a substandard wage to labor from distant, cheap-labor areas.
- b) It benefits the public through the superior efficiency of well-paid employees, whereas the payment of inadequate compensation tends to negatively affect the quality of services to CITY by fostering high turnover and instability in the workplace.
- c) Paying workers a wage that enables them not to live in poverty is beneficial to the health and welfare of all citizens of San Jose because it increases the ability of such workers to attain sustenance, decreases the amount of poverty and reduces the

EXHIBIT 12

WAGE POLICY

amount of taxpayer funded social services in San Jose.

- d) It increases competition by promoting a more level playing field among contractors with regard to the wages paid to workers.

2. Remedies for CONTRACTOR's breach of prevailing wage/living wage provisions

- a) **Suspension or termination:** suspend and/or terminate the Agreement or financial assistance **agreement for cause;**
- b) **Restitution:** require CONTRACTOR to pay any amounts underpaid in violation of the required payments and CITY's administrative costs and liquidated damages, and in the case of financial assistance to refund any sums disbursed by CITY.
- c) **Debarment:** debar CONTRACTOR or its subcontractor from future CITY contracts and/or deem the recipient ineligible for future financial assistance.
- d) **Withholding of payment:** CONTRACTOR agrees that the documentation provision is critical to CITY's ability to monitor CONTRACTOR's compliance with the wage provision and to ultimately achieve the goals. CONTRACTOR further agrees its breach of the documentation provision results in the need for additional enforcement action to verify compliance with the wage provision. In light of the critical importance of the documentation provision, CITY and CONTRACTOR agree that CONTRACTOR's compliance with this provision, as well as the wage provision, is an express condition of CITY's obligation to make each payment due to CONTRACTOR pursuant to this Agreement. CITY is not obligated to make any payment due to CONTRACTOR until CONTRACTOR has performed all of its obligations under these provisions. Any payment by CITY despite CONTRACTOR's failure to fully perform its obligations under these provisions shall not be deemed to be a waiver of any other term or condition contained in this Agreement nor a waiver of the right to withhold payment for any subsequent breach of the wage provision or the documentation provision.
- e) **Liquidated damages for breach of wage provision:** CONTRACTOR agrees its breach of the wage provision would cause CITY damage by undermining the goals, and CITY's damage would not be remedied merely by CONTRACTOR's payment of

EXHIBIT 12

WAGE POLICY

restitution to the workers who were paid a substandard wage. CONTRACTOR further agrees that such damage would increase the greater the number of employees not paid the applicable prevailing wage and the longer the amount of time over which such wages were not paid. CITY and CONTRACTOR mutually agree that making a precise determination of the amount of CITY's damages as a result of CONTRACTOR's breach of the wage provision would be impractical and/or extremely difficult. Therefore, the parties agree that, in the event of such a breach, CONTRACTOR shall pay to CITY as liquidated damages the sum of three (3) times the difference between the actual amount of wages paid and the amount of wages that should be paid.

I. AUDIT RIGHTS

All records or documents required to be kept pursuant to this Agreement to verify compliance with the Wage Provision shall be made available for audit at no cost to CITY, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such records or documents shall be provided to CITY for audit at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records or documents shall be available at CONTRACTOR's address indicated for receipt of notices in this Agreement.

J. COEXISTENCE WITH ANY OTHER EMPLOYEE RIGHTS

These provisions shall not be construed to limit an employee's ability to bring any legal action for violation of any rights of the employee.

EXHIBIT 12
WAGE POLICY

Office of Equality Assurance Wage Determination
Collection Services – Effective 2/16/2006

Classification	Basic Hourly Pay Rate	Health Welfare & Pension	Vacation Minimum (7 Days)	Paid Sick Leave (11 days)	Paid Holidays (12 Days)	Total Hourly Pay
Garbage Driver	25.06	7.39	.67	1.06	1.16	\$35.34
Recycle Driver	25.06	7.39	.67	1.06	1.16	\$35.34
Yard Trimming Claw Driver	25.06	7.39	.67	1.06	1.16	\$35.34
Yard Trimming Collection Driver	25.06	7.39	.67	1.06	1.16	\$35.34
Residential Street Sweeper	19.27	2.72	.52	.82	.89	\$24.22

Breakdown of Benefits		
Paid Vacation Days	After 1 year	7 Days – 56 Hours
	After 5 years	15 Days – 120 Hours
	After 10 years	20 Days – 160 Hours
	After 15 years	25 Days – 200 Hours
	After 20 years	30 Days – 240 Hours
	After 25 years	35 Days – 280 Hours
	After 30 years	40 Days – 320 Hours
Paid Sick Leave	Eleven (11) paid Sick Days	
Paid Holidays	Twelve (12) paid Holidays	

EXHIBIT 12
WAGE POLICY

Office of Equality Assurance Wage Determination continued

Materials Recovery Facility Operations – Effective 2/16/2006

Classification	Basic Hourly Pay Rate	Health Welfare & Pension	Vacation Minimum (6 Days)	Paid Sick Leave (7 days)	Paid Holidays (8 Days)	Total Hourly Pay
Sorter	12.19	3.53	.36	.42	.48	\$16.98
Floor Sorter/Raker	18.20	3.53	.50	.59	.67	\$23.49
Spotter	14.19	3.53	.41	.48	.55	\$19.16
Buy Back Operator	16.71	3.53	.47	.55	.62	\$21.88
Mechanic	28.92	3.53	.75	.87	1.00	\$35.07
Equipment Operator	18.05	3.53	.50	.58	.66	\$23.32
Baler Operator	18.16	3.53	.50	.58	.67	\$23.44
Scale Operator	19.16	3.53	.52	.61	.70	\$24.52

Breakdown of Benefits		
Paid Vacation Days	After 1 year	6 Days – 48 Hours
	After 5 years	15 Days – 120 Hours
	After 10 years	20 Days – 160 Hours
	After 15 years	25 Days – 200 Hours
	After 20 years	30 Days – 240 Hours
	After 25 years	35 Days – 280 Hours
Paid Sick Leave	Seven (7) paid Sick Days	
Paid Holidays	Eight (8) paid Holidays	

Office of Equality Assurance Wage Determination continued

Determination Notes

Pursuant to the California Labor Code and/or City Resolution, the awarding body is responsible for determining classifications to be used on Construction, Maintenance,

EXHIBIT 12

WAGE POLICY

Service and other contracts subject to prevailing wage and/or living wage requirements. CONTRACTOR will submit: (1) Labor Compliance Workforce Statement; (2) Labor Compliance Fringe Benefit Statement with supporting documentation within the time specified by the Office of Equality Assurance. CONTRACTOR will also complete and file certified payrolls as requested by the Office of Equality Assurance.

The full amount of the total hourly wage must be paid directly to the worker, UNLESS CONTRACTOR is making payments to a benefit plan. If CONTRACTOR is making payments to a benefit plan but the benefits being paid do not add up to the full amount of benefits identified, CONTRACTOR must pay the difference directly to the worker.

Hours and Days of Work

(Industrial Welfare Commission Order No. 16-2001)

CITY will use the same guidelines for all covered classifications/employees for all City of San José contracts subject to City prevailing wage or living wage policies.

An employee shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1 ½) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

- One and one-half (1 ½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including 12 hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek; and
- Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) on the seventh (7th) consecutive day of work in a workweek.

The rates set forth in this Exhibit are subject to annual adjustments beginning July 1, 2006, and each July 1 thereafter. Adjustments will be based on the Consumer Price Index, All Items, for all Urban Consumers [CPI-U] for San Francisco-Oakland-San José. CITY's Office of Equality Assurance will notify CONTRACTOR in writing of any adjustments to these rates.

EXHIBIT 12
WAGE POLICY



**LABOR COMPLIANCE
WORKFORCE STATEMENT**

Page ___ of ___

CONTRACTOR NAME: CWS

AGREEMENT: SFD RECYCLING COLLECTION SERVICES

In the chart below, list the name, prevailing wage or living wage classification(s) to be used, rate of pay and hire date for each employee expected to work on the above Agreement. See example below.

EMPLOYEE NAME	CRAFT/TRADE CLASSIFICATION	BASIC HOURLY RATE OF PAY (On City of San José Agreement)	DATE OF HIRE (Indenture Date If Apprentice)
<i>Example: Bob Jones</i>	<i>Recycle Driver</i>	\$25.06	6/1/2002

Questions regarding classifications allowed on San José projects should be directed to the Office of Equality Assurance at 408-535-8430.

EXHIBIT 12



WAGE POLICY LABOR COMPLIANCE FRINGE BENEFIT STATEMENT

CONTRACTOR NAME: CALIFORNIA WASTE SOLUTIONS, INC.

AGREEMENT: SFD RECYCLING COLLECTION SERVICES

I certify under penalty of perjury that fringe benefits are paid to the approved plans, funds, or programs as listed below:

Classification	Fringe Benefit Hourly Amount	Name of the Plan or Fund (Attach Premium Transmittal)
1. <div style="border: 1px solid black; padding: 5px; background-color: #e0e0e0;"> <p><i>Documentation of Plan contribution <u>must</u> be returned with this statement</i></p> <p>Please attach a copy of your most recent transmission into each medical, pension, or profit sharing plan account indicating worker name and amount of contribution.</p> </div>	Vacation \$ _____ Health & Welfare \$ _____ Pension \$ _____ Apprentice \$ _____ Other (specify) \$ _____	_____ _____ _____ _____ _____
2. _____	Vacation \$ _____ Health & Welfare \$ _____ Pension \$ _____ Apprentice \$ _____ Other (specify) \$ _____	_____ _____ _____ _____ _____
3. _____	Vacation \$ _____ Health & Welfare \$ _____ Pension \$ _____ Apprentice \$ _____ Other (specify) \$ _____	_____ _____ _____ _____ _____

All (or some) fringes are paid in cash by adding the amount to the employee's basic hourly rate.

Company Name (Please Print)

Name and Title (Please Print)

Date

Signature

EXHIBIT 12
WAGE POLICY

EXHIBIT 13

CONTRACTOR ELECTRONIC INTERFACE REQUIREMENTS

**CONTRACTOR ELECTRONIC
INTERFACE REQUIREMENTS**

*CONTRACTOR BACK-END INTEGRATION
INTERFACE FUNCTIONAL
REQUIREMENTS AND DESIGN*

EXHIBIT 13

CONTRACTOR ELECTRONIC INTERFACE REQUIREMENTS

1 FUNCTIONAL REQUIREMENTS

1.1 OVERVIEW

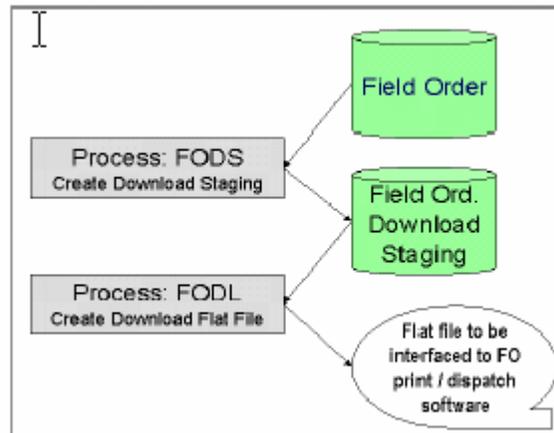
PeopleSoft RM provides the ability for users (City and Hauler staff) to create and dispatch Field Activities from within the application / portal. However, residential contractors may use an interface (inbound) to process Service Orders created within their applications. This reduces duplicative data entry by hauler staff and minimizes the need for Contractor Customer Service Representatives (CSR) to be versatile in two applications. For Field Activities created by the City CSR (for Contractors), a set of interfaces (outbound/inbound) is required. Although a real-time interface is desired, the Contractors could be faced with technology challenges in performing a point to point integration with PeopleSoft RM. Considering this and the cost of a real-time interface, a near real-time interface using batch processes is the preferred option.

2 FUNCTIONAL DESIGN

2.1 APPROACH

For Field Activities (FA) created by City CSR:

The following diagram illustrates the processes involved in the creation of the flat file that is interfaced to each Hauler.



FDS – Create Download Staging

This process looks for all field orders that are marked for extraction (a field order gets marked for extraction when it is first created if its dispatch group is dispatchable). For each record found, the system creates a field order download staging record.

Each download staging record is marked with a batch control ID & run number when it's

EXHIBIT 13

CONTRACTOR ELECTRONIC INTERFACE REQUIREMENTS

created.

- The batch control ID comes from the field order's dispatch group. This ID corresponds with a specific extraction method.
- The run number is the batch control ID's current run number.

FDL – Create Download Flat File

This process reads all download staging records marked with a given batch control ID & run number, and creates the flat files for the Haulers. This process is re-runnable and the flat-files can be reproduced at any time. The no. of files created in each run is dependant on the distinct Distributor Ids (Haulers) for the batch and run number being processed. The file structure is as follows:

PeopleSoft RM Field Name	Structure	Comments
FA_ID	AN (10)	The Field Activity ID in PeopleSoft Revenue Management
FA_TYPE_CD	AN (8)	The Field Activity type code
FA_DESCR	AN (30)	The corresponding FA Description.
SP_ID	AN (10)	The Service Point ID associated to the Field Activity
SP_TYPE_CD	AN (8)	The SP Type Code for the SP_ID that is referenced on the FA. Since the same FA Type can be used across all services, the combination of the FA Description with the SP Type Code will indicate for which service the activity is being performed for.
EXTRACT_DTTM	DATE (26)	CI_FO.EXTRACT_DTTM
SCHED_DT	DATE (10)	• CI_FO.SCHED_DT
SCHED_TM	TIME (15)	• CI_FO.SCHED_TM
FA_STATUS_FLG	AN (2)	"P" → <i>Pending</i>
INSTRUCTIONS	AN (254)	For applicable FA Types, the current and new Multi-Information will be transferred. This is only applicable for single-row SFDs or Yard Trimming/Street Sweeping Service. For e.g. multi-

EXHIBIT 13

CONTRACTOR ELECTRONIC INTERFACE REQUIREMENTS

PeopleSoft RM Field Name	Structure	Comments
		row SDF and MFDs, the user (City CSR) is required to manually input the instruction for the Hauler.
DESCR254	AN (254)	Additional Comments.
PREM_ID	AN (10)	CI_PREM.PREM_ID
CU_LEGACY_SLN	AN (50)	Legacy Service Location Number CI_PREM_GEO.GEO_VAL Where GEO_TYPE_CD = 'SLN' (only populate if available)
CU_APN	AN (50)	Current Parcel Number
CU_SVC_ADDRESS	AN (150)	Custom Field. Service Address made up of the following fields: Address1 Address2 City State Zip
FR_ITEM_TYPE	AN (8)	Will be populated if current (Effective Date <= SYSDATE) SP Multi-Item has a single row.
FR_ITEM_CNT	NBR (11,2)	Count associated to the ITEM TYPE CODE above
TO_ITEM_TYPE	AN (8)	Will be populated if new (Effective Date > SYSDATE) SP Multi-Item has a single row.
TO_ITEM_CNT	NBR (11,2)	Count associated to the ITEM TYPE CODE above
CU_OWNER_NAME	AN (50)	Owner's Primary Name.
CU_OWNER_PHONE	AN (24)	Owner's Primary Phone Number.
CU_ALERT	AN (50)	
CU_OCCUPANT_NAME	AN (50)	Person in Occupant table or Account Relationship for MAIN_CUST_SW = 'Y'. Identify Account from Premise's SA/SP Link.
CU_OCCUPANT_PHONE	AN (24)	Occupant's Primary Phone Number.
BATCH_CD	AN (8)	PeopleSoft RM Batch Code for extract process
BATCH_NBR	NUM (10)	PeopleSoft RM Batch Number that corresponds to the extract

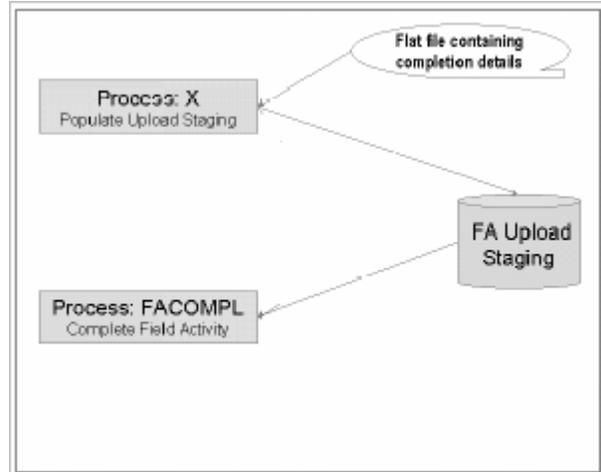
EXHIBIT 13

CONTRACTOR ELECTRONIC INTERFACE REQUIREMENTS

Field Order Completion Upload Background Processes:

The following diagram illustrates the processes involved in the uploading of field order completion, from the Hauler.

The required data from the Hauler, upon completing or closing a Service Order (FA) is reflected below:



PeopleSoft RM Field Name	Structure	Comments
CU_FA_CRE_TYPE	AN (3)	If this record corresponds to a Field Activity created by City CSR, the value 'PRM' should be populated. If this record corresponds to a Field Activity created by the Hauler, the value 'HAL' should be populated.
CU_SVC_ORDER_ID	AN (20)	If this record corresponds to a Field Activity created by City CSR, the FA_ID field should be populated. If this record corresponds to a Field Activity created by Hauler, the Unique Service Order ID prefixed by either 'GT', 'GW' or 'NC' should be populated. GT → Green Team, GW → Green Waste, NC → NorCal.
FA_STATUS_FLG	AN (2)	e.g. "C" → <i>Completed</i> "X" → <i>Cancelled</i>
WORK_DTTM	DATE (26)	Only Populated if the FA_STATUS_FLG = 'C'. The date and time the Service Order was completed
DESCR254	AN (254)	Field Comments
CAN_RSN_CD	AN (4)	Only Populated if the FA_STATUS_FLG = 'X'. The record has to correspond to a value configured in PeopleSoft RM.

In the event the Service Order is created by the Hauler, the above records will only be processed if a Field Activity record exists in PeopleSoft. Otherwise, an exception record is created in a custom table. The structure of this exception table is discussed in the next section. Completed FA will be processed through the FA Upload staging process.

EXHIBIT 13

CONTRACTOR ELECTRONIC INTERFACE REQUIREMENTS

For Service Orders created by Haulers:

Haulers are required to transmit data in the following format (Fixed Length format) for Service Orders generated in their systems. For the City of San José to accurately track and respond to customer requests, it is a requirement for Haulers to transmit the Service Orders in a flat file every fifteen minutes. These files will be deposited within an FTP (File Transfer Protocol) site.

PeopleSoft RM Field Name	Structure	Comments
CU_SVC_ORDER_ID	AN (20)	Corresponds to a Field Activity created by Hauler, the Unique Service Order ID prefixed by either 'GT', 'GW' or 'NC' should be populated. GT→ Green Team, GW → Green Waste, NC → NorCal.
FA_TYPE_CD	AN (8)	The Field Activity Type configured in PeopleSoft RM. The Hauler has to cross reference this value from the Service Order code in the Hauler's application.
SP_TYPE_CD	AN (8)	The Service Point Type configured in PeopleSoft RM. The Hauler has to cross-reference this value from the Service code (e.g. Garbage, Re-cycling, Yard-Trimming, Street Sweeping) in the Hauler's application.
PREM_ID	AN (10)	Hauler will need to store the PeopleSoft RM Premise ID for each Premise being serviced. This together with the Service Point Type will be used as the primary identifier in locating the SP to create the Field Activity on.
CU_LEGACY_SLN	AN (50)	Legacy Service Location Number, if PREM_ID is not available.
SCHED_DATE	DATE (26)	The Schedule Date of Service
SCHED_TIME		The Scheduled Time of Service
FA_STATUS_FLG	AN (2)	"P" → Pending
INSTRUCTIONS	AN (254)	Hauler CSR to provide details on the Service to be performed. This is required for e.g. multi-row SFDs and MFDs.

EXHIBIT 13

CONTRACTOR ELECTRONIC INTERFACE REQUIREMENTS

PeopleSoft RM Field Name	Structure	Comments
DESCR254	AN (254)	Field Comments
RM_ITEM_TYPE	AN (8)	This value will be populated if the existing item is required to be removed/exchanged. Should only be populated if service corresponds to a single-row SFD or a single-row Yard trimming/ Street Sweeping Service. To be used for removing SP multi-items. DO NOT POPULATE THIS FOR MFD SERVICES. MFD change requests should be reflected in the INSTRUCTIONS FIELD.
RM_ITEM_CNT	NBR (11,2)	Count associated to the ITEM TYPE CODE above
AS_ITEM_TYPE	AN (8)	This value will be populated if a new item is required to be added/exchanged. Should only be populated if service corresponds to a single-row SFD or a single-row Yard trimming/ Street Sweeping Service. To be used for adding SP multi-items. DO NOT POPULATE THIS FOR MFD SERVICES. MFD change requests should be reflected in the INSTRUCTIONS FIELD.
AS_ITEM_CNT	NBR (11,2)	Count associated to the ITEM TYPE CODE above

Each record is processed by invoking the Field Activity, Field Order and SP Multi-Item creation routines. The Hauler's Service Order ID is stored as an Adhoc Characteristic value, which will be used as an identifier when completing the Field Activity.

The CU_LEGACY_SLN maybe passed if the PREM_ID is not available.

A log will be generated for each file processed, and maybe sent to the respective Haulers via e-mail or FTP (automated). The log will contain the status of each Service Order processed. For Service Order with an exception, an exception description will be reflected next to the Service Order. Also the log file will contain the list of Field Activities cancelled in the Application (non Hauler generated) that have not been notified.

For Garbage Service, the RM_ITEM_TYPE and RM_ITEM_CNT if populated will be evaluated to see if the value matches the current setup in the application. If a mismatch occurs, and exception will be created for the Service Order.

EXHIBIT 13

CONTRACTOR ELECTRONIC INTERFACE REQUIREMENTS

Exceptions:

All exceptions will be inserted into the following table, and can be queried by the Haulers. The above components will not be created for 'Pending' records reflected in the exception table.

PeopleSoft RM Field Name	Structure	Comments
DISTRIBUTOR_ID	AN (10)	Hauler's ID
CU_FA_CRE_TYPE	AN (3)	If this record corresponds to a Field Activity created by City CSR, the value 'PRM' should be populated. If this record corresponds to a Field Activity created by the Hauler, the value 'HAL' should be populated.
CU_SVC_ORDER_ID	AN (20)	If this record corresponds to a Field Activity created by City CSR, the FA_ID field should be populated. If this record corresponds to a Field Activity created by Hauler, the Unique Service Order ID prefixed by either 'GT', 'GW' or 'NC' should be populated. GT → Green Team, GW → Green Waste, NC → NorCal.
FA_STATUS_FLG	AN (2)	"P" → Pending, "X" → Cancelled, "C" → Completed. The value from the inbound file.
CRE_DTTM	AN (26)	Exception creation Date/Time
DESCR254	AN (254)	Exception description

Cancel Reasons Currently in System:

Customer Request (used for rescheduling Large Item Collections, etc.)

SA Start/Stop cancelled (sale of house did not go through)

EXHIBIT 14

LARGE ITEM LIST

CONTRACTOR shall collect the following materials as “Large Items”. This list of Large Items may be amended by the mutual agreement of CONTRACTOR and the City Representative. Any such amendments shall be in writing and shall be signed by the City Representative and CONTRACTOR.

Item	Description
Basketball hoops	Disassembled
Bathtub	Porcelain, cast iron (incl. Clawfoot).
BBQ grills large	No ashes (cold or hot). <u>No</u> propane tanks.
Bicycle	
Bird bath	Ceramic or concrete. No large fountains.
Box of items	Total weight of box and contents not to exceed 60 pounds and dimensions of box not to exceed 4'x4'x2'. No Garbage or Hazardous Waste.
Box spring	See “Mattress”
Camper shell	Must be a <u>shell</u> (not a full camper) from a passenger-sized vehicle (not commercial). Shell must be no larger than 4' wide x 8' long and no higher than cab of truck. No homemade or hardwood shells. Aluminum or fiberglass shells are acceptable.
Carpet	<u>Dry</u> : Must be rolled with a length no longer than 6' and diameter no larger than 2'. <u>Wet</u> : Must be rolled with a length no longer than 4' and diameter no larger than 2'. Carpets must be bundled or tied and manageable by one person. One roll equals one item. Padding separate item.
Chairs	Upholstered, wood, plastic or aluminum okay. If chairs are designed to stack or nest (e.g. white plastic lawn or aluminum chairs), then 4 stacked chairs is 1 item.
Compactors (trash)	Clean and empty.
Computer	Home computer with components) monitor, printer and CPU counts as one item).

EXHIBIT 14

LARGE ITEM LIST

Item	Description
Copier	Desktop or household only.
Counter tops	Length no longer than 8'; each 8' length counts as one item.
Dishwashers	No water.
Dog house	
Doors (closet, front/back door)	No all-mirrored or whole-glass doors. Small glass insert in a front/back door is acceptable.
Dresser	
Dryer	
Electronic Components	Can include any or all of the following up to <i>five</i> components; counts as three (3) item collection: Stereo receiver, turntable, two speakers, cd player, and/or VCR.
Fax machine	
Fences/Gate	Length of sections must be no longer than 8'. No more than 60 pounds. Each bundle is one item. Chainlink should be rolled and bundled. No entire fences, construction debris or wood/cement posts.
Fireplace inserts	No ashes (cold or hot).
Fluorescent tubes	6 tubes taped or tied together is 1 item
Freezer	No longer than 6'. Chest or upright, <u>empty</u> (residential type only – no commercial).
Furnace	
Garage door opener	Disassembled and bundled.
Garbage disposal (appliance)	
Grandfather clock	
Hot tub/spa	Small (2-3 person) size. No water. Deck counts as separate item(s).
Hutch	
Kitchen cabinets	Length no longer than 6'.
Ladder	
Large Yard Trimmings	Oversized Yard Trimmings such as tree trunks and branches, weight no greater than 60 pounds and length no longer than 5' and diameter no larger than 2', which are attributed to the normal activities of a

EXHIBIT 14

LARGE ITEM LIST

Item	Description
	Service Unit.
Lawn furniture	See "chairs" "picnic table" and "wood spool" sections.
Lawn mower	Either with or without motor. No fluids.
Light fixture	Must be placed in a box for collection. See also "box of items."
Mattress	Mattress and box spring are separate items. King mattress and box springs(2) count as two items.
Monitor - Computer	
Minibike/moped	Either with or without motor. No fluids.
Oven	Empty.
Pallets (wood)	Each pallet counts as 1 item. No cement or construction and demolition.
Piano or organ	No grand pianos. Upright is acceptable and counts as three items.
Picnic table	Detached benches are extra items. See also "chairs" and "wood spool" sections.
Ping pong table	Folded in half.
Plastic pools	Disassembled and bundled
Pool cover	Prepared like carpet.
Pool table	
Pot belly stoves	No ashes (cold or hot).
Refrigerators	Empty. Doors must be removed or secured closed. Counts as one item (including removed door). Residential only, no commercial refrigerators.
Shed	Disassembled and bundled. Prefabricated only. Weight no greater than 60 pounds.
Sink	Household size, no commercial sinks.
Sofa	If sofa is a sectional, each section counts as one item.
Solar panels	Drained, each unit or panel is one item (like countertops).
Spa cover	See also "hot tub/spa" section.

EXHIBIT 14

LARGE ITEM LIST

Item	Description
Speakers	See "Electronic Components"
Stereo	See "Electronic Components"
Stereo cabinets/hi-fi	
Stove	Empty. Loose items secured.
Swing set	Simple, A-frame with slide is acceptable. Jungle gyms must be disassembled. Each 60-pound bundle counts as one item.
Table saw	Household garage type, not commercial or industrial.
Television	"
Tables	Table leaves may be included, but must be bundled. Each table with up to three leaves counts as one item.
Tires	Passenger vehicle and pickup truck tires only. May have rims included. One tire is one item, or one tire/rim is one item or one rim separated from the tire is one item. Tires count as one three (3) item collection.
Toilet	
Tree stump	Weight no greater than 60 pounds and length no longer than 5' and diameter no larger than 2'.
VCR	See "Electronic Components"
Vehicle body parts	Disassembled. Items such as car door, hood, fender, car seat, camper shell. No glass windshields or engine parts. See also "tires" and "camper shell" sections.
Video arcade/pinball machines	Limited to one per household.
Washer	Drained.
Water bed	Drained.
Water heater	Drained.
Wheel barrow	
White goods	Inoperative or discarded refrigerators, ranges, water heaters, freezers, and other similar household appliances.

EXHIBIT 14

LARGE ITEM LIST

Item	Description
Window/door frames	Frames must be without glass. Window screens are acceptable.
Wood scrap (scrap lumber)	Bundled with a weight no more than 60 pounds and dimensions no greater than 5'x2'x2'. Must be secured. Each bundle is one item.
Wood spool	Small spool only, similar in size to household picnic furniture.

EXHIBIT 15
TRANSITION SERVICES AGREEMENT

(to be inserted after award)

TRANSITION SERVICES AGREEMENT

THIS TRANSITION SERVICES AGREEMENT is entered into as of the Start Date (as defined below) by and between Garden City Sanitation, Inc., a California corporation ("GCS"), and California Waste Solutions, Inc., a California corporation ("CWS"), with reference to the following:

A. Pursuant to a request for proposals, the City of San Jose, a municipal corporation of the State of California (the "City"), has awarded to GCS an Agreement for Recycle Plus SFD Solid Waste Services (the "Collection Agreement"), and to CWS an Agreement for Recycle Plus (the "Recycling Agreement").

B. As conditions to such awards, the City has required (i) each of GCS and CWS to enter into a Memorandum of Understanding with the City (each, an "MOU") regarding the mobilization phase of the Collection Agreement and the Recycling Agreement, which runs from the date of each such Agreement through July 1, 2007 (the "Start Date"), and (ii) GCS and CWS to enter into an agreement to provide each other with mutual assistance during the first six (6) months after the Start Date (the "Start-Up Period").

C. GCS and CWS have agreed to provide mutual assistance to one another during the Start-Up Period on the terms herein.

NOW, THEREFORE, in and for the mutual covenants herein, and other consideration the receipt and sufficiency of which are hereby acknowledged, the parties to this Agreement agree as follows:

1. DEFINITIONS. The following terms, when used herein with initial capital letters, will have the meanings ascribed to such terms in this Section 1:

1.1 "Affiliate" means, with respect to GCS or CWS, any person that directly or indirectly controls, is controlled by or is under common control with GCS or CWS, respectively. A person shall be deemed to "control" another person if such first person has the power to direct or cause the direction of such other person, whether through ownership of securities, by contract or otherwise.

1.2 "Recipient" means GCS or CWS in its capacity as the recipient of Services to be provided by the other party hereunder.

1.3 "Recipient Personnel" means all officers, directors, employees, agents, contractors, and representatives of a Recipient who receive Services under this Agreement or have access to Service Provider Confidential Information (as defined below).

1.4 "Services" means the services and rights to use equipment of each Service Provider described in Schedule A attached hereto, as may be changed or supplemented during the term of this Agreement pursuant to the terms hereof. If any service, function or task not specifically described in this Agreement is an inherent or necessary part of the performance of Services, it will be deemed included within the scope of Services.

1.5 "Service Provider" means GCS or CWS in its capacity as the provider of Services to the other party hereunder.

1.6 "Service Provider Personnel" means all officers, directors, employees, agents, contractors, and representatives of a Service Provider or its Affiliates who provide Services under this Agreement or have access to Recipient Confidential Information (as defined below).

2. SERVICES

2.1 **Provision of Services.** Each Service Provider will provide, or will cause its Affiliates to provide, subject to Section 2.8, Services to Recipient from time to time during the term of this Agreement upon the written request of Recipient for use in connection with Recipient's performance of its obligations under the Collection Agreement or the Recycling Agreement, as the case may be. As a condition to such Services, each party shall be named an additional insured under the policies of insurance covering the other party and its Personnel and equipment used in connection with the Services and each party agrees to maintain insurance reasonably satisfactory to the other. The policies shall be of the types and in the amounts required by the Collection Agreement and the Recycling Agreement, and each party shall provide the other with current certificates of insurance confirming such coverage. Except as otherwise expressly provided in this Agreement, Service Provider will be responsible for providing the facilities, personnel, and other resources required for performance of such Services, and each party will bear its own expenses in connection with the performance of its obligations under this Agreement.

2.2 **General Standards of Performance.** Service Provider will provide (and cause its Affiliates to provide) Services with at least the same level of skill, quality, care and timeliness as such Services are performed for Service Provider itself and with equipment that is in good condition and properly maintained. Service Provider will comply (and cause its Affiliates to comply) with all applicable federal, state, and local laws and regulations in connection with its obligations under this Agreement. Service Provider shall be entitled to rely, in the performance of its obligations hereunder, on any instructions or notices provided to Service Provider by any officer of Recipient that Service Provider reasonably believes is authorized to give such instructions or notices.

2.3 **Transition Assistance Only.** The parties acknowledge that the purpose of this Agreement is to enable each party to perform all of its obligations under the Collection Agreement or the Recycling Agreement, as the case may be, without the assistance of the other party by the end of the Start-Up Period.

2.4 **Additional Services.** If Recipient reasonably requests that Service Provider perform additional services not included within the scope of Services, then the parties will promptly negotiate in good faith with a view toward adding such additional services to Schedule A and, to the extent practicable, on the same terms and conditions as are set forth in this Agreement.

2.5 **Changes.** The parties acknowledge the transitional nature of Services and that Service Provider may make changes from time to time in the manner of performing Services if Service Provider is making the same changes in performing the same services for itself or its Affiliates and if Service Provider furnishes to Recipient the same notice that Service Provider provides to its employees or Affiliates respecting such changes.

2.6 **Good Faith Cooperation.** The parties will use good faith efforts to cooperate with each other in all matters relating to the provision and receipt of Services.

2.7 **Additional Activities.** Except as necessary to provide Services, Service Provider shall not be obligated to: (a) hire any additional employees; (b) maintain the employment of any specific employee; or (c) purchase or lease any additional equipment.

2.8 **Recycle Plus Compliance.** Each party's obligation to be a Service Provider upon the specific request of a Recipient hereunder is conditional upon the Service Provider having satisfied, or determined in its sole discretion that it will be able to satisfy, its obligations to the City under its Collection Agreement or Recycling Agreement, as applicable and to its employees under applicable collective bargaining agreements with the resources it has situated in the City.

The obligation of each party to provide Services using other resources of the party or of an Affiliate shall be conditioned on such party or affiliate having performed or determining in its sole discretion that it can perform the contractual obligations with respect to which such resources are maintained and principally dedicated.

3. COMPENSATION

3.1 Invoicing and Payment. Recipient shall compensate Service Provider for Services in accordance with Schedule A. Service Provider will invoice Recipient (i) monthly at the end of each month for the amount due under this Agreement for that month with respect to fees (if any) for Services rendered. Such invoices will specify in reasonably sufficient detail amounts due with respect to the Services (if any). Undisputed amounts of each invoice will be due within ten (10) days after Recipient's receipt of the invoice. If the amounts owed to either party in any month exceed the amounts owed to the other party for such month, then the first party will apply the amounts owed to the other party against the amounts owed to the first party and the other party shall pay the first party the balance. Each party will show the amount of such set-off in the invoices and statements furnished hereunder.

3.2 Final Invoice. Within thirty (30) days after termination or expiration of this Agreement, Service Provider shall issue to Recipient a final invoice for this Agreement. Any amounts due from Recipient pursuant to such final invoice will be due and payable within thirty (30) days after Recipient's receipt of such final invoice and will be set off against any amounts owed to Recipient as specified above. After payment of the final invoice has been made, Recipient will not be responsible for any further payments not included in such final invoice unless such further payments cannot be calculated at the time the invoice is issued and Service Provider reasonably identifies the nature and estimated amount of such further payments. Service Provider and Recipient agree to cooperate in good faith to resolve any disputes arising from the final invoice within such thirty (30) day period.

3.3 Taxes. Recipient shall pay any sales, use or similar tax (excluding any income tax or taxes levied with respect to gross receipts) due with respect to amounts payable to Service Provider for Services received under this Agreement, provided that Service Provider separately includes such taxes on the applicable invoice to Recipient. Service Provider will be responsible for remitting all such taxes to the relevant authorities.

3.4 Disputed Amounts; Late Payment. Recipient may withhold payment of any invoiced amounts that are subject to a good faith dispute. Recipient will pay the undisputed amount of the applicable invoice and will notify Service Provider of the reason for the dispute. The parties will meet within ten (10) days after such notice to resolve the dispute. If Recipient fails to make payment of any undisputed amount when due hereunder, then Service Provider will be entitled to charge Recipient interest on such late payments at an annual rate of ten percent (10%), but not in excess of the highest rate then permitted by law, for the period from the due date through the date that payment of such amount is received by Service Provider.

4. CONFIDENTIALITY

4.1 Confidential Information Defined. The parties acknowledge that, in the course of performing or receiving Services, each party may receive, observe, and otherwise have access to confidential and proprietary information of the other party or its Affiliates (in any form, whether written, oral, electronic, or otherwise) related to its or their respective business, financial condition, operations, products, materials, tools, technology, processes, pricing, business plans, clients, vendors, suppliers, and customers, in each case that is either marked or identified as confidential at the time of disclosure or that should reasonably be considered under the circumstances of its disclosure to be confidential to such party ("Confidential Information"). Without limiting the foregoing, Confidential Information includes all

accounting, financial, sales and marketing, inventory, technical, business, and other data related to a party's business. Notwithstanding the foregoing, Confidential Information does not include information of either party that: (i) is in the public domain, through no fault of the other party; (ii) was known to the other party prior to being disclosed by the first party; (iii) is disclosed to the other party by a third person who is entitled to so disclose the information; or (iv) is independently developed by the other party without reference to the first party's Confidential Information.

4.2 Confidentiality Obligations. Each party agrees that:

(a) if such party (or any of its Affiliates) is given access to any of the other party's Confidential Information, such party will limit (and as applicable, will cause its Affiliates to limit) such access solely for the purpose of performing or receiving Services hereunder;

(b) neither such party nor any of its Personnel will use, reproduce or exploit the other party's Confidential Information for any purpose other than performing or receiving Services hereunder;

(c) such party will, and will cause its Personnel and Affiliates to, hold all of such Confidential Information in strict confidence and will not, and will cause each of its Personnel and Affiliates not to, disclose or otherwise make available such Confidential Information to any third person (except as provided herein and except as required by applicable law, regulation or legal process, and only after compliance with paragraph (d) below);

(d) in the event that such party or its Personnel or Affiliates are requested or required by applicable law, regulation or legal process, to disclose any of the other party's Confidential Information, such party will, if legally permissible and to the extent practicable without prejudicing such party's legal rights, privileges or obligations, notify the other party promptly in writing so that the other party may seek, at its sole cost and expense, a protective order or other appropriate remedy or waive compliance with the terms of this Agreement.

5. PERSONNEL

5.1 Compensation and Benefits. All Service Provider Personnel providing Services under this Agreement will be deemed to be employees or representatives solely of Service Provider (or its Affiliates) for purposes of all compensation and employee benefits, and will not be considered employees or representatives of Recipient. Service Provider (or its Affiliates) will be solely responsible for payment of, and will pay (a) all income, disability, withholding and other employment taxes, and (b) all medical benefit premiums, vacation pay, sick pay and other fringe benefits, for any employees, agents or contractors of Service Provider who perform Services. Except for the assignment of routes to follow, the services to be provided and the addresses for which services are to be provided (which will be at the direction of Recipient), all Service Provider Personnel will be under the direction, control and supervision of Service Provider, and Service Provider will have the sole right to exercise all authority with respect to the employment, termination, assignment and compensation of such Service Provider Personnel.

6. WARRANTY DISCLAIMER; INDEMNIFICATION

6.1 Warranty Disclaimer. EXCEPT AS PROVIDED HEREIN, SERVICE PROVIDER DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO SERVICES PROVIDED UNDER THIS AGREEMENT. EXCEPT AS PROVIDED HEREIN, SERVICE PROVIDER MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE QUALITY, SUITABILITY OR ADEQUACY OF SERVICES FOR ANY PURPOSE OR USE.

6.2 Indemnification of Recipient. Service Provider will defend, hold harmless and indemnify each of Recipient and its Affiliates, officers, directors, employees and agents (each, a "Recipient Indemnitee") from and against, and will compensate and reimburse each of Recipient Indemnitees for, any liabilities, claims, costs and expenses, including reasonable attorney's fees, ("Damages") that are suffered or incurred by any of Recipient Indemnitees to the extent such Damages arise from or are incurred in connection with the negligence or willful misconduct of any Service Provider Personnel in the provision of Services or Service Provider's breach in any material respect of this Agreement.

6.3 Indemnification of Service Provider. Recipient will hold harmless and indemnify each of Service Provider and its Affiliates, officers, directors, employees and agents (each, a "Service Provider Indemnitee") from and against, and will compensate and reimburse each of Service Provider Indemnitees for, any Damages that are suffered or incurred by any of Service Provider Indemnitees to the extent such Damages arise from or are incurred in connection with, the negligence or willful misconduct of any Recipient Personnel in the use or receipt of Services or Recipient's breach in any material respect of this Agreement.

6.4 Limitations on Liability. Except for breaches of Section 4, or liability under Section 6.2 or 6.3 to the extent such liability is in connection with third party claims made against an indemnified party, (i) neither party shall be liable hereunder for any consequential, incidental, special, indirect, exemplary or punitive damages or damages for lost profits, lost revenue, lost data or loss of business, and (ii) the maximum liability of each party under this Agreement shall be \$10,000. The limitation in clause (ii) above will not apply to either party's obligations to make payments under Section 3. This Section 6.4 shall apply regardless of the form of the claim or cause of action (whether in contract, statute or tort, including negligence or otherwise).

7. TERM AND TERMINATION

7.1 Term. This Agreement and the Services to be provided hereunder will commence on the Start Date and will continue throughout the Start-Up Period (i.e., until December 31, 2007, unless earlier terminated as provided herein (the "Term")).

7.2 Termination for Breach. Each party will have the right to terminate this Agreement in its entirety by giving to the other party written notice of termination if (i) the other party fails to substantially comply with the material obligations imposed upon it under this Agreement resulting in direct damages to the other party, (ii) the non-breaching party serves the breaching party with a written notice of such failure, which notice states with reasonable particularity the nature of the failure, and (iii) the breaching party does not cure the failure within thirty (30) days following receipt of the notice (except that in the case of a material failure to pay amounts due hereunder the cure period will be fifteen (15) days following receipt of the notice).

8. GENERAL

8.1 Relationship of the Parties. Each party will be deemed to be an independent contractor and not an agent, joint venturer, or representative of the other party. Neither party may create any obligations or responsibilities on behalf of or in the name of the other party. Neither party will hold itself out to be a partner, employee, franchisee, representative, servant, or agent of the other party.

8.2 Governing Law; Venue. This Agreement shall be construed in accordance with, and governed in all respects by, the internal laws of the State of California (without giving effect to principles of conflicts of laws). Except as otherwise provided in this Agreement, any proceeding relating to this Agreement or the enforcement of any provision of this Agreement shall be brought or otherwise commenced in any state or federal court located in the County of Santa Clara, California, to the personal jurisdiction of which each party hereby consents.

8.3 Successors and Assigns; Parties in Interest. This Agreement shall be binding upon, and shall inure to the benefit of, each party and its permitted successors and assigns. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned or delegated by either of the parties hereto (whether voluntarily, involuntarily, by operation of law or otherwise) without the prior written consent of the other party, except that either party may assign this Agreement and assign or delegate, as the case may be, all of its rights, interests and obligations hereunder to a transferee that acquires such party or that acquires all or substantially all of the assets of such party, provided that the transferee provides the other party with an undertaking in writing to perform such party's obligations under this Agreement.

8.4 Third Party Beneficiaries. None of the provisions of this Agreement is intended to provide any rights or remedies to any person other than the parties to this Agreement and their respective Affiliates (where indicated) and permitted successors and assigns; provided, however, that the City shall be entitled to enforce either Service Provider's obligations to provide Services where necessary to assure Recipient's compliance with its obligations under the Collection Agreement, Recycling Agreement or MOU, as the case may be.

8.5 Waiver. No failure on the part of either party to exercise any power, right, privilege or remedy under this Agreement, and no delay on the part of either party in exercising any power, right, privilege, or remedy under this Agreement, will operate as a waiver of such power, right, privilege, or remedy; and no single or partial exercise of any such power, right, privilege, or remedy will preclude any other or further exercise thereof or of any other power, right, privilege, or remedy. Neither party will be deemed to have waived any claim arising out of this Agreement, or any power, right, privilege, or remedy under this Agreement, unless the waiver of such claim, power, right, privilege, or remedy is expressly set forth in a written instrument duly executed and delivered on behalf of such party; and any such waiver will not be applicable or have any effect except in the specific instance in which it is given.

8.6 Amendments. This Agreement may not be amended, modified, altered or supplemented other than by means of a written instrument duly executed and delivered on behalf of each party.

8.7 Severability. In the event that any provision of this Agreement, or the application of any such provision to any person or set of circumstances, shall be determined by a court of competent jurisdiction to be invalid, unlawful, void or unenforceable to any extent, the remainder of this Agreement, and the application of such provision to persons or circumstances other than those as to which it is determined to be invalid, unlawful, void or unenforceable, shall not be impaired or otherwise affected and shall continue to be valid and enforceable to the fullest extent permitted by law.

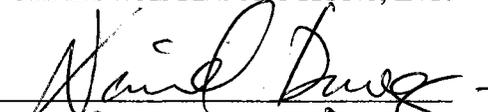
8.8 Entire Agreement. This Agreement sets forth the entire understanding of the parties relating to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings among or between any of the parties relating to the subject matter hereof.

The parties to this Agreement have caused this Agreement to be executed and delivered as of September 8, 2006.

GARDEN CITY SANITATION, INC.

By: 
Name: Louie Pellegrino
Title: President

CALIFORNIA WASTE SOLUTIONS, INC.

By: 
Name: DAVID DUONG
Title: President

SCHEDULE A

Services and Compensation

Truck with Driver 8 hours per day

Each party will make up to five (5) trucks available with a driver for up to eight (8) hours per day Monday through Friday at a rate of \$142 per hour, subject to an eight (8) hour minimum charge per day per truck. This will include fuel, driver, truck and overhead. This rate will apply for the first three (3) months during the Term.

Each party will make up to five (5) trucks available with a driver for up to twenty-four (24) hours per day on Saturday and Sunday, subject to an eight (8) hour minimum charge per day per truck. This will include fuel, driver, truck and overhead. The Saturday rate will be \$185.50 per hour for the first eight (8) hours, and \$200.00 per hour thereafter. The Sunday rate will be \$200.00 per hour for the first eight (8) hours, and \$215.00 per hour thereafter. These rates will apply for the first three (3) months during the Term.

Part time Manned Equipment, 2 hours per day.

Each party will make up to twenty (20) trucks available Monday through Friday only each with a driver for up to two (2) hours per day at a rate of \$ 160.00 per hour. These units will only be available after the driver and truck have completed their regularly-scheduled garbage or recycling route. This will include fuel, driver, truck and overhead. This rate will apply for the first three (3) months during the Term.

Part time Unmanned Equipment, 2 hours per day.

Each party will make up to ten (10) trucks with no driver available from 2pm till 6pm at a rate of \$90.00 per hour. This will require the operator to be trained on the equipment and Recipient will follow the above listed conditions. This rate will apply for the first three (3) months during the Term.

End of the 3 Month Crisis Period.

Service Provider shall charge the following "Emergency Rates" for the remaining three (3) months during the Term after the initial three-month period:

Truck with driver Monday through Friday- \$180 per hour

Truck with driver -Saturday or Sunday - \$215 per hour

Truck with no driver - \$90.00 per hour

General

Usage for any part of an hour shall constitute one (1) full hour.

EXHIBIT 16
TRASNSITION TIMELINE