

AMENDED AND RESTATED
FRANCHISE AGREEMENT

BETWEEN

THE TOWN OF PARADISE

AND

NORTHERN RECYCLING AND WASTE SERVICES, LLC
FOR

SOLID WASTE, RECYCLABLE MATERIALS, AND
ORGANICS COLLECTION, PROCESSING, AND
DISPOSAL SERVICES

* * * * *

XXX, 2024

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1 AMENDED AND RESTATED AGREEMENT
2 FOR

3
4 SOLID WASTE, RECYCLABLE MATERIALS, AND ORGANICS
5 COLLECTION, PROCESSING AND DISPOSAL SERVICES
6

7 This AMENDED AND RESTATED AGREEMENT ("Agreement") is made as of this XX day
8 of XX 2024, by and between the TOWN OF PARADISE, a municipal corporation, (hereinafter
9 referred to as the "Town") and Northern Recycling and Waste Services, LLC, a California
10 Limited Liability Company (hereinafter referred to as "Contractor").
11

12
13 RECITALS:
14

15 **Whereas;** the Legislature of the State of California, by enactment of Assembly Bill 939 of 1989
16 (Act) (California Public Resources Code Section 40000 et seq.), has declared that it is in the
17 public interest to authorize and require local agencies to make adequate provisions for Solid
18 Waste handling within their jurisdiction; and,
19

20 **Whereas;** the State of California has found and declared that the amount of Solid Waste
21 generated in California, coupled with diminishing Disposal capacity and interest in
22 minimizing potential environmental impacts from landfilling and the need to conserve
23 natural resources, have created an urgent need for State and local agencies to enact and
24 implement an aggressive integrated waste management program. The State has, through
25 enactment of AB 939 and subsequent related legislation including, but not limited to: the Jobs
26 and Recycling Act of 2011 (AB 341), the Event and Venue Recycling Act of 2004 (AB 2176), SB
27 1016 (Chapter 343, Statutes of 2008 [Wiggins, SB 1016]), the Mandatory Commercial Organics
28 Recycling Act of 2014 (AB 1826), and the Short-Lived Climate Pollutants Bill of 2016 (SB 1383),
29 directed the responsible State agency, and all local agencies, to promote a reduction in
30 Landfill Disposal and to maximize the use of feasible waste reduction, Reuse, Recycling, and
31 composting options in order to reduce the amount of material that must be Disposed; and,
32

33 **Whereas;** SB 1383 establishes regulatory requirements for jurisdictions, Generators, haulers,
34 Solid Waste facilities, and other entities to support achievement of State-wide Organic Waste
35 Disposal reduction targets and; and,
36

37 **Whereas;** SB 1383 Regulations require Jurisdiction to implement Collection programs, meet
38 Processing facility requirements, conduct contamination monitoring, provide education,
39 maintain records, submit reports, monitor compliance, conduct enforcement, and fulfill other
40 requirements; and, Jurisdiction has chosen to delegate some of its responsibilities to the
41 Contractor, acting as the Jurisdiction's designee, through this Agreement; and
42

43 **Whereas;** pursuant to California Public Resources Code Section 40059(a)(2), the Town has
44 determined that the public health, safety, and well-being require that a franchise agreement
45 be awarded to a qualified contractor for the Collection of Solid Waste, Recyclable Materials,

and Organics, and other services related to meeting the diversion goals, and other requirements of the California Act; and,

Whereas; the Town declares its intention of maintaining reasonable rates and quality service related to the Collection of Solid Waste, Recyclable Materials, and Organics, the transportation of such material to appropriate places of processing, Recycling, Composting, and/or Disposal, and the Processing of Recyclable Materials and Organics and other services; and,

Whereas; the Contractor has submitted a plan to provide Solid Waste, Recyclable Materials, and Organics programs at reasonable costs to the ratepayers of the Town and the Town has elected to enter into this Agreement based on the advantages of that plan; and,

Whereas; the Town desires to continue the Agreement with Contractor based on the strength of its plan to provide the desired services and the ability of those services to meet the Town's diversion goals and comply with the requirements of the Act; and,

Whereas; Contractor agrees to and acknowledges that it shall arrange for the proper Disposal of all Solid Waste collected in the Town's Service Area and the Town is not instructing Contractor how to Collect, transport, process and / or Dispose of Solid Waste, Recyclable Materials, and Organics; and,

Whereas; Town and Contractor desire to leave no doubts as to their respective roles, and that by entering into this Agreement, the Town is not thereby becoming a "generator" or "arranger" as those terms are used in CERCLA 107 (a)(3), and that it is Contractor, not the Town, which is "arranging for" the Collection of Solid Waste, Recyclable Materials, and Organics, the transportation of such material to appropriate places of processing, Recycling, Composting, and/or Disposal, and the Processing of Recyclable Materials and Organics; and,

Whereas; this Agreement has been developed by and is satisfactory to the parties.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions contained in this Agreement and for other good and valuable consideration, the parties agree as follows:

81 **ARTICLE 1**
82 **DEFINITIONS**
83

84 Unless the context otherwise requires, capitalized terms used in this Agreement will have the
85 meanings specified in Exhibit A to this Agreement, which is attached hereto and incorporated
86 by reference.
87

88 **ARTICLE 2**
89 **GRANT AND ACCEPTANCE OF AGREEMENT**
90

91 **2.01 Grant and Acceptance of Franchise.**

92 Subject to Sections 2.04 and 2.06, the Town hereby grants to Contractor the exclusive
93 right and privilege to Collect, transport, process and / or Dispose of Solid Waste,
94 Recyclable Materials, and Organics accumulating in Service Area that is required to be
95 accumulated and offered for Collection to Contractor in accordance with Paradise
96 Municipal Code Chapter 8.08 and this Agreement. Contractor hereby accepts the
97 terms and conditions set forth in this Agreement.
98

99 **2.02 Effective Date and Commencement Date.**

100 The Effective Date of this Agreement shall be XX, 2024.
101

102 The Commencement Date shall be July 1, 2024, and shall be the date on which the
103 Contractor initiates provision of the Franchised Services required by this Agreement.
104

105 Between the Effective Date and the Commencement Date, Contractor shall perform all
106 activities necessary to prepare itself to start services required by this Agreement on the
107 Commencement Date.
108

109 **2.03 Term.**

110 The term of this Agreement shall commence at midnight July 1, 2024, and shall end at
111 midnight July 1, 2040, unless terminated as provided in Section 11.02. In addition, the
112 term of this Agreement may be extended for an additional three (3) years subject to the
113 following conditions:

- 114 **A.** Contractor shall receive a favorable rating by more than 85% of respondents to a
115 customer satisfaction survey performed in the seventh and fourteenth year of this
116 Agreement.
117 **B.** The Town shall be in compliance with CalRecycle and not under any penalty.
118 **C.** Liquidated damages as provided in Section 11.03 through the ninth year of the term
119 of this Agreement shall not exceed \$30,000.
120
121
122

123 **2.04 Conditions to the Effectiveness of Agreement.**

124 The obligation of the Town to permit this Agreement to become effective and to
125 perform its undertakings provided for in this Agreement is subject to the satisfaction
126 of each and all of the conditions set out below, each of which may be waived in whole
127 or in part by the Town at its sole discretion.
128

129 **A. Accuracy of Representations.** Representations and warranties made by
130 Contractor throughout this Agreement are accurate, true and correct on and as of
131 the Effective Date of this Agreement. Any information submitted to the Town
132 supplementary thereto, on which the Town has relied in awarding this franchise to
133 Contractor and entering into this Agreement, does not contain any untrue
134 statement of a material fact nor omit to state a material fact necessary in order to
135 make the statements made, in light of the circumstances in which they were made,
136 nor is misleading.
137

138 **B. Absence of Litigation.** There is no litigation pending in any court challenging
139 the award of this Franchise to Contractor or the execution of this Agreement or
140 seeking to restrain or enjoin its performance.
141

142 **C. Furnishing of Insurance and Bonds.** Contractor has furnished evidence of the
143 insurance and performance bond required by Article 9.
144

145 **D. Effectiveness of Town Council Action.** The Town has the authority to enter
146 into and perform its obligations under this Agreement. The Town has taken all
147 actions required by law or otherwise to authorize the execution of this Agreement.
148 The Persons signing this Agreement on behalf of the Town have the authority to
149 do so. The Town's Resolution No 2024-_____ (Town) approving this
150 Agreement, adopted at the close of the public hearing after the required Prop 218
151 procedures, shall have become effective pursuant to California law on or before the
152 Effective Date.
153

154 In the event that any condition set forth in this Section 2.04 is not satisfied or
155 waived, by the Effective Date, by the Town, this Agreement shall be void and shall
156 have no further force or effect. The Town may waive the satisfaction of conditions
157 described in this Section 2.04, allow this Agreement to become effective, and
158 exercise its rights and remedies under this Agreement for Contractor's failure to
159 deliver the bond and/or evidence of insurance. Each party is obligated to perform
160 in good faith the actions, if any, which this Agreement requires it to perform before
161 the Effective Date and to cooperate towards the satisfaction of the conditions set
162 forth above.
163

164 **2.05 Scope of Franchise.**

165 Subject to Section 2.06, the Franchise granted to Contractor shall be exclusive for all
166 Solid Waste, Recyclable Materials, and Organics generated in the Service Area, except
167 where otherwise precluded by Federal, State and local laws and regulations or where

other current programs provide for Collection and handling of Household Hazardous Waste and/or electronic waste.

2.06 Limitations to Scope.

The Agreement for the Collection, transportation, processing, and /or Disposal of Solid Waste, Recyclable Materials, and Organics granted to Contractor shall be exclusive except as described in this Section 2.06. The award of this Agreement shall not preclude the categories of Solid Waste, Recyclable Materials and Organics listed below from being delivered to and/or Collected and transported by others. However, nothing in this Agreement is intended to or shall be construed to excuse any Person from obtaining any authorization from the Town which is otherwise required by law:

- A. Solid Waste, Recyclable Materials and Organics, which are removed from any Premises by the Waste Generator, and which are transported personally by the Owner or Occupant of such Premises or by his or her full-time employees or a contractor whose removal of the Solid Waste, Recyclable Materials and/or Organics are incidental to the service being performed;
- B. Collection and Processing of Recyclable Materials not specifically included in the definition of Recyclables in Exhibit A;
- C. Recyclable Materials and Organics which are Source Separated at any Premises by the Waste Generator and donated to youth, civic, or charitable organizations;
- D. Source Separated Recyclable Materials generated in the Service Area that are placed in Containers, collected through a private arrangement with the Generator and the Generator is compensated for the Recyclable Materials Collected; provided, however, that the Owner or Occupant of such Premises shall be required to subscribe to and pay for the basic level of service provided by Contractor. For the purposes of this Agreement, Source Separated loads are loads that consist of 90% or more by weight or volume (whichever is greater) of Source Separated Recyclable Materials or Organics. If Contractor can document that other recyclers are servicing Collection Containers that contain less than 90% Source Separated Recyclable Materials or Organics, it shall report the location and the name of the recycler to the Town along with Contractor's evidence of the violation of the exclusiveness of this Agreement;
- E. Containers delivered for Recycling under the California Beverage Container Recycling Litter Reduction Act, California Public Resources Code Section 14500, et. seq.;
- F. Organics removed from Premises by gardening, landscaping, or tree-trimming contractors as an incidental part of a total service offered by that contractor rather than as a hauling service;

- 213 G. Construction Debris and Demolition Debris which is removed from any
214 Premise by employees of the construction or demolition contractor, using
215 equipment owned and registered to the contractor. The services are provided to
216 the particular premises on a temporary basis, not on a regular or on-going basis.
217
- 218 H. Solid Waste generated by public schools and other State institutions located
219 within the Service Area;
220
- 221 I. Animal waste and remains from slaughterhouse or butcher shops for use as
222 tallow;
223
- 224 J. By-products of sewage treatment, including sludge, sludge ash, grit and
225 screenings;
226
- 227 K. Abandoned cars that are removed from any Premises by a licensed towing
228 Contractor authorized to do so by the Town; and,
229
- 230 L. Hazardous Waste, including Household Hazardous Waste (HHW), and
231 Designated Waste regardless of its source.
232
- 233 M. Material removed pursuant to a nuisance abatement or court order.
234
- 235 N. Clean up services including removal of MSW from residential or commercial
236 Premises where all of the following conditions are met:
237
- 238 1. The person who transports the MSW for Disposal or Processing is the person
239 who actually enters on the customer's premises and performs the clean-up
240 services, loads the MSW directly to the transportation vehicle, and removes
241 the MSW from the premises.
 - 242 2. The MSW is not stored in a debris box, roll-off box, a container designed to
243 be emptied by a Collection Vehicle, or a container provided by the person
244 performing the services.
 - 245 3. The services are provided to the particular premises on a temporary basis,
246 not on a regular or on-going basis.
247
- 248 O. Edible Food that is collected from a Generator by other Person(s), such as a
249 Person from a Food Recovery Organization or Food Recovery Service, for the
250 purposes of Food Recovery; or that is transported by the Generator to another
251 location(s), such as the location of the Food Recovery Organization, for the
252 purposes of Food Recovery, regardless of whether the Generator donates, sells, or
253 pays a fee to the other Person(s) to collect or receive the Edible Food from the
254 Generator.
255
- 256 P. Organic Waste that is composted or otherwise legally managed at the site where
257 it is generated or a Community Composting site.

258
259 Q. Any services not specifically identified in Section 2.05.
260

261 This grant to Contractor of an exclusive right and privilege to Collect, transport,
262 process and / or Dispose of Solid Waste, Recyclable Materials, and Organics shall
263 be interpreted to be consistent with State and Federal laws, now and during the
264 term of the Agreement, and the scope of this exclusive right shall be limited by
265 applicable state and federal laws with regard to the matters contained in this
266 Agreement. In the event that future court interpretations of current law or new
267 laws, regulations, interpretations or trends limit the ability of the Town to lawfully
268 provide for the scope of services as specifically set forth in this Agreement,
269 Contractor agrees that the scope of the Agreement shall be limited to those services
270 and materials which may be lawfully provided and that the Town shall not be
271 responsible for any lost profits or losses claimed by Contractor to arise out of
272 limitations of the scope of the Agreement. In such an event, it shall be the
273 responsibility of Contractor to minimize the financial impact to other services being
274 provided as much as possible.
275

276 **2.07 Additional Services and Modifications to Service**
277

278 A. **General.** The Town shall have the right to direct Contractor to perform
279 additional services (including new diversion programs, billing services, etc.) or to
280 modify the manner in which it performs existing services, including directing the
281 Contractor in the end use of Organics. Pilot programs and innovative services
282 which may entail adding additional Recyclable Materials to existing programs,
283 new Collection methods, targeted routing, different kinds of services and/or new
284 requirements for Waste Generators are included among the kinds of changes which
285 the Town may direct. Contractor shall be entitled to an adjustment in its
286 compensation in accordance with Article 6 for providing such additional or
287 modified services.
288

289 The Town may adopt an ordinance for Construction and Demolition Debris
290 Diversion during the term of this Agreement. It is expected the ordinances will
291 mandate a 50% Diversion Goal based upon the material being taken to a Certified
292 Processing Facility through a contract with the Generator.
293

294
295 B. **New Diversion Programs.** Contractor shall present, within 30 days of a request
296 to do so by the Town, a proposal to provide additional or expanded diversion
297 services. At a minimum, the proposal shall contain a complete description of the
298 following:
299

- 300 1. Collection methodology to be employed (equipment, manpower, etc.).
- 301
- 302 2. Equipment to be utilized (number and types of vehicles, capacity, age, etc.).

- 303
- 304 3. Labor requirements (number of employees by job classification).
- 305
- 306 4. Type of materials containers to be utilized.
- 307
- 308 5. Provision for program publicity/education/marketing.
- 309
- 310 6. Estimate of the tonnage to be diverted and the methodology for determining
- 311 that diverted tonnage.
- 312
- 313 7. Five-year projection of the financial results of the program's operations in a
- 314 balance sheet and operating statement format including documentation of
- 315 the key assumptions underlying the projections and the support for those
- 316 assumptions, giving full effect to the savings or costs to existing services.
- 317

318 **C. Town's Right to Permit Others to Provide Services.** Contractor acknowledges

319 and agrees that the Town shall have the right to permit other Persons besides

320 Contractor to provide additional Solid Waste services not otherwise contemplated

321 under Section 2.05 and 2.06 of this Agreement if Contractor and the Town cannot

322 agree on terms and conditions of such services in one hundred twenty (120) days

323 from the date when the Town first request a proposal from Contractor to perform

324 such services.

325

326 **2.08 Town's Right to Direct/ Ownership of Solid Waste.**

327 Once Solid Waste, Recyclable Materials and/or Organics is placed in Containers and

328 properly placed at the Collection location, ownership and the right to possession shall

329 transfer directly from the Waste Generator to Contractor by operation of this

330 Agreement. Contractor is hereby granted the right to retain, recycle, process, Dispose

331 of, and otherwise use such Solid Waste, Recyclable Materials or Organics, or any part

332 thereof, in any lawful fashion or for any lawful purpose desired by Contractor. This

333 right shall be subject to: 1) Contractor's obligation to meet both the Town's and AB

334 939's diversion goals; and, 2) the Town's right to direct Contractor to process Solid

335 Waste, Recyclable Materials or Organics at a particular licensed Facility or to Dispose

336 of Solid Waste, Recyclable Materials or Organics at a particular licensed Disposal Site,

337 if and only if the Town exercises such right by providing specific written direction to

338 Contractor. Subject to Article 6 and the other provisions of this Agreement, Contractor

339 shall have the right to retain any benefit resulting from its right to retain, recycle,

340 process, dispose of, or reuse the Solid Waste, Recyclable Materials or Organics, which

341 it Collects. Solid Waste, Recyclable Materials or Organics, or any part thereof, which

342 is disposed of at a Disposal Site, Transfer Station, Material Recovery Facility or other

343 Facilities shall become the property of the owner or operator of the Disposal Site(s)

344 once deposited at Facilities by Contractor. The Town may obtain ownership or

345 possession of Solid Waste, Recyclable Materials or Organics placed for Collection upon

346 written notice of its intent to do so; provided, however, nothing in this Agreement

347 shall be construed as giving rise to any inference that the Town has such ownership or
348 possession unless such written notice has been given to Contractor.
349

ARTICLE 3
FRANCHISE AND OTHER FEES

3.01 Franchise Fee Amount.

In consideration of the exclusive Franchise provided in Section 2.05 of this Agreement, Contractor shall pay to the Town the Franchise Fee in accordance with the schedule on Exhibit D. Payment shall be calculated as a percentage (%) of Gross Revenues Collected (or another amount as provided in Section 3.05) by the Contractor from services provided in the Service Area.

3.02 Intentionally Blank.

3.03 Other Fees.

The Town shall have the right to set Other Fees, as it deems necessary. Any such fees shall be reflected in the rates that Contractor is allowed to charge and collect from service recipients. The time and method of payment shall be set similar to Section 3.04 below.

3.04 Time and Method of Payment.

On or before the twentieth (20th) day after the end of each calendar quarter during the Term of this Agreement, Contractor shall remit to the Town the Franchise Fees, Vehicle Impact Fee, and Other Fees amount. Each quarterly remittance to the Town shall be accompanied by a statement detailing the basis for the Franchise Fee, Vehicle Impact Fee, and Other Fees calculation. If the Fees are not paid on or before the twentieth (20th) day after any calendar quarter, Contractor shall pay to the Town a late payment penalty in an amount equal to two percent (2%) of the amount owing for that quarter. Contractor shall pay an additional two percent (2%) owing on any unpaid balance for each following thirty (30) day period the fee remains unpaid. The late payment penalty amounts are not intended as interest on debt, but rather are intended as a predetermined penalty for failure to meet an obligation under this Agreement.

3.05 Adjustment to Fees.

The Town may adjust the amount of any fee annually. Such adjustment shall be reflected in the rates that Contractor is allowed to charge and Collect from service recipients.

ARTICLE 4
DIRECT SERVICES

4.01 General.

The work to be done by Contractor pursuant to this Agreement shall include, but not be limited to, the furnishing of all labor, supervision, equipment, materials, supplies, and all other items necessary to perform the services required. The enumeration of, and specification of requirements for, particular items of labor or equipment shall not relieve Contractor of the duty to furnish all others, as may be required, whether or not enumerated elsewhere in the Agreement.

The work to be done by Contractor pursuant to this Agreement shall be accomplished in a thorough and professional manner so that the residents and businesses within the Service Area are provided reliable, courteous and high-quality service at all times. The enumeration of, and specification of requirements for, particular aspects of service quality shall not relieve Contractor of the duty of accomplishing all other aspects in the manner provided in this Article, whether or not such other aspects are enumerated elsewhere in the Agreement .

4.02 Solid Waste Collection.

A. Single-Family Dwellings Collection. For single-family dwelling service, Contractor shall Collect Solid Waste from the Contractor-provided Containers placed for Collection by the Waste Generator at the Curbside or in an approved other location, not less than once per week. Standard Collection service shall be once per week Curbside Collection unless another method is approved by the Town.

B. Commercial, Industrial, Institutional and Multi-Family Residential Complex Collection. For commercial, industrial, institutional and multi-family residential complex services, Contractor shall Collect Solid Waste from Contractor-provided Containers not less than once per week. Special consideration shall be given when determining the pick up area for Commercial, Industrial, Institutional, and/or Multi-Family Residential Complex accounts to ensure that the flow of traffic is not impeded and that it does not result in an aesthetic degradation of an area. The designated pick-up area, if disputed by service recipient or Contractor, shall be determined by the Town. Additionally, if in the Town's opinion the location of an existing pick up area is inappropriate, the Town may require the service recipient or Contractor to relocate the pick up area.

C. Town Facilities' Collection. Contractor shall Collect, transport and Dispose of all Solid Waste generated at public facilities according to the specified service levels identified in Exhibit B. Contractor shall make Collections from Containers Monday through Friday or on Saturdays following non-working holidays. Collections from

bins and debris boxes shall be scheduled at a time mutually agreed upon by Contractor and the Town.

At no cost to Town, Contractor shall provide to the Town, at Town's direction, additional Collections services to the Town entailing:

1. Collection of Solid Waste and Recyclable Materials from all public sidewalk litter or Recycling Containers;
2. Collection of Solid Waste, Recyclable Materials and Organics from Town's facilities and parks;
3. Collection of materials from Town related debris boxes as directed by the Town except for related disposal fees;
4. Collection of Solid Waste, Recyclable Materials and Organics at a maximum of four (4) annual Special Events (Johnny Appleseed Days, Gold Nugget Days, Chocolate Festival and one to be determined) designated by the Town; and,
5. Review of plans for land use or property developments with regard to Solid Waste service issues.

D. Permanent Containers/Debris Box Service. Contractor shall provide permanent /debris box Containers for the purpose of Collection of Solid Waste. Contractor shall deliver to and Collect debris boxes from the location identified by the service recipient. Containers shall be free of graffiti and in good repair. Containers shall be clearly marked and identifiable as belonging to Contractor. Special consideration shall be given when determining the pick up area for temporary Containers to ensure that the flow of traffic is not impeded and that it does not result in aesthetic degradation of an area. The designated pick up area, if disputed by service recipient or Contractor, shall be determined by the Town. Additionally, if in the Town's opinion the location of an existing pick up area is inappropriate, the Town may require the service recipient or Contractor to relocate the pick up area.

4.03 Recyclable Materials Collection.

A. Commercial and Residential Recyclable Materials Collection. Contractor shall Collect and remove all Recyclable Materials placed in Recycling Containers at the designated Collection locations for Waste Generators at Single Family Dwellings, Commercial, and Multi-Family Residential Complex. It is understood that all Single-Family Residential Dwelling's Recyclable Materials Collection

service shall be provided at Curbside. Contractor shall work with Commercial and Residential service recipients to determine mutually acceptable Collection locations to both parties in the event inaccessibility to collection service vehicles exist.

Recyclable Materials Collection from Residential Waste Generators within the Service Area shall be weekly or bi-weekly, as determined by the Town and mutually agreed upon with an effective date by Contractor. Residential Recyclable Materials Collection shall be on the same day of the week as Solid Waste Collection service. The Collection day may change if prior written approval is received from the Town. Contractor shall notify Recycling service recipients, as is done for regular service, regarding holiday Collection schedules. At a minimum, Contractor shall collect: aluminum cans, glass bottles and jars, metal cans and narrow neck plastic containers (plastic 1 & 7), and newspaper, mixed paper (including but not limited to magazines, junk mail, brown paper bags, and white and colored paper), and corrugated cardboard. The Town reserves the right per Section 2.07 to direct Contractor to add to the list of materials to be collected and described above and to perform additional Residential Recycling services.

- B. Commercial Recyclable Materials Collection.** Contractor shall Collect Recyclable Materials from Commercial Premises as scheduled by Customer in a Contractor-provided Container at no additional cost in accordance with Public Resources Code Chapter 12.9 commencing with 42649.8 and Chapter 12.8 commencing with Section 42649. Contractor shall actively and regularly promote this program to ensure that all potential service recipients are aware of this service and shall offer reasonable assistance to help such potential service recipients participate. Collection shall be performed at a time mutually agreed upon by Contractor and the Waste Generator or Owner of the property. The Town reserves the right per Section 2.07 to direct Contractor to add to the list of materials to be collected as part of this program.

4.04 Organics SB1383 Program.

- A. Organics Collection.** Contractor shall Collect Organics from Residential and Commercial Waste Generators within the Town's Service Area weekly as determined by the Town in Exhibit H and mutually agreed upon with an effective date by both the Town and Contractor. Organics Collection shall be on the same day as the Collection of Solid Waste. The Collection day may change if prior written approval is received from the Town. Contractor will notify service recipients at least two (2) weeks in advance of any scheduled Organics and Recycling Collection day change(s), including those required due to route changes and holidays such as Labor Day, Thanksgiving, Christmas, and New Year's Day.

All Organics must fit safely within a standard Organics Container provided by Contractor. As part of its educational activities specified in Section 5.04, Contractor

shall instruct residents as to any necessary preparation of Organics, such as the cutting of large items, and the appropriate use and placement of Organics Containers.

- B. End Uses for Organics.** Contractor agrees to develop, implement, operate, and participate (locally and regionally) in mulching, composting, land application, alternative daily cover, or other programs necessary to achieve the Town's Organics diversion requirements. In accordance with Section 2.07.A, the Town reserves the right to direct Contractor in the end use of Organics.

Contractor shall provide end uses for Organics that maximize diversion credits according to regulations established by CalRecycle. Also, Contractor shall make end products (compost or mulch) available to Town residents at a cost to residents to be determined by the Town and the cost of providing these products shall be an allowable operating expense. In addition to these uses of Organics, Contractor agrees to be aggressive in the pursuit of new cost-effective opportunities to divert Organics from Disposal and to maximize the distribution of Organics among approved diversion methods.

4.05 Materials Processing Operations.

- A. Construction/Demolition Debris Diversion Program.** Contractor shall identify and direct loads of Construction Debris and/or Demolition Debris and other selected debris box Containers containing recoverable materials to a Construction/Demolition Debris processing operation. The Construction Debris / Demolition Debris processing operation Contractor has designated shall be the C & D Facility owned by Northern Recycling in Yolo or Napa Counties, or as directed by Town. In accordance with Section 2.08, the Town reserves the right to direct Contractor to process Solid Waste, Recyclable Materials and/or Organics at a particular licensed Facility. Contractor agrees to process such loads for purposes of recovering Recyclable Materials. Contractor shall also provide the Town with an accounting of the total tons processed and recovered as part of its Construction/Demolition Debris processing operation as part of its annual reporting requirements. Any and all compensation due the Contractor for this service is provided for in the Solid Waste Collection Rate Schedule (Exhibit F).

- B. Material Recovery Facility Processing Capacity.** Contractor shall identify and direct targeted loads of Solid Waste and Recyclable Materials from within the Service Area to a Material Recovery Facility processing operation. The Material Recovery Facility Contractor has designated shall be the City of Napa MDF owned by the city of Napa. In accordance with Section 2.08, the Town reserves the right to direct Contractor to process Solid Waste, Recyclable Materials and/or Organics at a particular licensed Facility. Contractor agrees to process such loads for purposes of recovering Recyclable Materials. Contractor shall also provide the Town with an accounting of the total tons processed and recovered as part of its Material

Recovery Facility processing operation as part of its annual reporting requirements. Any and all compensation due the Contractor for this service is provided for in the Solid Waste Collection Rate Schedule (Exhibit F).

4.06 Collection Locations.

It is understood that all Solid Waste, Recyclable Materials and Organics Collection services shall be provided at Curbside, with the following exceptions:

- A.** On-property collection of Solid Waste, Residential Recyclable Materials, and Organics shall be provided by Contractor to residents who are physically unable to place the cart Curbside. Resident shall present to Contractor a medical waiver from a physician. Such medical waiver shall be updated annually and the Contractor will send a notice to the customer reminding them to get a new waiver. Information about this option shall be provided by the Contractor upon request. Contractor will notify all residents annually, beginning within thirty (30) days of effectiveness of this Agreement, of this Collection option and submit, for approval, a draft notification to the Town prior to distribution to service recipients. New service recipients shall be notified of this option upon requesting service.
- B.** Residents of Multi-Family Residential Complexes of two (2) to four (4) units will use the same Collection Containers as residents of Single Family Dwellings. Contractor shall Collect these Containers at Curbside. Residents of Multi-Family Residential Complexes of five (5) or more units may also use the same Containers as residents of Single Family Dwellings or may be provided with larger Containers such as bins, which shall be Collected in a central location reasonably accessible by Collection vehicles.

4.07 Failure to Collect.

- A. Solid Waste.** When Solid Waste is not Collected by Contractor from any service recipient, Contractor shall notify its service recipient in writing, at the time Collection is not made, through the use of a "tag" or otherwise, of the reasons why the Collection was not made.
- B. Recyclable Materials or Organics.** Contractor may choose not to Collect Recyclable Materials or Organics that contain ten percent (10%) by volume or greater of Solid Waste, subject to Contractor's best efforts to educate the public. Upon identification of Prohibited Container Contaminants in a Customer's Container Contractor shall place a written notice on each contaminated container or gate or door of the Premises; and send Customers a letter stating date and nature of Contamination and shall include a copy of the picture(s). The notice and letter shall be pre-approved by the Town. Notices and letters shall also include actions that may be taken by Customers to correct the identified problem and a telephone number to contact to arrange for Collection. Contractor shall Collect within twenty-

four (24) hours, once the reason or reasons for initial non-Collection are cured. Contractor shall provide a quarterly list of accounts receiving a Contamination notice to the Town for follow-up. Contractor shall charge for three or more Contamination incidents after Customer receives two written warnings for Contamination within one calendar year at a Contamination Processing Fee established by the Town.

4.08 Marketing of Recyclable Materials and Organics.

Contractor shall be responsible for delivering Recyclable Materials and Organics Collected pursuant to this Agreement to the Facilities for processing, marketing, sale, donation, or reuse of all such materials.

Contractor shall prepare, submit to the Town for approval, and maintain a marketing plan for all Recyclable Materials and Organics Collected by Contractor under this Agreement. The approved marketing plan for Recyclable Materials and Organics service shall be in place with the execution of this Agreement and at the time of beginning any expanded service. The marketing plan shall fully describe Contractor's marketing methods and approach, targeted primary and contingent markets, pricing policy, and assumed salvage value or cost for each Collected type of Recyclable Materials and Organics.

4.09 Cleanups

A. Annual Cleanups. The Town elects to have Contractor provide two non-MSW community-wide pre-scheduled cleanups per year during periods mutually established by Contractor and the Town.

B. Household Hazardous Waste, E-Waste, Oil, Universal Waste and Paint Collection. Contractor shall provide a Household Hazardous Waste facility within the Town to serve special events or set schedule once subscriptions reach Pre-November 2018 levels. Such a facility shall serve as a drop off site for E-Waste and Universal Waste and a Recycle center. The facility operating hours may be limited subject to the prior approval of the Town.

4.10 Operations.

A. Schedules. Except as provided in Paradise Municipal Code Section 9.18.250, residential Solid Waste, Residential Recyclable Materials and Organics shall be collected on weekdays between 6:00 AM and 6:00 PM. To preserve peace and quiet, no Solid Waste, Recyclable Materials, or Organics shall be Collected from or within two hundred (200) feet of Residential Premises between 6:00 P.M. and 6:00 A.M. on any day. Collection of Solid Waste and Recyclables from Commercial, industrial and institutional properties shall be scheduled subject to the prior approval of the Town.

Contractor shall review its operations plan outlining the Collection routes, intervals of Collection and Collection times for all materials Collected under this Agreement with the Town or its representatives at least annually. The Town may require more frequent reviews if Contractor's operations are not satisfactorily performed based on documented observations or reports or Complaints. If the plan is determined to be inadequate by the Town, Contractor shall revise the plan incorporating any changes into a revised plan and review the revised plan with the Town within thirty (30) calendar days.

When notified of a missed pick-up, Contractor shall Collect the Solid Waste, Recyclable Materials or Organics on the same day, if possible, but in no case more than one (1) working day (24 hours) after receipt of notice.

B. Vehicles.

1. Specifications. All vehicles used by Contractor in providing Solid Waste, Recyclable Materials and Organics Collection services shall be registered with the California Department of Motor Vehicles. All such vehicles shall have bodies designed to prevent leakage, spillage and/or overflow.

2. Vehicle Identification. Contractor's name, local telephone number, and a unique vehicle identification number designed by Contractor for each vehicle shall be prominently displayed on all vehicles, in letters and numbers no less than two and one-half (2 1/2) inches high. Contractor shall not place Town's name or Town's logo on Contractor vehicles. Vehicles used solely for the Collection of Recyclable Materials and Organics shall be labeled to indicate those are the Collected materials.

3. Cleaning and Maintenance.

a. Contractor shall maintain all of its properties, vehicles, facilities, and equipment used in providing service under this Agreement in a good, safe, neat, clean and operable condition at all times.

b. Vehicles used in the Collection of Solid Waste, Recyclable Materials and Organics shall be painted, thoroughly washed, and thoroughly steam cleaned on a regular basis so as to present a clean appearance. The Town may inspect vehicles at any time to determine compliance with this Agreement. Contractor shall also make vehicles available to the Butte County Environmental Health Department for inspection, at any frequency it requests.

c. Contractor shall repaint or refurbish to the reasonable satisfaction of the Town all vehicles used in the Collection of Solid Waste, Recyclable

Materials and Organics within thirty (30) days' notice from the Town, if the Town determines that their appearance warrants painting.

- d. Contractor shall inspect each vehicle daily to ensure that all equipment is operating properly. Vehicles that are not operating properly shall be removed from service and repaired. Contractor shall perform all scheduled maintenance functions in accordance with the manufacturer's specifications and schedule. Contractor shall keep accurate records of all vehicle maintenance, recorded according to date and mileage and shall make such records available to the Town upon request.
- e. Contractor shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition. Contractor shall maintain accurate records of repair, which shall include the date and mileage, nature of repair and the verification by signature of a maintenance supervisor that the repair has been properly performed.
- f. Contractor shall furnish sufficient equipment to provide all service required under this Agreement, including back-up Collection vehicles. Contractor shall furnish within thirty (30) days of request to the Town, a written inventory of all equipment, including Collection vehicles, used in providing service, and shall update the inventory annually. The inventory shall list all equipment by manufacturer, ID number, and date of acquisition, type, and capacity.
- g. Contractor shall arrange to store all vehicles and other equipment in safe and secure location(s) in accordance with all applicable zoning regulations.

4. **Operation.** Vehicles shall be operated in compliance with Federal, State and local laws and regulations, including but not limited to the California Vehicle Code, and all applicable safety laws and local ordinances. Contractor shall not load vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local weight restrictions on vehicles.

Contractor equipment used for Solid Waste, Recyclable Materials, and Organics services shall comply with the Town's ordinances or US EPA noise emission regulations, currently codified at 40 CFR Part 205 and other applicable noise control regulations, and shall incorporate noise control features throughout the entire vehicle. Noise and pollution emission levels of equipment used for Collection shall comply with the Town's ordinance.

745
746 **4.11 Containers.**

- 747
748 **A. Single Family Dwelling Solid Waste Containers.** At no additional cost,
749 Contractor shall offer wheeled carts to all Single Family Dwelling service recipients
750 in sizes compatible with the Town's variable can rate (35-, 65-, 95-gallons, or as
751 other sizes approved by Town.).

752
753 All Contractor-provided wheeled carts shall be constructed of heavy gauge plastic
754 with wheels and attached lids in sizes of 35-, 65-, and 95-gallons, or other sizes
755 approved by the Town. Contractor shall maintain all Contractor-provided
756 Containers in good repair.

- 757
758 **B. Commercial, Industrial, Institutional and Multi-Family Residential Complex**
759 **Solid Waste Containers.** Contractor shall offer wheeled 35-, 65-, and 95-gallon carts
760 (or other sizes approved by the Town) to all Commercial, Industrial and
761 Institutional Service Recipients and Multi-Family Residential Complex service
762 recipients receiving service of less than (1) cubic yard per week.

763
764 Contractor shall furnish Commercial, Industrial and Institutional Service
765 Recipients and Multi-Family Residential Complex service recipients receiving one
766 (1) cubic yard service or more with appropriate Containers to Collect Solid Waste
767 upon service recipient request. Containers with a capacity of one cubic yard or
768 more shall be available in standard sizes. The kind, size and number of Containers
769 furnished to particular service recipients shall be as determined mutually by the
770 service recipient and Contractor. All Containers with a capacity of one cubic yard
771 or more shall meet applicable regulations for Solid Waste bin safety and shall have
772 reflectorized markings. All Containers shall be maintained in good repair with
773 neatly and uniformly painted surfaces and shall prominently display the name and
774 telephone number of Contractor and the types of material accepted.

- 775
776 **C. Residential Recyclable Materials and Organics Containers.** Residential
777 service recipients shall place their Recyclable Materials in the Contractor-provided
778 Recycling Containers for collection by Contractor. Extra Containers shall be
779 provided to service recipients upon request.

780
781 Residents shall place their Organics in Contractor-provided 95- gallon Containers
782 for Collection by Contractor. Residence may request additional Containers with
783 additional fee per approved Collection Rates.

- 784
785 **D. Commercial Recyclable Materials and Organics Containers.** Contractor shall
786 furnish Commercial, Industrial and Institutional service recipients Containers for
787 the Collection of Recyclable Materials and Organics of a size appropriate to the
788 particular service recipient's needs and availability of space. Multiple sizes shall
789 be made available by Contractor.

790
791 **E. Delivery.** Appropriate Containers of a size requested by the service recipient as
792 described in this Section 4.11 shall be delivered to new service recipients, upon
793 request, within five (5) business days of the service recipient's request for service.
794 Contractor shall notify the Town if it fails to deliver Containers within five (5)
795 business days.
796

797 **F. Container Replacement.** The Town and Contractor acknowledge that from
798 time to time Contractor-provided Containers may be stolen or damaged. When
799 notified of such occurrence, Contractor shall replace the stolen or damaged
800 Container(s), at no charge to the service recipient, not more than one (1) time within
801 any twelve (12) month period. If the service recipient requests more than one (1)
802 replacement set of Containers per twelve (12) month period, the Contractor shall
803 make Containers available for purchase by the service recipient at a price not to
804 exceed the cost to Contractor of purchasing the Containers.
805

806 **4.12 Litter Abatement.**

807

808 **A. Minimization of Spills.** Contractor shall use due care to prevent Solid Waste
809 fluids from leaking being spilled and/or scattered during the Collection or
810 transportation process. If any material or fluids leak or are spilled during
811 Collection, Contractor shall promptly clean up all such materials. Each Collection
812 vehicle shall carry absorbent material, a broom and shovel at all times for this
813 purpose.
814

815 Contractor shall not transfer loads from one vehicle to another on any public street,
816 unless it is necessary to do so because of mechanical failure, accidental damage to
817 a vehicle, or a pre-approved method of Solid Waste transfer between vehicles,
818 without prior written approval by the Town.
819

820 **B. Clean Up.** During the Collection or transportation process, Contractor shall
821 clean up litter in the immediate vicinity of any storage area (including the areas
822 where Collection bins and debris boxes are delivered for Collection) whether or not
823 Contractor has caused the litter. Contractor shall discuss instances of repeated
824 spillage not caused by it directly with the Waste Generator responsible and will
825 report such instances to the Town. The Town will attempt to rectify such situations
826 with the Waste Generator if Contractor has already attempted to do so without
827 success.
828

829 **C. Covering of Loads.** Contractor shall properly cover all open debris boxes
830 during transport to the Disposal or Processing Site.
831

4.13 Personnel.

Contractor shall furnish such qualified drivers, mechanical, supervisory, clerical, management and other personnel as may be necessary to provide the services required by this Agreement in a satisfactory, safe, economical and efficient manner in accordance with all applicable Federal, State and local laws and regulations. If additional personnel are required to meet the service standards of this Agreement, Contractor shall provide such additional personnel if approved in advance by the Town. All drivers shall be trained and qualified in the operation of vehicles they operate and must possess a valid license, of the appropriate class, issued by the California Department of Motor Vehicles and participate in periodic driver safety trainings.

Contractor also agrees to establish and vigorously enforce an educational program which will train Contractor's employees in the identification of Hazardous Waste. Contractor's employees shall not knowingly place such Hazardous Waste in the Collection vehicles, nor knowingly dispose of such Hazardous Wastes at the Processing Facility or Disposal Site.

Contractor shall train its employees in courtesy, shall prohibit the use of loud or profane language, and shall instruct Collection crews to perform the work quietly. Contractor shall use its best efforts to assure that all employees present a neat appearance and conduct themselves in a courteous manner. If any employee is found to be discourteous or not to be performing services in the manner required by this Agreement, Contractor shall take all necessary corrective measures including, but not limited to, transfer, discipline or termination. If the Town has notified Contractor of a Complaint related to discourteous or improper behavior, Contractor will consider reassigning the employee to duties not entailing contact with the public while Contractor is pursuing its investigation and corrective action process. Contractor shall provide suitable operations, health and safety training for all of its employees who use or operate equipment or who are otherwise directly involved in Collection or other related operations.

Applicants, for employment with Contractor, shall be subject to the following criteria:

- a. Applicants shall be fit for duty
- b. Applicants shall pass Contractor's drug tests
- c. Applicant's driving records obtained from DMV shall meet Contractor's requirements (drivers).

Contractor shall also provide comparable salary and benefits to such employees with pre-existing medical conditions.

4.14 Identification Required.

Contractor shall provide its employees and subcontractors with identification for all individuals who may make personal contact with residents or businesses in the Service Area. The Town may require Contractor to notify service recipients yearly of the form of said identification. Contractor shall provide a list of current employees, and subcontractors to the Town upon request.

4.15 Fees and Gratuities.

Contractor shall not, nor shall it permit any agent, employee, or subcontractors employed by it, to request, solicit, demand, or accept, either directly or indirectly, any compensation or gratuity for services or the Collection, transportation, Recycling, Processing, and /or Disposal of Solid Waste, Recyclable Materials and Organics, otherwise required under this Agreement.

4.16 Non-Discrimination.

Contractor shall not discriminate in the provision of service or the employment of Persons engaged in performance of this Agreement on account of race, color, religion, sex, age, sexual orientation, physical or mental disability or medical condition in violation of any applicable Federal or State law.

4.17 Change in Collection Schedule.

Contractor shall notify the Town thirty (30) days prior to, and Residential service recipients not later than fourteen (14) days prior to, any change in Residential Collection operations which results in a change in the day on which Solid Waste, Recyclable Materials, and Organics Collection occurs. Contractor shall not permit any service recipient to go more than seven (7) days without service in connection with a Collection schedule change.

4.18 Report of Accumulation of Solid Waste; Unauthorized Dumping.

Contractor shall direct its drivers to note (1) the addresses of any service recipients at which they observe that Solid Waste is accumulating and is not being delivered for Collection; and (2) the address, or other location description, at which Solid Waste has been dumped in an apparently unauthorized manner. Contractor shall deliver the address or description to the Town within five (5) working days of such observation.

4.19 Contingency Plan.

Contractor shall submit to the Town on or before the Effective Date of the Agreement, a written contingency plan demonstrating Contractor's arrangements to provide vehicles and personnel and to maintain uninterrupted service during breakdowns, and in case of natural disaster or other emergency, including the events described in Section 11.04.

4.20 Collection Routes.

Routes over which Contractor's vehicles travel to effect the Collection and transport of Solid Waste, Recyclable Materials and Organics shall be selected to minimize damage to Service Area and private streets, inconvenience and disturbance to the public and shall be subject to the approval of the Town. Contractor shall use due care to obey all traffic laws and prevent materials being transported from being spilled or scattered during transport. If any materials are spilled within the Service Area, Contractor shall immediately clean up all spilled materials, whether on private or public property.

4.21 Transportation of Solid Waste.

Contractor shall transport and deliver all Solid Waste to the Neal Road Landfill.

4.22 Transportation of Recyclable Materials and Organics.

Contractor shall Collect, transport and deliver (or arrange for the transportation and delivery of) all Recyclable Materials and Organics to a purchaser, a licensed Material Recovery Facility, licensed Processing Facility, or a Person who will use the materials in a process or product and will not dispose of them in a landfill. The Processing Facility Contractor has designated shall be the City of Napa MDF in Napa Ca, owned by the City of Napa or Northern Recycling Organics and C&D processing at Yolo County facility. In accordance with Section 2.08, the Town reserves the right to direct the Contractor to process Recyclable Materials and/or Organics at a particular licensed Facility.

4.23 Processing of Solid Waste.

The Town, upon prior written notice to Contractor, reserves the right, prior to Disposal, to direct portions of the Solid Waste stream Collected under this Agreement to a Material Recovery Facility or Processing Facility for separation, reuse, and Recycling of any Recyclable Materials or Organics contained therein. The Contractor agrees to assist the Town by identifying loads suitable for processing in the Material Recovery Facility. The Material Recovery Facility Contractor has designated shall be the City of Napa MDF owned by the City of Napa or Northern Recycling Organics and C&D processing at Yolo County facility. In accordance with Section 2.08, the Town reserves the right to direct the Contractor to process Solid Waste, Recyclable Materials and/or Organics at a particular licensed Facility.

4.24 Disposition of Solid Waste.

Contractor shall Dispose of all Solid Waste, Collected under this Agreement, at the designated Disposal Site. The Disposal Site Contractor as designated shall be the Neal Road Landfill owned by Butte County. In accordance with Section 2.08 the Town reserves the right to direct Contractor to Dispose Solid Waste at another particular licensed Disposal Site.

4.25 Service Exceptions; Hazardous Waste Notifications.

- 962 **A. Hazardous Waste Inspection and Reporting.** Contractor reserves the right and
963 has the duty under law to inspect Solid Waste, Recyclable Materials and Organics
964 put out for Collection and to reject Solid Waste, Recyclable Materials and Organics
965 observed to be contaminated with Hazardous Waste and the right not to Collect
966 Hazardous Waste put out with Solid Waste, Recyclable Materials and Organics.
967 Contractor shall notify all applicable agencies, if appropriate, including the
968 California Department of Toxic Substances Control and local emergency response
969 providers and the National Response Center of reportable quantities of Hazardous
970 Waste, found or observed in Solid Waste, Recyclable Materials and Organics
971 anywhere within the Service Area. In addition to other required notifications, if
972 Contractor observes any substances which it or its employees reasonably believe
973 or suspect to contain Hazardous Wastes unlawfully Disposed of or released on any
974 of the Town's property, including storm drains, streets or other public rights of
975 way, Contractor shall immediately notify the Town.
976
- 977 **B. Hazardous Waste Diversion Records.** Contractor shall maintain records
978 showing the types and quantities, if any, of Hazardous Waste found in Solid Waste,
979 Recyclable Materials and Organics and which was inadvertently Collected from
980 service recipients within the Service Area but diverted from landfilling.
981
982
983

**ARTICLE 5
OTHER SERVICES**

5.01 Local Office and Truck Yard.

Contractor shall operate its local/regional office within the Town limits. Office hours shall be, at a minimum, from 8:00 A.M. to 4:00 P.M., Monday through Friday, exclusive of holidays. Responsible and qualified representatives (customer service representatives, office manager, etc) of Contractor shall be available during office hours for communication with the public at the local office. Normal office hour telephone numbers shall be a local call directed to the local office. Contractor's telephone system shall be adequate to handle the volume of calls typically experienced on the busiest days. Contractor shall also maintain a local or toll free telephone number for use during other than normal business hours. Contractor shall have a representative, answering or message providing/receiving (voice-mail) service available at said after-hours telephone number. Contractor's telephone system shall be able to track customer hold times and the number of calls received on a daily basis by each customer service representative.

Contractor shall locate its truck yard for purposes of parking and maintenance within the Town limits or shall obtain approval from the Town to locate the truck yard outside the Town limits. The Town's approval shall not be reasonably withheld.

Contractor shall locate E-waste and Recycle Center as well as its customer service and office within the Town limits.

5.02 Service Notice and Service Recipient Billing

A. Service Notice. Contractor shall periodically prepare and distribute, a notice to each service recipient entitled or mandated to receive service under this Agreement listing Contractor's standard service rates, rates for other services, annual holiday schedule, and a general summary of services required under this Agreement to be provided service recipients. Such notice shall be in form subject to the Town's approval prior to its distribution and may be included with Billings made by Contractor.

B. Billing. Contractor shall prepare, mail and collect bills (or shall issue written receipts for cash payments) from persons receiving Collection, Disposal, and Processing services. Billing shall be performed quarterly for each Residential account. Bills shall be mailed in advance of the provision of service but no more than one (1) month in advance. The Town shall have the right to revise the billing format (size, font, frequency, etc.) and to itemize certain charges and to review the Billing procedures. The Town may also direct Contractor to insert mailers relating to service with the Billings. The mailers must fit in standard envelopes and not

increase the required postage. Contractor also agrees to insert with the Billings, at the Town's expense for the incremental cost, mailers describing activities of the Town. The Town will provide not less than thirty (30) days notice to Contractor prior to the mailing date of any proposed mailing to permit Contractor to make appropriate arrangements for inclusion of the Town's materials. The Town will provide Contractor the mailers at least thirty (30) days prior to the mailing date. All Contractor generated mailers must be approved in advance by the Town with the exception of Contractor's quarterly newsletter.

Contractor shall maintain, for inspection by the Town, copies of said Billings and receipts, in chronological order, for a period of three (3) years after the date of service. Contractor may, at its option, maintain those records in computer form, on microfiche, or in any other manner, provided that the records can be preserved and retrieved for inspection and verification in a timely manner.

The Town shall establish, through execution of this Agreement, the initial rates for the types of service provided as shown in Exhibit F. Contractor shall bill and Collect at those rates. Service recipients will be considered delinquent sixty (60) days after start of the quarter in which the services are provided. Contractor may discontinue service to any account, if payment is not received by Contractor within thirty (30) days after the end of the quarter in which the bill was issued. Contractor must provide all accounts with written notice of its intent to discontinue service at least thirty (30) days prior to such discontinuance.

Contractor agrees to offer residential customers a Service Suspension for a minimum of four weeks up to six months. Contractor may establish a minimum charge subject to the approval of the Town. Each Single Family Dwelling shall be allowed two Service Suspensions per calendar year for a maximum of six months.

C. Contractor as Billing Agent. Contractor shall act as Billing agent on behalf of the Town. Revenues collected on behalf of the Town shall be handled as described in Article 3 of this Agreement.

D. Review of Billings. Contractor shall review its Billings to service recipients under Section 5.02.B. The purpose of the review is to determine that the amount which Contractor is billing each service recipient is correct in terms of the level of service (i.e., frequency of Collection, size of container, location of container) being provided to such service recipient by Contractor. Contractor shall review service recipient accounts not less than every other year, unless the Town shall direct Contractor to do so annually, and submit to the Town a written report of that review annually on the anniversary of the effective day of this Agreement. The intent of this Section 502.D is for the Town to receive reports on an annual basis which will cover the entire list of service recipients every other year. The scope of the review and the reviewer's work plan shall be submitted to the Town for approval no later than six (6) months before the submission of the first report.

1073
1074 **5.03 Service Recipient Complaint Resolution.**
1075

- 1076 **A. Complaint Documentation.** All service Complaints shall be directed to
1077 Contractor. Daily logs of Complaints concerning Collection of Solid Waste,
1078 Recyclable Materials, and Organics shall be retained for a minimum of thirty-six
1079 (36) months and shall be available to the Town at all times upon twenty-four (24)
1080 hour notice.
1081

1082 Contractor shall log all Complaints received by telephone and said log shall include
1083 the date and time the Complaint was received, name, address and telephone
1084 number of caller, description of Complaint, employee recording Complaint and the
1085 action taken by Contractor to respond to and remedy Complaint.
1086

1087 All Complaints and inquiries shall be date-stamped when received and shall be
1088 initially responded to within one (1) business day of receipt. Contractor shall log
1089 action taken by Contractor to respond to and remedy the Complaint.
1090

1091 All service records and logs kept by Contractor shall be made available to the Town
1092 upon request and at no cost to the Town. The Town shall, at any time during
1093 regular Contractor business hours, have access to Contractor's Facilities, records
1094 and personnel for purposes that may include monitoring the quality of service or
1095 researching Complaints.
1096

1097 **B. Resolution of Complaints.**
1098

- 1099 **1. Scope.** The provisions of this Section 5.03.B.1 shall govern the procedure for
1100 reviewing Complaints. The provisions of this Section are not exclusive, are
1101 cumulative, and are in addition to any and all other remedies which may
1102 accrue to the Town as a result of Contractor's performance or failure to
1103 perform its duties and obligations, express or implied, hereunder, or
1104 otherwise as a result of Contractor's actions in violation of this Agreement.
1105

1106 Nothing in this Section 5.03.B is intended to affect the remedies of third
1107 parties against Contractor; nor will the imposition of service recipient
1108 charges prevent the imposition of liquidated damages by the Town
1109 pursuant to Section 11.03.
1110

- 1111 **2. Town Manager's Review.** All Complaints received or initiated by the Town
1112 shall be reviewed by the Town Manager who shall provide copies thereof to
1113 Contractor. The Town Manager shall review each Complaint to determine
1114 whether the Complaint can be resolved informally, or whether the formal
1115 action hereunder is warranted. If the Town Manager determines that formal
1116 action is warranted, he or she shall give written notice to Contractor and all

interested parties of a hearing to be held by the Town Manager on each such Complaint not less than ten (10) days from the date of said notice.

At the Town Manager's hearing on the Complaint, Contractor may present its response thereto, including, but not necessarily limited to, a written response including supporting documents. Within ten (10) days following the hearing, the Town Manager shall make a determination upon the Complaint. The hearing conducted by the Town Manager shall be informal, and rules of evidence shall not apply, but the Town Manager may hear and consider such relevant statements, documents, or other materials as he or she shall determine appropriate under the circumstances.

If the Town Manager determines that Contractor has violated, or is in continuing violation of, its duties and obligations under this Agreement, or otherwise in violation of any of the provisions hereof, the Town Manager may issue a Compliance Order to Contractor. In all cases in which the Town Manager determines that the appropriate remedy should be termination or payment of compensatory damages, the Complaint shall be heard by the Town Council. If the Town Manager orders that the Complaint shall be heard by the Town Council, he or she shall prepare a written report to the Town Council which shall state his or her findings, the basis therefore, and a recommended action.

- 3. Town's Solid Waste Committee and Town Council Review.** Contractor may appeal a Compliance Order issued by the Town Manager to the Town's Solid Waste Committee by filing a notice of appeal with the Clerk of the Town Council within ten (10) days of the date of the Town Manager's Compliance Order. The Clerk of the Town Council shall set the matter for hearing by the Town's Solid Waste Committee within thirty (30) days of receipt of the notice of appeal unless Contractor consents to an extension of the time for the hearing.

At its appeal hearing the Town's Solid Waste Committee shall consider the Complaint. If a Complaint is based upon the manner or quality of Contractor's service to service recipients or members of the public, the hearing shall be a public hearing. If a Complaint is based upon a violation of the standards and procedures implemented under this Agreement, the hearing may, but shall not necessarily, be a public hearing, as the Town Manager shall determine.

If, upon conclusion of the hearing and consideration of any advisory findings of fact, the Town's Solid Waste Committee determines that Contractor has violated, or is in continuing violation of, any of its duties and obligations, either express or implied, under this Agreement, the Solid Waste Committee may uphold a Compliance Order and/or make a

1162 recommendation to the Town Council to issue a Termination Order for
1163 violations described in Section 11.01 C, E, F, I, J or K, or Order for Payment
1164 of Compensatory Damages, as it deems appropriate. The Town's Solid
1165 Waste Committee's decision shall be the final administrative determination
1166 and shall be supported by written findings.

1167
1168
1169 **4. Remedies.**
1170

1171 **a. Named.** Remedies available to the Town pursuant to this Article
1172 include the issuance of a Compliance Order, Termination Order, or
1173 Order for Payment of Compensatory Damages, which terms are
1174 defined and described hereinafter. Such Orders may be issued subject
1175 to such terms and conditions as the Town Manager (in the case of
1176 Compliance Orders) and the Town's Solid Waste Committee (in the
1177 case of all such Orders issued by it) shall deem appropriate.
1178

1179 **b. Compliance Order.** A Compliance Order may be issued by the Town
1180 Manager or the Town's Solid Waste Committee upon a determination
1181 that Contractor has violated, or is in continuing violation of, any of
1182 its duties or obligations, either express or implied, under this
1183 Agreement, and shall direct Contractor forthwith to cease such
1184 violation, and may specify, if appropriate, the time within which such
1185 violation shall be remedied, and otherwise establish terms and
1186 conditions governing compliance there under.
1187

1188 **c. Termination Order.** If the Town's Solid Waste Committee
1189 determines that Contractor has violated, or is in continuing violation
1190 of, Section 11.01 C, E, F, I, J or K under this Agreement, the Town
1191 Council may order termination of this Agreement. Such Termination
1192 Order shall be effective not less than thirty (30) days from the date of
1193 the Termination Order. Contractor shall not be entitled to any further
1194 revenues from Collection operations authorized hereunder from and
1195 after the effective date of termination.
1196

1197 **d. Order for Payment of Compensatory Damages.** If the Town's Solid
1198 Waste Committee determines that Contractor has violated, or is in
1199 continuing violation of, any of its duties or obligations, either express
1200 or implied, under this Agreement, which has caused loss of revenues
1201 to the Town, or caused the Town to incur unnecessary costs or has
1202 caused loss or damages to any Person, it may order Contractor to pay
1203 compensatory damages therefore to the Town, or to the Person so
1204 damaged.
1205

- 1206 C. **Government Liaison.** Contractor shall designate in writing a "Government
1207 Liaison" who shall be responsible for working with the Town Manager and/or the
1208 Town Manager's designated representative(s) to resolve service recipient
1209 complaints.
1210

1211 **5.04 Education and Public Awareness.**
1212

- 1213 A. **General.** Contractor acknowledges and agrees that education and public
1214 awareness are critical, key, and essential elements of any efforts to achieve
1215 diversion and effectively manage Solid and Hazardous Waste. Accordingly,
1216 Contractor agrees to take direction from the Town to explore opportunities to
1217 expand public and service recipient knowledge concerning needs and methods to
1218 reduce, reuse, and recycle Solid Waste, and to cooperate fully with the Town in this
1219 regard. Contractor's public education plan is included as Exhibit C.
1220

1221 Contractor shall perform all of the public education activities related to the
1222 transition to new services, as described in Exhibit C and Exhibit H. These education
1223 activities shall include, but not be limited to: mailings prior to the start of service,
1224 flyers handed out, follow-up mailings or hand-outs related to the new services,
1225 commercial advertising, and the mailing and hand-outs of The Town's newsletters
1226 upon request.
1227

- 1228 B. **Content Approval.** Contractor shall make available to the Town, and the Town
1229 shall approve prior to its use, all public educational materials used by Contractor.
1230 At a minimum, Contractor materials will describe the specific types of Recyclable
1231 Materials and Organics, explain how to prepare materials for Collection, and
1232 explain how, where, and when to set out Containers for Collection.
1233

1234 All public educational materials shall be printed on or manufactured from recycled
1235 materials and contain the highest practical level of post-consumer content.
1236 Contractor's primary educational materials shall be available in English.
1237 Contractor may produce materials in additional languages for which there is a
1238 demand. Newsletters are to be posted on the Contractors website for minimum of
1239 previous four (4) publications.
1240

- 1241 C. **Community Events.** At the direction of the Town, Contractor shall participate
1242 in and promote diversion techniques at community events and local activities. Such
1243 participation would normally include providing, without cost, educational and
1244 publicity information promoting the goals of the Town's waste reduction and
1245 recycling programs.
1246

- 1247 D. **Notification to New Service Recipients.** Immediately upon request for new
1248 service, Contractor shall notify the new service recipients of the Recyclable
1249 Materials and Organics Collection services offered by Contractor. At the Town's
1250 request, such notification shall be available in languages other than English.

1251
1252 **5.05 Waste Generation/Characterization Studies.**

1253 Contractor will conduct annual waste characterization studies as required by SB 1383.

1254
1255 A. **Methodology.** The study shall include samples from each waste stream (MSW,
1256 Recyclables, and Organic Materials) to determine the ratio of Prohibited
1257 Container Contaminants, the Contractor shall use the following protocol:

- 1258
1259 1. The Contractor shall take one sample of at least two hundred (200)
1260 pounds from the material collected from each material stream. For
1261 example, Contractor shall take a two hundred (200) pound sample taken
1262 from the combined contents of the Organic Materials Container samples.
1263
1264 2. The two hundred (200) pound sample shall be randomly selected from
1265 different areas of the pile of collected material for that material stream.
1266
1267 3. For each two hundred (200) pound sample, the Contractor shall remove
1268 any Prohibited Container Contaminants and determine the weight of
1269 Prohibited Container Contaminants.
1270
1271 4. The Contractor shall determine the ratio of Prohibited Container
1272 Contaminants in the sample by dividing the total weight of Prohibited
1273 Container Contaminants by the total weight of the sample.
1274
1275 5. All weights shall be recorded in pounds.
1276

1277 B. **Recordkeeping and Reporting.** Contractor shall maintain records of each study
1278 conducted and report results directly to the Town within fourteen (14) days of
1279 completing the study as well as include the results in the Contractor's annual
1280 report.
1281

1282 **5.06 Annual Route Reviews**

1283 A. **Methodology.** At least once annually, beginning in 2024, Contractor shall
1284 conduct a route review for each of its routes in compliance with the
1285 requirements of 14 CCR section 18984.5(b). The number of Containers to review
1286 per route shall be calculated on the basis of the number of Customers on a
1287 specific route for one week. For each route review, Contractor shall inspect at
1288 least the minimum number of Containers set forth in 1. thru 4. below, but may
1289 inspect more if Contractor deems necessary. Each inspection shall involve
1290 lifting the Container lid and observing the contents but shall not require
1291 Contractor to disturb the contents or open any bags. If Contractor observes
1292 Contamination, Contractor shall follow the provisions outlined in Exhibit H.
1293 Contractor may select the Containers to be inspected at random, or (if mutually
1294 agreed with the Town), by any other method not prohibited under the SB 1383

regulations. Contractor will also collect photographic documentation during route reviews. For the avoidance of doubt, Contractor shall not be required to annually inspect every Container on a route. Contractor shall include the results of each route review in its next regularly scheduled report to the Town as required by Exhibit H.

1. For weekly routes with less than one thousand five hundred (1,500) Generators, the Contractor shall sample a minimum of twenty-five (25) Containers;
2. For weekly routes with one thousand five hundred to three thousand nine hundred ninety-nine (1,500-3,999) Generators, the Contractor shall sample a minimum of thirty (30) Containers;
3. For weekly routes with four thousand to six thousand nine hundred ninety-nine (4,000-6,999) Generators, the Contractor shall sample a minimum of thirty-five (35) Containers; and,
4. For weekly routes with seven thousand (7,000) or more Generators, the Contractor shall sample a minimum of forty (40) Containers.

B. **Contamination Notification.** Upon identification of Prohibited Container Contaminants in a Customer's Container, Contractor shall provide the Customer with a notice of Contamination as stated Exhibit H.

5.07 Local Purchases

Contractor shall purchase, at a minimum, the following supplies and services within the Town limits if they are available within the Town limits:

- a. Vehicle supplies(fuel, tires, service parts, etc)
- b. Office and facility supplies
- c. Printing/publishing
- d. Uniforms
- e. Banking
- f. Insurance

5.08 Green Waste / Yard Waste Collection Transfer Station

Contractor shall operate and manage the Town's Green Waste Collection Transfer Station if requested by the Town. Contractor agrees to operate the facility at the current established gate rate or at a rate approved and agreed upon by the Town Manager. Gate rates in subsequent years may be determined for adjustment by the Town Manager based upon an annual review of operations costs factors such as, but not limited to, current market for biomass fuels, Neal Road Landfill gate fees, CPI index, etc. The Town agrees to indemnify and hold harmless Contractor for past

1338 environmental liabilities and clean-up costs associated with known contamination at
1339 the facility.
1340
1341

ARTICLE 6
CONTRACTOR'S RATES

6.01 General.

A. **Rate Resolution.** The Town shall establish, by execution of this Agreement, the maximum rates for the services provided by the Contractor. The Town shall have the right to structure the rates as it deems appropriate provided revenues paid to the Contractor from charging such rate can be expected to generate sufficient revenues to provide for Contractor's Compensation as described herein.

B. **Contractor's Compensation.** The intent and goal of this Agreement is to provide the Contractor total compensation equal to the Pass-Through Costs plus the Operating Ratio Quotient with the Operating Ratio Quotient comprised of all Operating Expenses divided by the Operating Ratio. In furtherance of the foregoing, for each Fiscal Year of this Agreement the Town shall reasonably ensure that during each year of this Agreement the Gross Revenues collected by Contractor equal or exceed the Revenue Requirement. In the event that there exists a Cumulative Revenue Shortfall arising out of one or more years of operation then the rate shall be adjusted in order that the projected Cumulative Revenue Shortfall is reduced to zero over a period of not more than ten years. In the event that there exists a Cumulative Revenue Overage then the rate shall be downwardly adjusted in order to equalize the Revenue Requirement and the Gross Revenues Collected. Exhibit E hereto includes details with respect to annual rate adjustments and adjustments to the rate based on the Operating Ratio.

6.02 Initial Rates.

Solid Waste, Recyclable Materials and Organics. Contractor's rates for the first Rate Year (July 1, 2024 through June 30, 2025) shall equal those initial rates as set forth in Exhibit E. The revenue from such rates shall be the complete compensation due the Contractor for the services performed by the Contractor for the first Rate Year of this Agreement.

6.03 Subsequent Rates for Fiscal Rate Years.

A. **General.** For each Rate Year beginning July 1, 2025, and continuing each year thereafter, rates shall be adjusted as described below. For purposes of this calculation, rates shall be composed of three (3) components: a monthly Collection Rate, a monthly Disposal Rate, and a Franchise Fee.

- 1386 **B. Monthly Collection Rate Adjustment.** The monthly Solid Waste, Recycling,
1387 and Yard Waste Collection Rates shall be adjusted upward or downward in order
1388 to ensure that, during each Rate Year, the Contractor will receive payments totaling
1389 the Revenue Requirement (as further described in Exhibit E). Notwithstanding the
1390 foregoing, in no event shall rates be increased more than the following percentages
1391 during the term of this Agreement (calculated on a year-over-year basis):
1392
- 1393 2024 through 2027 – 8% per annum
1394 2028 through 2032 – 5% per annum
1395 2033 through 2040 – 2.5% per annum
1396
- 1397 **C. Monthly Disposal Rate Adjustment.** The monthly Disposal Rate shall be
1398 adjusted based upon the percentage change in the gate rate at the Designated
1399 Disposal Site.
1400
- 1401 **D. Franchise and Other Fee Adjustment.** The Franchise Fee component shall be
1402 calculated by adding the monthly Collection Rate and the monthly Disposal Rate
1403 and multiplying the resulting total by the Franchise Fee enumerated in Exhibit D.
1404 The Other Fee component is composed of charges for the Vehicle Impact Fee and
1405 other miscellaneous fees, as determined by the Town.
1406
- 1407 **E. Contractor's Notice of Rate.** On or before June 1 of each rate year the Contractor
1408 shall provide the Town with written notice calculating any adjustments to be made
1409 effective for the following Rate Year beginning July 1 (the “**Notice of Rate**
1410 **Adjustment**”). The Notice of Rate Adjustment shall calculate the monthly
1411 Collection Rate, the monthly Disposal Rate, and the Franchise Fee for the Rate Year
1412 beginning July 1 following the Notice of Rate Adjustment and shall be calculated
1413 based on the Contractor’s audited financials for the year ending December 31 of
1414 the immediately prior calendar year. Following the delivery of a Notice of Rate
1415 Adjustment the Town shall have thirty (30) days to make objection to the Notice of
1416 Rate Adjustment which objection shall be limited to errors in calculation, errors in
1417 assumptions or any misrepresentation contained in the Notice of Rate Adjustment.
1418 If no objection to a Notice of Rate Adjustment is made by the Town within thirty
1419 (30) days of receipt, then the rate adjustments contained in the Notice of Rate
1420 Adjustment shall be deemed effective as of the July 1 following the Notice of Rate
1421 Adjustment. In the event the Town makes a written objection to a Notice of Rate
1422 Adjustment then any such objections shall be resolved forthwith between the
1423 parties and, if no resolution is agreed, then by dispute resolution pursuant to the
1424 terms of Section 12.22.
1425
1426
1427

ARTICLE 7
REVIEW OF SERVICES AND PERFORMANCE

7.01 Performance Hearing.

The Town may hold a public hearing on or about the first anniversary date of this Agreement and on or about each subsequent anniversary, at which time Contractor shall be present and shall participate, to review its services and overall performance. The purpose of the hearing is to provide for a discussion and review of technological, economic, and regulatory changes in Collection, waste reduction, Recycling, Organics diversion, processing and Disposal to achieve a continuing, advanced Solid Waste Collection, waste reduction and diversion system; and to ensure services are being provided with adequate quality, effectiveness and economy.

Within forty-five (45) days after receiving notice from the Town of a Solid Waste performance review hearing, Contractor shall, at a minimum, submit a report to the Town indicating changes recommended and/or new services to improve the Town's ability to meet the Town's waste reduction and recycling obligations and goals and to contain costs and minimize impacts on rates.

The reports required by this Agreement regarding service recipient Complaints shall be used as one basis for review. Contractor may submit other relevant performance information and reports for consideration. The Town may request Contractor to submit specific information for the hearing. In addition, any service recipient may submit comments or Complaints during or before the hearing, either orally or in writing, and these shall be considered.

Topics for discussion and review at the Solid Waste performance hearing shall include, but shall not be limited to, services provided, feasibility of providing new services, application of new technologies, service recipient Complaints, amendments to this Agreement, developments in the applicable laws and regulations, new initiatives for meeting or exceeding waste reduction and recycling goals, regulatory constraints and Contractor performance. The Town and Contractor may each select additional topics for discussion at any performance review hearing.

Not later than sixty (60) days after the conclusion of each performance hearing, the Town may issue a report. As a result of the review, the Town may require Contractor to provide expanded or new services within a reasonable time and for reasonable rates and compensation and the Town may direct Contractor to take corrective actions for any performance inadequacies.

7.02 Annual Diversion Program Review.

Beginning on the Effective Date of the Agreement, and then on an annual basis thereafter, Contractor shall meet with the Town to describe the progress of each active diversion program. Contractor should document the results of the programs on a

1472 monthly basis, including at a minimum the tonnage diverted by material type, the end
1473 use or processor of the diverted materials and the cost per ton for transporting and
1474 processing each type of material and other such information requested by the Town
1475 or any other government entity as may be necessary to evaluate the performance of
1476 each program.

1477
1478 At each annual meeting, the Town and Contractor shall have the opportunity to revise
1479 a program based on mutually agreed upon terms. The Town shall have the right to
1480 terminate a program if in its sole discretion, the Contractor is not cost effectively
1481 achieving the program's goals and objectives. Prior to such termination, the Town
1482 shall meet and confer with the Contractor for a period of up to 90 days to resolve the
1483 Town's concerns. Thereafter, the Town may utilize a third party to perform these
1484 services if the Town reasonably believes the third party can improve on Contractor's
1485 performance and/or cost. Notwithstanding these changes, Contractor shall continue
1486 the program during the meet and confer period and, thereafter, until the third party
1487 takes over the program.

ARTICLE 8
RECORDS, REPORTS AND INFORMATION REQUIREMENTS

8.01 General.

Contractor shall conduct data collection, information and record keeping, and reporting activities needed to comply with and to meet the reporting and Solid Waste program management needs of the Town (including AB939) and other Federal and State and local laws and regulations and the requirements of this Agreement. To this extent, such requirements set out in this and other Articles of this Agreement shall not be considered limiting or necessarily complete. In particular, this Article is intended to only highlight the general nature of records and reports and their minimum content and is not meant to comprehensively define what the records and reports are to be and their content. Further, with the written direction or approval of Town, the records and reports to be maintained and provided by Contractor in accordance with this and other Articles of the Agreement shall be adjusted in number, format, or frequency. Records and reporting may be revised to reflect current record keeping and reporting.

8.02 Records.

A. General. In order to administer this Agreement it is necessary for Contractor to maintain accurate, detailed financial and operational information in a consistent format and to make such information available to the Town in a timely fashion. Contractor shall maintain records required to conduct its operations, to support requests it may make to the Town, and to respond to requests from the Town in the conduct of Town's business. Adequate record security shall be maintained to preserve records from events that can be reasonably anticipated such as a fire, theft and earthquake. Electronically maintained data/records shall be protected and backed up. All records shall be maintained for five (5) years after the expiration of this Agreement.

Contractor agrees that the records of any and all companies conducting operations addressed in the Agreement shall be provided or made available to the Town and its official representatives during normal business hours.

B. Inspection and Retention of Records.

1. Contractor's Accounting Records. Contractor shall maintain accurate and complete accounting records containing the underlying financial and operating data relating to and showing the basis for computation of all costs associated with providing services under this Agreement. The accounting records shall be prepared in accordance with Generally Accepted Accounting Principles (GAAP) consistently applied.

1531 **2. Inspection of Records.** The Town, and/or agents selected by the Town,
1532 shall have the right, during regular business hours, to conduct
1533 unannounced on-site inspections of the records and accounting systems of
1534 Contractor and to make copies of any documents relevant to this
1535 Agreement.

1536 **3. Retention of Records.** Unless otherwise herein required, Contractor shall
1537 retain all records and data required to be maintained by this Agreement
1538 for at least five (5) years.

1539
1540 Records and data required to be maintained that are specifically directed to
1541 be retained shall be retrieved by Contractor and made available to the Town.
1542

1543 Records and data required to be maintained that are not specifically directed
1544 to be retained that are, in the sole opinion of the Town, material to
1545 establishing rates or to a determination of the Contractor's performance
1546 under this Agreement, shall be retrieved by Contractor and made available
1547 to the Town.
1548

1549 Records and data required to be maintained that are not specifically directed
1550 to be retained and that are not material to establishing rates and/or not
1551 required for the determination of the Contractor's performance do not need
1552 to be retrieved by Contractor. In such a case, however, the Town may make
1553 reasonable assumptions regarding what information is contained in such
1554 records and data, and such assumption shall be conclusive in whatever
1555 action the Town takes.
1556

1557 **4. Delivery of Financial Statements, Auditors' Reports.** Financial statements
1558 shall show Contractor's results of operations on a combined basis for the
1559 Town, including the specific revenues and expenses in connection with the
1560 operations provided for in this Agreement and others included in such
1561 financials statements. The financial statements shall be prepared in
1562 accordance with Generally Accepted Accounting Principles (GAAP). The
1563 financial statements shall be prepared by the Contractor and marked
1564 "unaudited". Such statements should include a certification by the
1565 Contractor's Chief Financial Officer. The financial statements for Rate
1566 Years shall have been examined by and shall be accompanied by the report
1567 of an independent certified public accountant (CPA) licensed (in good
1568 standing) to practice public accounting in the State of California as
1569 determined by the State of California Consumer Affairs Board of

Accountancy. Such accountant's representation shall include that it has examined the Contractor's financial statements in accordance with Generally Accepted Auditing Standards (GAAS) and the accountant's opinion that such statements have been prepared in accordance with Generally Accepted Accounting Principles (GAAP) consistently applied and fairly reflect the results of operations and Contractor's financial condition.

C. Solid Waste Records. Records shall be maintained and made available to the Town within 24 hours of written request relating to:

1. Service recipient services and billing;
2. Character, weight and volume of Solid Waste by type (e.g., Solid Waste, Recyclable Materials, and Organics) and line of business (can/cart service, bin service, roll-off service, compactor service) especially as related to reducing and diverting Solid Waste.
3. Routes;
4. Facilities, equipment and personnel used;
5. Facilities and equipment operations, maintenance and repair;
6. Processing and Disposal of Solid Waste;
7. Types and quantities of Hazardous Waste inadvertently Collected but diverted from landfilling;
8. Complaints; and,
9. Missed Pick-ups.

Contractor shall maintain records of all Solid Waste Collected in the Town's Service Area for the period of this Agreement and all extensions to this Agreement or successor Agreements. In the event the Town requests certain records or Contractor discontinues providing services to the Town, Contractor shall provide all records of all Solid Waste requested to the Town within thirty (30) days of discontinuing service. Records shall be in chronological and organized form and readily and easily interpreted.

D. CERCLA Defense Records. The Town views the ability to defend against CERCLA and related litigation as a matter of great importance. For this reason, the

Town regards the ability to prove where Solid Waste Collected in the Service Area was taken for Transfer or Disposal, as well as where it was not taken, to be matters of concern. Contractor shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the Service Area was disposed of (and therefore establish where it was not landfilled). This provision shall survive the expiration of the period during which Collection services are to be provided under this Agreement. Contractor shall maintain these records for a minimum of ten (10) years. Contractor shall provide these records to the Town in an organized and indexed manner rather than destroying or disposing of them.

E. Recyclable Materials and Organics Records. Records shall be maintained for the Town that relate to:

1. Records described in Section 8.02.C, above and Exhibit H;
2. Recyclable Materials, and Organics Collection weekly and /or bi-weekly participation rates.
3. Recyclable Materials sales value;
4. Weight of material by type; and,
5. End use and markets.

F. Other Programs' Records. Records for other programs shall be tailored to specific needs. In general, they shall include:

1. Plans, tasks, and milestones; and,
2. Accomplishments in terms such as dates, activities conducted, quantities of products used, produced or distributed, and numbers of participants and responses.

8.03 Reports.

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

1. Determine the number of subscribers to each service by service level, and the total revenues generated.

2. Determine the total quantity of material Collected, transferred, Recycled processed and / or disposed through each program and service, by material type.
3. Evaluate past and expected progress towards achieving the Town's diversion goals and objectives;
4. Determine needs for adjustment to programs; and, evaluate service recipient service and Complaints.
5. Prepare AB 939, AB 341, AB 1826, and AB 1383 reports and any and all other State required reports.

Contractor may propose report formats that are responsive to the objectives and audiences for each report. The format of each report shall be approved by the Town. Contractor agrees to submit all reports on computer discs or by modem in a format compatible with Town's software/computers at no additional charge, if requested by the Town. Contractor will provide a certification statement, under penalty or perjury, by the responsible Contractor official, that the report being submitted is true and correct to the best knowledge of such official after their reasonable inquiry.

Annual Reports shall be submitted not later than April 1st following the calendar year.

All reports shall be submitted to:

Town of Paradise
Town Hall
5555 Skyway
Paradise, CA 95969
Attn: Town Manager

- B. Annual Reports.** Annual Reports are to include the following information and the information listed under Sections C and D below, at a minimum, compiled and reported for each month of the year, and as an annual total. Annual totals are also to be provided for all previous years of the Agreement for purposes of comparison. The information listed below shall be the minimum reported for each service. To the extent that the requested information is not tracked directly by the Contractor or can not be specifically established due to the nature of the Contractor's operations, the Contractor shall present to the Town a proposed method for estimating the required information, the reasonableness of which shall be subject to the approval of the Town.

1680 **1. Solid Waste Collection Services.**

- 1681
- 1682 a. Solid Waste tons Collected by Contractor, allocated between
- 1683 Residential cart service, Commercial cart and bin service, roll-off and
- 1684 compactor service.
- 1685
- 1686 b. Number of subscribers by service level
- 1687
- 1688 c. Subscriber data including name, address, and service level
- 1689
- 1690 d. Total Gross Revenues by service level, including revenues generated
- 1691 by each type of "Extra Services".
- 1692
- 1693 e. Number of Disabled Accounts.
- 1694
- 1695 f. Number of compactor accounts, size of compactors and number and
- 1696 size of compactors provided by the Contractor.
- 1697
- 1698 g. Number of debris-box pulls by bin size.
- 1699
- 1700 h. Tons processed and recovered through each processing operation
- 1701 including Construction Demolition Debris Recovery Program,
- 1702 Material Recovery Facility and any other processing operations
- 1703
- 1704 i. Complaint summary, for month and cumulative for report year, as
- 1705 above. Data shall be summarized by nature of Complaints on a
- 1706 compatible computer disc.
- 1707
- 1708 j. Narrative summary of problems encountered (including scavenging)
- 1709 and actions taken with recommendations for the Town, as
- 1710 appropriate.
- 1711
- 1712 k. Description of promotional and public education materials created or
- 1713 distributed.
- 1714
- 1715 l. A summary or copy of the Hazardous Waste records required under
- 1716 Sections 8.02.C and 8.02.D.
- 1717
- 1718 m. Other information or reports that the Town may reasonably request
- 1719 or require.

1720 **2. Recyclable Materials and Organics Services.** Contractor shall provide the

1721 same information as Solid Waste service, but for Recyclable Materials and

1722 Organics services, Contractor shall provide:

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- 1758
- a. Total tons diverted by each program/service (e.g., Residential Curbside Recycling, Residential Organics, Commercial Recycling), by material type and end use.
 - b. Number of accounts for each program/service, number and size of Containers and total tons Recycled by material type.
 - c. Participation and set-out rates in same format as number of accounts.
 - d. Recyclable Materials sales revenue by material type.
3. **Other Programs.** For each program, provide activity related and narrative reports on goals and milestones and accomplishments. Describe problems encountered, actions taken and any recommendations to facilitate progress. Describe vehicles, personnel, and equipment utilized for each program.
4. **Summary Assessment.** Provide a summary assessment of the overall Franchised Services from Contractor's perspective relative to financial and physical status of program. The physical status summary is to report: operating efficiency, economy and effectiveness of the program relative to the goals and objectives of this Agreement including particularly the Town's diversion goals; provide recommendations and plans to improve; highlight significant accomplishments and problems.
5. **Annual reports to the Town must also include:**
- a) **Compliance**
- Contractor must document education and outreach conducted, public event participation, school visits, compliance notices mailed, site visits to meet the requirements of SB 1383, service level audits completed, information distributed, and media used, and community events hosted. This must include public education activities undertaken during the year, including distribution of bill inserts, collection notification tags, community information and events, tours and other activities related to the provision of Collection services. Contractor shall also provide copies of all outreach and education information (including flyers, brochures, newsletters, invoice messaging, website and social media postings,

emails, and other electronic messages), including the date the information was disseminated or the direct contact made. For website and social media postings, this shall be the date posted. Contractor must report the total number of Commercial Customers serviced and the number of Containers, Container sizes and frequency of Collection for Solid Waste and Organic Materials for each non-exempt Commercial Customer. The total number of non-exempt Commercial Customers that fall under the AB 341 or AB 1826 thresholds, and the total number of those non-exempt Commercial Customers that are not subscribed to Commercial Organic Materials Collection Service.

A summary of the type of follow-up outreach that was provided to those non-exempt Commercial Customers that are not subscribed to Commercial Organic Materials Collection Service.

b) Route Reviews

Contractor shall report the date that Contamination route reviews were conducted, the name and title of each person that conducted the reviews, a list of the account names and addresses covered by the review, and a description of each route reviewed, including Contractor's route number. Contractor shall also provide details regarding the results of the reviews (i.e., the addresses where any Prohibited Container Contaminants were found), and any photographs taken.

C. Monthly/Quarterly Reports.

1. Compliance Reviews

Contractor shall report the date that compliance reviews were conducted, and the name and title of each person that conducted the reviews. Contractor shall report the results of the review (i.e., Contractor's findings as to whether the Service Recipients reviewed are subscribed for Organic Materials collection service, have an applicable waiver, or neither) and any relevant evidence supporting such findings (e.g., account records). Contractor shall provide copies of any educational materials issued pursuant to such reviews. Contractor shall report to the Town all Customers discovered to be out of compliance with the SB 1383 Regulations, including a list of the Customers, the type of violation, actions taken to educate those Customers, and contact information for those Customers. This includes

identifying Residential and Commercial Customers that are subscribed to Solid Waste Collection service but that are not subscribed Organic Materials Container Collection service. Contractor must also provide the following information:

- The total number of non-compliance complaints
- Total number of waiver requests

2. Contamination

To the extent required by Applicable Law, the quarterly report must include a summary of all instances of qualifying Contamination under the procedures in Section 5.06 of the Agreement. This summary must include the total number of accounts where Contamination occurred, the total number of Contamination Violation Notices issued by Contractor to Customers, a list of accounts where such notices occurred, and the total number of instances where Container size or Collection frequency was increased specifically due to Contamination. Within twenty (20) working days of request by the Town, Contractor will provide copies of the Contamination Violation Notices and the digital documentation of Contamination. The quarterly report must include each Customer incurring a charge for Contamination in the previous quarter. Contractor shall provide a description of Contractor's process for determining the level of Container Contamination under the Agreement. Contractor shall provide documentation relating to observed Prohibited Container Contaminants, whether observed during route reviews or otherwise. Contractor shall provide copies of the form of each notice issued to Customers for Prohibited Container Contaminants, as well as, for each such form, a list of the Customers to which such notice was issued, the date of issuance, the Customer's name and service address, and the reason for issuance (if the form is used for multiple reasons). This information will also be provided monthly to any other government entity approved by the Town. Contractor shall report the number of times notices were issued to Customers for Prohibited Container Contaminants and the number of Containers where the contents were disposed due to observation of Prohibited Container Contaminants.

3. Service Recipient Complaint Log

The quarterly report must include the Customer call log collected from the previous quarter, including a summary of the type and number of complaints and their resolution.

4. Missed Pickups

The quarterly report must include a summary of each Customer experiencing a missed pickup in the previous quarter along with a description or the reason for the missed pickup.

5. Non-Collection

The quarterly report must include a summary of each Customer receiving a Non-Collection Notice in the previous quarter along with a description for the Non-Collection Notice.

6. On-hold Accounts

The quarterly report must include each Customer that was not billed in the previous quarter due to vacation hold, vacancy, etc.

7. Waiver Requests

The quarterly report must include the total number of waiver requests received and the total number of waivers approved.

8. Special Events

The quarterly report must include the number of special events and disposal tonnage, including a summary of the services provided and educational materials distributed.

D. Additional Reporting. The Town reserves the right to require reasonable changes to the content and/or format of any and all reports that the Contractor is required to provide to the Town under the Agreement. The Town also reserves the right to require the Contractor to provide any other information that it reasonably deems necessary for effectively administering its franchise with the Contractor in a complete and timely manner, with the understanding that determination of additional information does not impose additional costs on the Contractor. Reports shall be submitted in electronic format, with all numeric information submitted in MS Excel.

Contractor must furnish Town with any additional reports as may reasonably be required, such reports to be prepared within a reasonable time following the reporting period. Contractor will provide reasonable assistance to the Town in preparing annual reports to CalRecycle (the "Electronic Annual Report" or EAR), including but not limited to supplying required data for preparation of the reports, and completing all required data input in the waste reporting software system. In the event that CalRecycle requires the Town to report an Implementation Schedule to comply with AB 341, AB 1826, SB 1383, SB 1594 and other Applicable Laws, Contractor will provide assistance to the Town in preparing a report, including

Contractor's policies and procedures related to compliance with AB 341, AB 1826, SB 1383, and other Applicable Laws and how Recycling or Organic Materials are Collected, a description of the geographic area, routes, list of addresses served and a method for tracking Contamination, copies of route audits, copies of notices of Contamination, copies of notices, violations, education and enforcement actions issued, and copies of educational materials, flyers, brochures, newsletters, website, and social media..

- E. Resource Recovery Plan.** As part of its Annual Report to the Town described in Section 8.03.B, Contractor shall submit to the Town an annual proposal describing proposed resource recovery programs, their diversion potential and associated detailed costs for programs that Contractor believes can significantly increase diversion. Within sixty days, the Town shall respond to the Plan in writing. If the Parties reach agreement on implementation of additional programs, Contractor shall be obligated to implement those programs on a schedule and for a cost agreed to by the Parties.

8.04 Adverse Information.

- A. Reporting Adverse Information.** Contractor shall provide the Town two (2) copies (one to the Town Manager, one to the Town's Attorney) of all reports, pleadings, applications, notifications, Notices of Violation, communications or other material relating specifically to Contractor's performance of services pursuant to this Agreement, submitted by Contractor to, or received by Contractor from, the United States or California Environmental Protection Agency, CalRecycle, the Securities and Exchange Commission or any other Federal, State or local agencies, including any Federal or State court. Copies shall be submitted to the Town simultaneously with Contractor's filing or submission of such matters with said agencies. Contractor's routine correspondence to said agencies need not be routinely submitted to the Town but shall be made available to the Town promptly upon the Town's written request.

- B. Failure to Report.** The refusal or failure of Contractor to file any required reports, or to provide required information to the Town, or the inclusion of any materially false or misleading statement or representation by Contractor in such report shall be deemed a material breach of the Agreement as described in Section 11.01 and shall subject Contractor to all remedies which are available to the Town under the Agreement or otherwise.

8.05 Right to Inspect Records.

The Town shall have the right to inspect or review the payroll tax reports, specific documents or records required expressly or by inference pursuant to this Agreement, or any other similar records or reports of Contractor or its Related Party Entities that

1931 the Town shall deem, in its sole discretion, necessary to evaluate annual reports,
1932 compensation applications provided for in this Agreement and Contractor's
1933 performance provided for in this Agreement.
1934

ARTICLE 9
INDEMNIFICATION, INSURANCE AND BOND

9.01 Indemnification.

A. **General Indemnification.** Contractor shall indemnify, defend and hold harmless, at Contractor's sole cost and expense, the Town, its officers, employees and agents, from and against any and all loss, liability, penalty, forfeiture, claim, demand, action, proceeding or suit, of any and every kind and description, whether judicial, quasi-judicial or administrative in nature including, but not limit to, injury to and death of any Person and/or damage to property or for contribution or indemnity claimed by third parties (collectively, the "Claims"), arising out of or occasioned in any way by, directly or indirectly, Contractor's performance of, or its failure to perform, its obligations under the Agreement, but not limited to, Contractor's failure to comply with applicable laws or the Contractor's breach of its representation and warranties in this Agreement. The foregoing shall also apply if the Claim is caused by the joint negligence of the Town and Contractor, but only to the extent to Contractor's negligence. This indemnification will not extend to Claims to the extent they are caused by the sole negligence or intentional misconduct or omission of the Town. This general indemnification provision shall survive the termination of this Agreement.

B. **Hazardous Substance Indemnification.** Contractor shall indemnify, defend with counsel selected by the Town, protect and hold harmless the Town and their officers, directors, employees, volunteers, and agents, and member agencies, their officers, directors, employees, volunteers, and agents, (collectively, indemnitee) from and against all claims, damages (including but not limited to special, consequential, natural resources and punitive damages), injuries, costs, (including without limit any and all response, remediation and removal costs), losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties, and expenses (including without limit attorneys' expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity), (Collectively, "Damages") or any kind whatsoever paid, incurred or suffered by, or asserted against, indemnitee arising from or attributable to the acts or omissions of Contractor, its officers, directors, employees, companies or agents, whether or not negligent or otherwise culpable, in connection with or related to the performance of this Agreement, including without limit damages arising from or attributable to any operations, repair, clean-up or detoxification, or preparation and implementation of any removal, remedial, response, closure, post-closure or other plan (regardless of whether undertaken due to governmental action) concerning any Hazardous Substance, Hazardous Waste, and/or construction and street debris, or other waste Collected under this Agreement. This indemnity afforded indemnitee, shall be limited only to exclude coverage for intentional wrongful acts and active negligence of indemnitee, indemnitee delivery of material

1980 to Contractor which does not conform to the descriptions of Solid Waste under this
1981 Agreement and as provided below. The forgoing indemnity is intended to operate
1982 as an agreement in recognition of §107(e) of the Comprehensive Environmental
1983 Response, Compensation and Liability Act, CERCLA, 42 USC. §9607(e) and
1984 California Health and Safety Code §25364, to defend, protect, hold harmless, and
1985 indemnify the Town from liability. This provision is in addition to all other
1986 provisions in this Agreement and is intended to survive the end of the Term of this
1987 Agreement. Nothing in this paragraph shall prevent Contractor from seeking
1988 indemnification or contribution from Persons or entities other than indemnitee, for
1989 any liabilities incurred by Contractor, or the indemnitee. As appropriate,
1990 Contractor's parent company should provide the guarantees necessary to meet this
1991 provision.
1992

1993 Should the Town contract for or direct the Disposal of Solid Waste to a Transfer Station
1994 or landfill not owned or solely operated by Contractor or an Affiliate, then in that
1995 event, Contractor's Hazardous Substances indemnification and other indemnitee shall
1996 not apply to claims, damages, legal proceedings or other liabilities arising from or
1997 relating to such non-Contractor owned or operated Transfer Station or Disposal
1998 Facility.

1999 **9.02 CalRecycle Indemnification.**

2000 In addition to all other relief provided to the Town under this Agreement, Contractor
2001 agrees to indemnify and hold harmless the Town, their officers, directors, Councils,
2002 employees, and agents from and against all fines and/or penalties imposed by
2003 CalRecycle in the event the source reduction and Recycling goals or any other
2004 requirement of the Act are not met by the Town with respect to the waste stream
2005 Collected under this Agreement and such failure is due to the failure of Contractor to
2006 meet its obligations under this Agreement and/or for delays in providing information
2007 that prevents the Town from submitting reports required by AB 939, AB 341, AB 1826,
2008 and SB 1383 in a timely manner.
2009

2010 **9.03 Insurance.**

2011
2012 **A. Minimum Scope of Insurance.** Coverage shall be at least as broad as:
2013

- 2014 **1.** The most recent editions of Insurance Services Office form number GL
2015 0002 covering Comprehensive or Commercial General Liability and
2016 Insurance Services Office form number GL 0404 covering Broad Form
2017 Comprehensive or Commercial General Liability; or Insurance Services
2018 Office Commercial General Liability coverage ("occurrence" form CG
2019 0001).

- 2020 2. The most recent editions of Insurance Services Office form number CA
2021 0001 covering Automobile Liability, code 1 "any auto" and endorsement
2022 CA 0025.
- 2023 3. Workers' Compensation insurance as required by the Labor Code of the
2024 State of California and Employers Liability insurance.
- 2025
- 2026 **B. Minimum Limits of Insurance.** Contractor shall maintain limits no less than:
2027
- 2028 1. Comprehensive General Liability: Five Million Dollars (\$5,000,000)
2029 combined single limit per occurrence for bodily injury, Personal injury and
2030 property damage.
- 2031 2. Automobile Liability: Five Million Dollars (\$5,000,000) combined single
2032 limit per accident for bodily injury and property damage.
- 2033 3. Workers' Compensation and Employers Liability: Workers' compensation
2034 limits as required by the Labor Code of the State of California and
2035 Employers Liability limits of \$1,000,000 per accident.
- 2036
- 2037 **C. Deductibles and Self-Insured Retentions.** Any deductibles or self-insured
2038 retentions are the responsibility of Contractor and shall be declared to the Town.
2039 At the option of the Town, either: the insurer shall reduce or eliminate such
2040 deductibles or self-insured retentions as respects the Town, its officials and
2041 employees, directors, agents and volunteers; or Contractor shall procure a bond
2042 guaranteeing payment of losses and related investigations, claim administration
2043 and defense expenses.
- 2044
- 2045 **D. Other Insurance Provisions.** The policies are to contain, or be endorsed to
2046 contain, the following provisions:
- 2047 1. General Liability and Automobile Liability Coverage
- 2048 a. The Town, their officials, employees, directors, agents and volunteers
2049 are to be covered as additional insured as respects: liability arising
2050 out of activities performed by or on behalf of Contractor; products
2051 and completed operations of Contractor; Premises owned, leased or
2052 used by Contractor; or automobiles owned, leased, hired or
2053 borrowed by Contractor. The coverage shall contain no special
2054 limitations on the scope of protection afforded to the Town, its
2055 officials, employees or volunteers.
- 2056

- 2057 b. Contractor's insurance coverage shall be primary insurance as
2058 respects the Town, its officials, directors, employees and volunteers.
2059 Any insurance or self-insurance maintained by the Town, its officials,
2060 employees, directors, agents or volunteers shall be excess of
2061 Contractor's insurance and shall not contribute with it.
2062
2063 c. Any failure to comply with reporting provisions of the policies shall
2064 not affect coverage provided to the Town, its officials, employees,
2065 directors, agents or volunteers.
2066
2067 d. Coverage shall state that Contractor's insurance shall apply
2068 separately to each insured against whom claim is made or suit is
2069 brought, except with respect to the limits of the insurer's liability.
2070

2071 **2. Workers' Compensation and Employers Liability Coverage.** The insurer
2072 shall agree to waive all rights of subrogation against the Town, its officials,
2073 employees, directors, agents and volunteers for losses arising from work
2074 performed by Contractor for the Town.

2075 **3. All Coverage.** Each insurance policy required by this clause shall be
2076 endorsed to state that coverage shall not be suspended, voided, canceled
2077 by either party, reduced in coverage or in limits except after thirty (30)
2078 days' prior written notice by certified mail, return receipt requested, has
2079 been given to the Town.
2080

2081 **E. Acceptability of Insurers.** The insurance policies required by this Section shall
2082 be issued by an insurance company or companies admitted or approved non-
2083 admitted to do business in the State of California subject to the Authority of the
2084 California Insurance Commissioner and with a rating in the most recent edition of
2085 Best's Insurance Reports of size category VII or larger and a rating classification of
2086 A or better.
2087

2088 **F. Verification of Coverage.** Contractor shall furnish the Town with certificates
2089 of insurance and with original endorsements affecting coverage required by this
2090 clause. The certificates and endorsements for each insurance policy shall be signed
2091 by a Person authorized by that insurer to bind coverage on its behalf. The
2092 certificates and endorsements are to be on forms provided by or acceptable to the
2093 Town and are to be received and approved by the Town before work commences.
2094 The Town reserves the right to require complete, certified copies of all required
2095 insurance policies, at any time.
2096

2097 **G. Subcontractor.** Contractor shall include all subcontractors as insured under its
2098 policies or shall furnish separate certificates and endorsements for each

subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

H. Required Endorsements.

1. The Workers' Compensation policy shall contain an endorsement in substantially the following form:

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

Town of Paradise
Town Hall
5555 Skyway
Paradise, CA 95969
Attn: Town Manager

2. The Public Liability policy shall contain endorsements in substantially the following form:

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

Town of Paradise
Town Hall
5555 Skyway
Paradise, CA 95969
Attn: Town Manager

- b. "The Town, its officers, employees, directors, agents and volunteers are additional insured on this policy."

- c. "This policy shall be considered primary insurance as respects any other valid and collectible insurance maintained by the Town, including any self-insured retention or program of self-insurance, and any other such insurance shall be considered excess insurance only."

- d. "Inclusion of the Town as an insured shall not affect the Town's rights as respects any claim, demand, suit or judgment brought or recovered against Contractor. This policy shall protect the Contractor

and the Town in the same manner as though a separate policy had been issued to each, but this shall not operate to increase Contractor's liability as set forth in the policy beyond the amount shown or to which Contractor would have been liable if only one party had been named as an insured."

I. Delivery of Proof of Coverage. On or before the Effective Date, Contractor shall furnish the Town with certificates of each policy of insurance required hereunder. Such certificates shall show the type and amount of coverage, effective dates, and dates of expiration of policies and shall note all required endorsements. The certificates for each policy are to be signed by a Person authorized at the insurer to bind coverage on its behalf. If at any time the Towns so requests, complete certified copies of each policy, together with all endorsements, shall also be promptly delivered to the Town. Contractor shall periodically furnish renewal certificates to the Town to demonstrate maintenance of the required coverage throughout the Term.

J. Other Insurance Requirements.

1. In the event any services are delegated to a subcontractor, Contractor shall require such subcontractor to provide statutory workers' compensation insurance and employer's liability insurance for all of the subcontractor's employees engaged in the work. The liability insurance required by this Section 9.03.J.1 shall cover all subcontractors or the subcontractor must furnish evidence of insurance provided it meets all of the requirements of this Section 9.03.J.1.
2. Contractor shall comply with all requirements of the insurer's policies. The carrying of insurance shall not relieve Contractor from any obligation under this Agreement. If any claim is made by any third party against Contractor or a subcontractor on account of any occurrence related to this Agreement, Contractor shall promptly report the facts in writing to the insurance carrier and to the Town.
3. If Contractor fails to procure and maintain any insurance by this Agreement, the Town may take out and maintain, at Contractor's expense, such insurance as the Town may reasonably deem proper in accordance with the limits set forth herein and Contractor shall reimburse the Town for the cost of such insurance within thirty days of being invoiced by the Town for such costs.

- 2180 4. The Comprehensive General Liability insurance required by the Section
2181 shall be written on an occurrence (not accident) rather than a “claims
2182 made” basis, if such coverage is obtainable. If its is not obtainable,
2183 Contractor shall notify the Town and arrange for “tail coverage” to protect
2184 the Town from claims filed during the three years immediately following
2185 the expiration or termination of this Agreement relating to incidents which
2186 occurred prior to such expiration or termination.

2187
2188 **9.04 Letter of Credit.**

2189 Simultaneously with the execution of this Agreement, Contractor shall file with the
2190 Town an irrevocable letter of credit in a form approved by the Town Attorney securing
2191 Contractor’s performance of its obligations under this Agreement and shall maintain
2192 such letter of credit on an annual basis and shall be annually renewed thereafter
2193 throughout the Term of this Agreement. The Town shall have the right to make draws
2194 from the letter of credit if Contractor breaches this Agreement. The principal sum of
2195 the letter of credit shall be \$100,000.00.

ARTICLE 10
TOWN'S RIGHT TO PERFORM SERVICE

10.01 General.

In the event that Contractor, for any reason whatsoever, fails, refuses or is unable to Collect or transport any or all Solid Waste, Recyclable Materials, and Organics which it is required by this Agreement, at the time and in the manner provided in this Agreement, for a period of more than forty-eight (48) hours, and if, as a result thereof, Solid Waste, Recyclable Materials, and Organics should accumulate in the Service Area to such an extent, in such a manner, or for such a time that the Town should find that such accumulation endangers or menaces the public health, safety or welfare, then the Town shall have the right, but not the obligation, upon twenty-four (24) hour prior written notice to Contractor during the period of such emergency as determined by the Town, (1) to perform, or cause to be performed, such services itself with its own or other personnel without liability to Contractor; and/or (2) to take temporary possession of any or all of Contractor's land, equipment and other property used or useful in the Collection and transportation of Solid Waste, Recyclable Materials, and Organics, and to use such property to Collect and transport any Solid Waste, Recyclable Materials, and Organics generated within the Service Area which Contractor would otherwise be obligated to Collect and transport pursuant to this Agreement.

If Solid Waste, Recyclable Materials, and Organics accumulates in the Service Area to such an extent, in such a manner or for such a time that the Town finds that such accumulation represents an immediate danger or menace to the public health safety or welfare, the Town shall not be required to provide the twenty-four (24) hour prior written notice set forth above in order to take the above actions.

Notice of Contractor's failure, refusal or neglect to Collect and transport Solid Waste, Recyclable Materials, and Organics may be given orally by telephone to Contractor at its principal office and shall be effective immediately. Written confirmation of such oral notification shall be sent to Contractor within twenty-four (24) hours of the oral notification.

Contractor further agrees that in such event:

- A. It will take direction from the Town to affect the transfer of possession of equipment and property to the Town for its use.
- B. It will, if the Town so requests, keep in good repair and condition all of such equipment and property, provide all motor vehicles with fuel, oil and other service, and provide such other service as may be necessary to maintain said property in operational condition.

C. The Town may immediately engage all or any personnel necessary or useful for the Collection and transportation of Solid Waste, Recyclable Materials, and Organics, including, if the Town so desires, employees previously or then employed by Contractor. Contractor further agrees, if the Town so requests, to furnish the Town the services of any or all management or office personnel employed by Contractor whose services are necessary or useful for Solid Waste, Recyclable Materials, and Organics Collection, transportation, processing, and disposal operations and for the billing and Collection of fees for these services.

The Town agrees that it assumes complete responsibility for the proper and normal use of such equipment and facilities while in its possession.

If the interruption or discontinuance in service is caused by any of the reasons listed in Section 11.04, the Town shall pay to Contractor the reasonable rental value of the equipment and facilities, possession of which is taken by the Town, for the period of the Town's possession, if any, which extends beyond the period of time for which Contractor has rendered bills in advance of service, for the class of service involved.

Except as otherwise expressly provided in the previous paragraph, the Town's exercise of its rights under this Article 10 (1) does not constitute a taking of private property for which compensation must be paid; (2) will not create any liability on the part of the Town to Contractor; and (3) does not exempt Contractor from any of the indemnity or insurance provisions of this Agreement, which are meant to extend to circumstances arising under this Section, provided that Contractor is not required to indemnify the Town against claims and damages arising from the negligence or willful misconduct of the Town, its elective and appointive boards, commissions, officers, employees and agents in the operation of Collection vehicles during the time the Town has taken possession of such vehicles.

10.02 Temporary Possession of Contractor's Property.

If the Town suffers an interruption or discontinuance of service (including interruptions and discontinuance due to events described in Section 11.04), the Town may take possession of and use all of Contractor's property described above until other suitable arrangements can be made for the provision of the Franchised Services.

10.03 Billing and Compensation to the Town during Town's Possession.

During such time that the Town is providing Solid Waste services, as above provided, Contractor shall bill and Collect payment from all users of the above-mentioned services as described in Section 5.02. Contractor further agrees that, in such event, it shall reimburse the Town for any and all costs and expenses incurred by the Town beyond that billed and received by Contractor in taking over possession of the above-mentioned equipment and property for Franchised Services in such manner and to an extent as would otherwise be required of Contractor under the Terms of this

2287 Agreement. Such reimbursement shall be made from time to time after submission by
2288 the Town to Contractor of each statement listing such costs and expenses, but in no
2289 event later than five (5) working days from and after each such submission.
2290

2291 **10.04 Town's Right to Relinquish Possession.**

2292 It is further mutually agreed that the Town may at any time at their discretion
2293 relinquish possession of any or all of the above-mentioned property to Contractor and
2294 thereupon demand that Contractor resume the Franchised Services as provided in this
2295 Agreement, whereupon Contractor shall be bound to resume the same.
2296

2297 **10.05 Duration of Town's Possession.**

2298 Town's right pursuant to this Article to retain temporary possession of Contractor's
2299 facilities and equipment, and to render Collection services, shall terminate when the
2300 event which caused the taking possession under Section 10.01 is cured and the
2301 performance bond is fully restored. In any case, the Town has no obligation to
2302 maintain possession of Contractor's property or equipment and/or continue its use for
2303 any period of time and may at any time, in its sole discretion, relinquish possession to
2304 Contractor.
2305
2306

ARTICLE 11
DEFAULT, REMEDIES AND LIQUIDATED DAMAGES

11.01 Events of Default.

All provisions of the Agreement and this Agreement to be performed by Contractor are considered material. Each of the following shall constitute an event of default.

- A. Fraud or Deceit.** If Contractor practices, or attempts to practice, any fraud or deceit upon the Town.
- B. Insolvency or Bankruptcy.** If Contractor becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of Contractor in a bankruptcy proceeding.
- C. Failure to Maintain Coverage.** If Contractor fails to provide or maintain in full force and effect the Workers' Compensation, liability, or indemnification coverage as required by this Agreement.
- D. Violations of Regulation.** If Contractor violates any orders or filings of any regulatory body having authority over Contractor relative to this Agreement, provided that Contractor may contest any such orders or filings by appropriate proceedings conducted in good faith, in which case no breach of this Agreement shall be deemed to have occurred.
- E. Failure to Perform.** If Contractor ceases to provide Collection, processing, or Recycling services as required under this Agreement for a period of two (2) consecutive days or more, for any reason within the control of Contractor, including labor disputes.
- F. Failure to Pay.** If Contractor fails to make any payments required under this Agreement and/or refuses to provide the Town with required information, reports, and/or records in a timely manner as provided for in the Agreement.
- G. Acts or Omissions.** Any other act or omission by Contractor which violates the terms, conditions, or requirements of this Agreement, the Act of 1989, as it may be amended from time to time, or any law, statute, ordinance, order, directive, rule, or regulation issued there under and which is not corrected or remedied within the time set in the written notice of the violation or, if Contractor cannot reasonably correct or remedy the breach within the time set forth in such notice, if Contractor should fail to commence to correct or remedy such violation within the time set forth in such notice and diligently effect such correction or remedy thereafter.
- H. False or Misleading Statements.** Any representation or disclosure made to the Town by Contractor in connection with or as an inducement to entering into this Agreement, or any future amendment to this Agreement, which proves to be false

or misleading in any material respect as of the time such representation or disclosure is made, whether or not any such representation or disclosure appears as part of this Agreement.

I. Attachment. There is a seizure of, attachment of, or levy on, the operating equipment of Contractor, including without limits its equipment, maintenance or office facilities, or any part thereof.

J. Suspension or Termination of Service. There is any termination or suspension of the transaction of business by Contractor related to this Agreement, including without limit, due to labor unrest including strike, work stoppage or slowdown, sick-out, picketing, or other concerted job action lasting more than two (2) consecutive days.

K. Failure to Provide Assurance of Performance. It Contractor fails to provide reasonable assurances of performance as required under Section 11.06.

Contractor shall be given ten (10) business days from written notification by the Town to cure any default arising under subsections C, E, F, I, J and K provided, however, that the Town shall not be obligated to provide Contractor with a notice and cure opportunity if the Contractor has committed the same or similar breach within a twenty-four (24) month period.

11.02 Right to Terminate Upon Default.

In the event that Contractor should default and subject to the right of the Contractor to cure, in the performance of any provisions of this contract, and the default is not cured for any default arising under Section 11.01 C, E, F, I, J or K, within ten (10) days' notice if the public health or safety is threatened, or otherwise thirty (30) days after receipt of written notice of default from the Town, then the Town may, at its option, terminate this Agreement and/or hold a hearing at its next Town Council meeting to determine whether this contract should be terminated. In the event the Town decides to terminate this contract, the Town shall serve twenty (20) days' written notice of its intention to terminate upon Contractor. In the event the Town exercises its right to terminate this contract, the Town may, at its option, upon such termination, either directly undertake performance of the services or arrange with other Persons to perform the services with or without a written agreement. This right of termination is in addition to any other rights of the Town upon a failure of Contractor to perform its obligations under this Agreement.

The Town's rights to terminate this Agreement and to take possession of Contractor's Facility are not exclusive, and the Town's termination of this Agreement shall not constitute an election of remedies. Instead, they shall be in addition to any and all other legal and equitable rights and remedies which the Town may have. By virtue of the nature of this Agreement, the urgency of timely continuous and high-quality service, the time required to effect alternative service, and the rights granted by the

Town to Contractor, the remedy of damages for a breach hereof by Contractor may be inadequate and the Town may seek injunctive relief.

11.03 Liquidated Damages.

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

B. Service Performance Standards; Liquidated Damages for Failure to Meet Standards. The parties further acknowledge that consistent, reliable Solid Waste, Recyclable Materials, and Organics Collection is of utmost importance to the Town and that the Town has considered and relied on Contractor's representations as to its quality of service commitment in awarding the Agreement to it. The parties further recognize that some quantified standards of performance are necessary and appropriate to ensure consistent and reliable service and performance. The parties further recognize that if Contractor fails to achieve the performance standards, or fails to submit required documents in a timely manner, the Service Area and its residents will suffer damages and that it is and will be impractical and extremely difficult to ascertain and determine the exact amount of damages which the Town will suffer. Therefore, without prejudice to the Town's right to treat such non-performance as an event of default under this Article 11, the parties agree that the following liquidated damage amounts represent a reasonable estimate of the amount of such damages considering all of the circumstances existing on the date of this Agreement, including the relationship of the sums to the range of harm to the Town that reasonably could be anticipated and the anticipation that proof of actual damages would be costly or impractical. In placing their initials at the places provided, each party specifically confirms the accuracy of the statements made above and the fact that each party has had ample opportunity to consult with legal counsel and obtain an explanation of the liquidated damage provisions at the time that the Agreement was made.

2442 Contractor Town
2443 Initial Here _____ Initial Here _____
2444
2445 Contractor agrees to pay (as liquidated damages and not as a penalty) the amounts set
2446 forth below:
2447

2448 **1. Collection Reliability.**

- 2449 a. For each failure to commence service to a new service recipient
2450 account within seven (7) days after order, which exceed five (5) such
2451 failures annually: \$150.00
2452 b. For each failure to Collect Solid Waste, Recyclable Materials, and
2453 Organics, which has been properly set out for Collection, from an
2454 established service recipient account on the scheduled Collection day
2455 and not Collected within the period described in this Agreement
2456 which exceeds forty-five (45) such failures quarterly: \$150.00
2457 c. For each failure to Collect Solid Waste, Recyclable Materials, and
2458 Organics, which has been properly set out for Collection, from the
2459 same service recipient on two (2) consecutive scheduled pickup days:
2460 \$150.00
2461 d. For each failure to perform and submit billing reviews: \$250.00
2462

2463 **2. Collection Quality.**

- 2464 a. For each occurrence of damage to private property which exceeds
2465 seven (7) such occurrences annually: \$250.00
2466 b. For each occurrence of failure to properly return empty Containers to
2467 avoid pedestrian or vehicular traffic impediments or to place cans
2468 upright with lids secured (in areas where service recipients own their
2469 containers, if applicable) which exceeds ten (10) such occurrences
2470 annually: \$150.00
2471 c. For each occurrence of excessive noise or discourteous behavior:
2472 \$250.00
2473 d. For each failure to clean up Solid Waste, Recyclable Materials, and
2474 Organics spilled by Contractor from Containers which exceeds
2475 fifteen (15) such failures annually: \$150.00
2476 e. For each occurrence of Collecting Solid Waste, Recyclable Materials
2477 and Organics during unauthorized hours which exceeds ten (10) such
2478 occurrences annually: \$250.00
2479

2480 **3. Service Recipient Responsiveness.**

- 2481 a. For each failure to initially respond to a service recipient Complaint
2482 within one (1) business day: \$100.00

- b. For each failure to process service recipient Complaints to the Town as required by Article 5: \$500.00

- 4. Timeliness of Submissions to Town/State Agencies.** Reports shall be considered late, after the seventh late day, until such time as a correct and complete report is received by the Town. For each calendar day a report is late, the daily liquidated damage amount shall be:
- a. Annual reports to the Town: \$100 per day
- b. Required reports to State agencies per Section 8.03.C of this Agreement: \$100 per day

Liquidated damages will only be assessed after Contractor has been given the opportunity but failed to rectify, in a timely manner, the breach as described in this Agreement. The Town may determine the occurrence of events giving rise to liquidated damages through the observation of its own employees or representative or investigation of service recipient Complaints.

Prior to assessing liquidated damages, the Town shall give Contractor notice of its intention to do so. The notice will include a brief description of the incident(s)/non-performance. Contractor may review (and make copies at its own expense) all information in the possession of the Town relating to incident(s)/non-performance. Contractor may, within ten (10) days after receiving the notice, request a meeting with the Town. Contractor may present evidence in writing and through testimony of its employees and others relevant to the incident(s)/non-performance. The Town will provide Contractor with a written explanation of his or her determination on each incident(s)/non-performance prior to authorizing the assessment of liquidated damages. The decision of the Town shall be final.

- C. Amount.** The Town may assess liquidated damages for each calendar day or event, as appropriate, that Contractor is determined to be liable in accordance with this Agreement.
- D. Timing of Payment.** Contractor shall pay any liquidated damages assessed by the Town within ten (10) days after they are assessed. If they are not paid within the ten (10) day period, the Town may proceed against the performance bond required by the Agreement or order the termination of the Agreement granted by this Agreement, or both.

11.04 Excuse from Performance.

The parties shall be excused from performing their respective obligations hereunder in the event they are prevented from so performing by reason of floods, earthquakes, other natural disasters, war, civil insurrection, terrorist attacks, riots, acts of any

government (including judicial action), and other similar catastrophic events which are beyond the control of and not the fault of the party claiming excuse from performance hereunder. Labor unrest, including, but not limited to, strike, work stoppage or slowdown, sick-out, picketing, or other concerted job action conducted by Contractor's employees or directed at Contractor is not an excuse from performance and Contractor shall be obligated to continue to provide service notwithstanding the occurrence of any or all of such events.

The party claiming excuse from performance shall, within two (2) days after such party has notice of such cause, give the other party notice of the facts constituting such cause and asserting its claim to excuse under this Section 11.04.

The interruption or discontinuance of Contractor's services caused by one or more of the events excused shall not constitute a default by Contractor under this Agreement. Notwithstanding the foregoing, however, if Contractor is excused from performing its obligations to Collect; transfer, transport, process and Dispose of Solid Waste hereunder for any of the causes listed in this Section for a period of ten (10) days or more, the Town shall nevertheless have the right, in its sole discretion, to terminate this Agreement by giving ten (10) days' notice, in which case the provisions relative to taking possession of Contractor's land, equipment and other property and engaging Contractor's personnel in Article 10 and this Article 11 will apply.

11.05 Notice, Hearing and Appeal of Town/ Breach.

Should Contractor contend that the Town is in breach of this Agreement, it shall file with the Town Manager a written request with the Town's Solid Waste Committee for an administrative hearing. Said request shall be made within ninety (90) days of the event or incident which allegedly gave rise to the breach. The Town Manager shall notify Contractor of the time and date said hearing shall be held within thirty (30) days of receipt of Contractor's request. Contractor shall present its position and all relevant facts first and then the Town Manager shall make his or her presentation. Contractor shall be notified of the Town's Solid Waste Committee's ruling in writing within fourteen (14) days of the administrative hearing.

If Contractor is not in agreement with the ruling issued by the Committee at the administrative hearing, it shall have the right to appeal this ruling to Town Council. This appeal shall be made in writing to the Town Manager no later than fourteen (14) days after receipt of the administrative hearing ruling. The Town Manager shall notify Contractor of the time and date the Town Council will review Contractor's allegation. Contractor shall present its position and all relevant facts. Contractor shall be notified in writing within thirty (30) days of the Town Council's ruling. The Town Council's ruling shall be final, and Contractor shall have no further rights of administrative appeal.

11.06 Assurance of Performance.

Each party may, at its option and in addition to all other remedies it may have, demand from the other Party reasonable assurances of timely and proper performance of this Agreement, in such form and substance as the Party may require. If the other Party fails or refuses to provide satisfactory assurances of timely and proper performance in the form and by the date required by the Party, such failure or refusal shall be an event of default.

11.07 Damage to Property.

Contractor shall endeavor to resolve all claims as soon as reasonably practicable following receipt thereof, made by Owners or occupants of property served by Contractor, for damages to property including, but not limited to, Containers. In the event such damage shall have been caused by the negligence or intentional acts of Contractor, its officers, agents, or employees, Contractor shall promptly repair or replace such damaged property. The provisions of this Section 11.07 shall not be deemed a limitation upon any other provisions of this Agreement, or any rights or remedies which may accrue to the Town by reason of Contractor's acts or omissions to act hereunder.

11.08 Town Remedies Cumulative; Specific Performance.

The Town's rights to suspend or terminate this Agreement or to perform under Article 10 are not mutually exclusive, and the Town's exercise of one such right shall not constitute a selection of remedies. Instead, they shall be in addition to any and all other legal and equitable rights and remedies which the Town may have.

ARTICLE 12
OTHER AGREEMENTS OF THE PARTIES

12.01 Relationship of Parties.

The Parties intend that Contractor shall perform the services required by this Agreement as an independent Contractor engaged by the Town and neither as an officer or employee of the Town nor as a partner of or joint venture with the Town. No employee or agent of Contractor shall be or shall be deemed to be an employee or agent of the Town. Except as expressly provided herein, Contractor shall have the exclusive control over the manner and means of conducting the services performed under this Agreement, and all Persons performing such services. Contractor shall be solely responsible for the acts and omissions of its officers, employees, subcontractors and agents. Neither Contractor nor its officers, employees, subcontractors and agents shall obtain any rights to retirement benefits, workers' compensation benefits, or any other benefits which accrue to the Town's employees by virtue of their employment with the Town.

12.02 Compliance with Law.

In providing the services required under this Agreement, Contractor shall at all times comply with all applicable laws (including but not limited to the "Environmental Laws") of the United States, the State of California, the County of Butte, the Service Area and with all applicable regulations promulgated by Federal, State, regional, or local administrative and regulatory agencies, now in force and as they may be enacted, issued, or amended during the Term, collectively, the "Laws"). In the event of any conflict between this Agreement and Laws, the requirements of the Laws shall govern, and Contractor shall not be in breach of this Agreement if Contractor complies with the Laws in contravention of this Agreement, provided that nothing in this Section 12.02 is intended to limit or enlarge Contractor's obligations or diminish its right to satisfy its obligation to provide Solid Waste, Recyclable Materials, Organics Collection, Processing, and/or Disposal.

12.03 Governing Law.

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

12.04 Jurisdiction.

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

2637 **12.05 Assignment by Contractor.**

2638
2639 **A. General.** Contractor acknowledges that this Agreement involves rendering a
2640 vital service to the Town's residents and businesses, and that the Town has selected
2641 Contractor to perform the services specified herein based on (1) Contractor's
2642 experience, skill and reputation for conducting its operations in a safe, effective and
2643 responsible fashion, at all times in keeping with applicable Environmental Laws,
2644 regulations, and best management practices, and (2) Contractor's obligations to the
2645 Town under this Agreement. The Town has relied on each of these factors, among
2646 others, in choosing Contractor to perform the services to be rendered by Contractor
2647 under this Agreement.

2648
2649 **B. Assignments.** Contractor shall not assign its rights nor delegate or otherwise
2650 transfer its obligations under this Agreement to any other Person.

2651
2652 If Contractor requests the Town's consideration of and consent to an assignment,
2653 the Town may deny or approve such request using its sole discretion. No request
2654 by Contractor for consent to any assignment need be considered by the Town
2655 unless and until Contractor has met the following requirements:
2656

- 2657 **1.** Contractor shall undertake to pay the Town its reasonable expenses for
2658 attorney's fees and investigation costs necessary to investigate the
2659 suitability of any proposed assignee, and to review and finalize any
2660 documentation required as a condition for approving any such
2661 assignment;
- 2662 **2.** Contractor shall furnish the Town with audited financial statements of the
2663 proposed assignee's operations for the immediately preceding three (3)
2664 operating years;
- 2665 **3.** Contractor shall furnish the Town with satisfactory proof: (i) that the
2666 proposed assignee has at least ten (10) years of Solid Waste, Recyclable
2667 Materials, and Organics management experience on a scale equal to or
2668 exceeding the scale of operations conducted by Contractor under this
2669 Agreement; (ii) that in the last five (5) years, the proposed assignee has not
2670 suffered any significant citations or other censure from any Federal, State
2671 or local agencies having jurisdiction over its Solid Waste, Recyclable
2672 Materials, and Organics management operations due to any significant
2673 failure to comply with State, Federal or local Environmental Laws and that
2674 the assignee has provided the Town with a complete list of such citations
2675 and censures; (iii) that the proposed assignee has at all times conducted its

operations in an environmentally safe and conscientious fashion; (iv) that the proposed assignee conducts its Solid Waste, Recyclable Materials, and Organics management practices in accordance with sound Solid Waste, Recyclable Materials, and Organics management practices in full compliance with all Federal, State and local laws regulating the Franchised Services including Hazardous Substances; (v) that the proposed assignee can meet the guaranty and performance bond requirements met by Contractor; and , (vi) of any other information required by the Town to ensure the proposed assignee can fulfill the terms of this Agreement in a timely, safe and effective manner.

Under no circumstances shall the Town be obligated to consider any proposed assignment by Contractor.

- C. **Assignment Defined.** For the purpose of this Section 12.05.C, when used in reference to Contractor, "assignment" shall include, but not be limited to (1) a sale, exchange or other transfer of substantially all of Contractor's assets dedicated to service under this Agreement to a third party; (ii) a sale, exchange or other transfer of outstanding common stock of Contractor to a third party regardless of whether said sale, exchange or transfer may result in a change of control of Contractor; (iii) any dissolution, organization, consolidation, merger, re-capitalization, stock issuance or re-issuance, voting trust, pooling agreement, escrow arrangement, liquidation or other transaction to which results in a change of Ownership or control of Contractor; (iv) any assignment by operation of law, including insolvency or bankruptcy, making assignment for the benefit of creditors, writ of attachment for an execution being levied against this Agreement, appointment of a receiver taking possession of Contractor's property, or transfer occurring in the event of a probate proceeding; and (v) any combination of the foregoing (whether or not in related or contemporaneous transactions) which has the effect of any such transfer or change of Ownership, or change of control of Contractor.

12.06 Binding on Assigns.

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

12.07 Affiliated Companies.

Contractor shall maintain accounting records and financial statements on a basis showing the results of Contractor's operations under this Agreement separately from operations in other locations, as if Contractor were an independent entity providing service only to the Town. For purposes of this Agreement, the costs and revenues associated with providing service to the Town shall not be combined, consolidated or

in any other way incorporated with those of other operations conducted by Contractor in other locations, or with those of an Affiliate.

If Contractor enters into any financial transactions with a Related Party Entity or Affiliate for the provision of labor, equipment, supplies, services, capital, etc., related to the furnishing of service under this Agreement, that relationship shall be disclosed to the Town, and in the financial reports submitted to the Town. In such event, the Town's rights to inspect records, and obtain financial data shall extend to such Related Party Entity or entities.

12.08 Subcontracting.

Except for Recycle Center and Special Event activities, Contractor shall not engage any subcontractors for Collection, Processing or Disposal of Solid Waste, Recyclable Materials, and Organics without the prior written consent of the Town.

12.09 Transition to Next Contractor.

If the transition of services to another Contractor occurs through expiration of term, subsequent Contractor(s) to assist in an orderly transition which will include Contractor providing route lists and billing information. Contractor will not be obliged to sell Collection vehicles, bins and Containers to the next Contractor. Depending on Contractor's circumstances at the point of transition, Contractor at its option may enter into negotiations with the next Contractor to sell (in part or all) Collection vehicles, bins and Containers.

12.10 Parties in Interest.

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

12.11 Waiver.

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

12.12 Contractor's Investigation.

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

12.13 Notice.

All notices, demands, requests, proposals, approvals, consents and other communications which this Agreement requires, authorizes or contemplates shall be in writing and shall either be personally delivered to a representative of the parties at the address below or be deposited in the United States mail, first class postage prepaid, addressed as follows:

If to the Town:

Town of Paradise
Town Hall
5555 Skyway
Paradise, CA 95969
Attn: Town Manager

If to the Contractor: _

Northern Recycling & Waste Services
P.O Box 2529
Paradise, CA 95967
Attn: General Manager

The address to which communications may be delivered may be changed from time to time by a notice given in accordance with this Section 12.13.

Notice shall be deemed given on the day it is personally delivered or, if mailed, three days from the date it is deposited in the mail.

12.14 Representatives of the Parties.

A. Representatives of the Town. References in this Agreement to the "Town" shall mean the Town Manager and all actions to be taken by the Town shall be taken by the Town Manager who may delegate his/her authority in writing to another Town employee, Contractor may rely upon actions taken by such delegates if they are within the scope of the Town and properly delegated to him/her.

B. Contractor Representatives. Contractor shall, by the Effective Date, designate in writing a responsible officer who shall serve as the representative of Contractor in all matters related to the Agreement and shall inform The Town Manager in writing of such designation and of any limitations upon his or her authority to bind Contractor. The Town Manager may rely upon action taken by such designated representative as actions of Contractor if they are within the scope of the Contractor and properly delegated to him/her by Contractor.

12.15 Town Free to Negotiate with Third Parties.

The Town may investigate all options for the Collection and processing of Solid Waste after the expiration of the Term. Without limiting the generality of the foregoing, the Town may solicit proposals from Contractor and from third parties for the provision of services, and any combination thereof, and may negotiate and execute agreements for such services which will take effect upon the expiration or earlier termination under Section 11.01 of this Agreement.

12.16 Compliance with the Town's Codes.

Contractor shall comply with those provisions of the ordinances and municipal codes of the Town which are applicable, and with any and all amendments to such applicable provisions during the term of this Agreement provided, however, that if a change in any such municipal code materially affects Contractor's annual cost of operations, the Contractor shall be entitled to an interim compensation adjustment as provided for in Section 6.04. Moreover, no such change may revoke or override the grant to Contractor of the exclusive franchise in Section 2.01 of this Agreement or override the Contractor's designations of a Material Recovery Facility and Disposal Site pursuant to this Agreement.

12.17 Privacy.

Contractor shall strictly observe and protect the rights of privacy of service recipients. Information identifying individual service recipients or the composition or contents of a service recipient's waste stream shall not be revealed to any Person, governmental unit, private agency, or Contractor, unless upon the authority of a court of law, by statute, or upon valid authorization of the service recipient. This provision shall not be construed to preclude Contractor from preparing, participating in, or assisting in the preparation of waste characterization studies or waste stream analyses which may be required by AB 939.

12.18 Integrated Contract.

This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by written agreement signed by both the Town and Contractor.

12.19 Inserted Provisions.

Each provision and clause required by law to be inserted into the Agreement shall be deemed to be enacted herein, and the Agreement shall be read and enforced as though each were included herein. If through mistake or otherwise, any such provision is not inserted or is not correctly inserted, the Agreement shall be amended to make such insertion on application by either party.

12.20 Execution.

This Agreement shall be executed in duplicate original counterparts by the parties. Irrespective of the date this Agreement is so executed, the Effective Date hereof shall be, and is April 30, 2017.

12.21 Non-Discrimination.

Consistent with Town's policy that harassment and discrimination are unacceptable employer-employee conduct, Contractor agrees that harassment or discrimination directed toward a job applicant, a Town employee, or a citizen by Contractor or Contractor's employee on the basis of race, religious creed, color, national origin, ancestry, handicap, mental or physical disability, Acquired Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC), cancer-related medical condition, refusal of family care leave, marital status, denial of pregnancy disability leave, veteran status, age, sex, sexual orientation or sexual preference will not be tolerated. Contractor agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

12.22 Dispute Resolution.

Prior to initiation of litigation under this Agreement, the parties shall attempt to resolve their disputes by means of mediation. If the parties cannot agree on a mediator, the Superior Court of Butte County shall appoint a mediator. Each party shall bear their costs and attorney fees arising out of the mediation and shall share equally the cost of the mediator, provided, however, that if the matter is not resolved by way of mediation, the prevailing party in any subsequent litigation shall be entitled to collect their costs of mediation as an element of their costs of suit, including reasonable attorney fees (incurred both in the mediation process as well as the subsequent court proceedings).

ARTICLE 13
REPRESENTATIONS AND WARRANTIES OF CONTRACTOR

Contractor represents and warrants as follows:

13.01 Company Status.

Contractor is a limited liability company duly organized, validly existing and in good standing under the laws of the State of California. It is qualified to transact business in the State of California and has the power to own its properties and to carry on its business as now owned and operated and as required by this Agreement.

13.02 Company Authorization.

Contractor has the authority to enter into and perform its obligations under this Agreement. The Managers and Members of the Company have taken all actions required by law, its operating agreement, or otherwise, to authorize the execution of this Agreement. The Person signing this Agreement on behalf of Contractor has authority to do so.

13.03 Agreement Will Not Cause Breach.

To the best of Contractor's knowledge, after reasonable investigation, neither the execution or delivery of this Agreement nor the performance of this Agreement by Contractor: (i) conflicts with, violates, or results in a breach of any applicable law; or (ii) conflicts with, violates or results in a breach of any term or condition of any judgment, order or decree of any court, administrative agencies or other governmental authority, or any agreement or instrument to which Contractor is a party or by which Contractor or any of its properties or assets are bound, or constitutes a default there under.

13.04 No Litigation.

To the best of Contractor's knowledge, after reasonable investigation, there is no action, suit, proceeding or investigation, at law or in equity, before or by any court or governmental authority, commission, board, agencies or instrumentality decided, pending or threatened against Contractor wherein an unfavorable decision, ruling or finding, in any single case or in the aggregate, would materially adversely affect the performance by Contractor of its obligations hereunder or which, in any way, would adversely affect the validity or enforceability of this Agreement or which would have a material adverse effect on the financial condition of Contractor or any surety guaranteeing Contractor's performance under this Agreement, which has not been waived by the Town in writing.

2916 **13.05 No Adverse Judicial Decisions.**

2917 To the best of Contractor's knowledge, after reasonable investigation, there is no
2918 judicial decision that affects the validity of this Agreement and may subject this
2919 Agreement to legal challenge.
2920

2921 **13.06 Ability to Perform.**

2922 Contractor possesses the business, professional, and technical expertise to manage,
2923 handle, treat, store and Dispose of the Solid Waste, and possesses the equipment,
2924 plant, and employee resources required to perform this Agreement.
2925
2926

ARTICLE 14
MISCELLANEOUS PROVISIONS

14.01 Entire Agreement.

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

14.02 Section Headings.

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

14.03 References to Laws and Other Agreements.

All references in this Agreement to laws shall be understood to include such laws as they may be subsequently amended or recodified, unless otherwise specifically provided. This Agreement supersedes any and all agreements heretofore entered into by the parties.

14.04 Interpretation.

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

14.05 Agreement.

This Agreement may not be modified or amended in any respect except by a writing signed by the parties. Any conflict between the body of the Agreement and the Exhibits shall be resolved in favor of the Agreement.

14.06 Severability.

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

14.07 Exhibits.

Each of Exhibits identified as Exhibit "A" through "H" is attached hereto and incorporated herein and made a part hereof by this reference.

14.08 Attorneys' Fees.

The prevailing party in any action brought to enforce the terms of this Agreement or arising out of this Agreement may recover its reasonable costs and attorneys' fees expended in connection with such an action from the other party.

2969
2970 **14.09 Compilation of Information for State Law Purposes.**
2971 Contractor shall compile information on amounts of Solid Waste delivered to the
2972 Facilities and other information, which the Town may reasonably request.
2973
2974 **14.10 Definitions.**
2975 Capitalized terms used in this Agreement without definition have the meanings
2976 specified in Exhibit A, unless the context clearly requires otherwise.
2977
2978 **14.11 Counterparts.**
2979 This Agreement may be executed in counterparts, each of which shall be deemed to be
2980 an original.
2981
2982

2983 IN WITNESS WHEREOF, the Town and Contractor have executed this Agreement (Effective
2984 _____, 2024) as of the day set forth by their respective signature.

2985
2986 Date: _____

TOWN OF PARADISE

2987
2988 ATTEST: BY: _____

2989
2990
2991 _____
2992 Town Clerk

2993
2994 Date: _____

2995
2996
2997 APPROVED AS TO FORM: _____

2998 (Contractor)

2999 BY: _____

3000 _____
3001 Town Attorney

EXHIBITS

1		
2		
3		
4		
5	Definitions	Exhibit A
6	Town's Facilities/Special Events	Exhibit B
7	Contractor Public Education Plan.....	Exhibit C
8	Payments to Town.....	Exhibit D
9	Rate Adjustment Methodology	Exhibit E
10	Solid Waste Collection Rate Schedule	Exhibit F
11	Notary Certification	Exhibit G
12	SB 1383 Compliance Programs.....	Exhibit H
13		

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EXHIBIT A
Definitions

Exhibit A

DEFINITIONS

This Agreement will be construed in accordance with the following definitions.

Act

"Act" means the Act of 1989 (AB939) Public Resources Code, Section 40000 et seq., as it may be amended from time to time.

Affiliate

"Affiliate" means all businesses (including corporations, limited and general partnerships and sole proprietorships) which are directly or indirectly related to Contractor by virtue of direct or indirect ownership interest or common management shall be deemed to be "Affiliated with" Contractor and included within the term "Affiliates" as used herein. An Affiliate shall include a business in which Contractor owns a direct or indirect ownership interest, a business which has a direct or indirect ownership interest in Contractor and/or a business which is also owned, controlled or managed by any business or individual which has a direct or indirect ownership interest in Contractor. For purposes of determining whether an indirect ownership interest exists, the constructive ownership provisions of Section 318(a) of the Internal Revenue Code of 1986, as in effect on the date of this Agreement, shall apply; provided, however, that (i) "ten percent (10%)" shall be substituted for "fifty percent (50%)" in Section 318(a)(2)(C) and in Section 318(a)(3)(C) thereof; and (ii) Section 318(a)(5)(C) shall be disregarded. For purposes of determining ownership under this paragraph and constructive or indirect ownership under Section 318(a), ownership interest of less than ten percent (10%) shall be disregarded and percentage interests shall be determined on the basis of the percentage of voting interest or value which the ownership interest represents, whichever is greater.

Agreement

"Agreement" means this Agreement, including any amendments, between the Town and Contractor.

Billings

"Billings" means any and all statements of charges for services rendered, howsoever made, described or designated by Contractor, or made by others for Town or Contractor, to Owners or occupants of property, including Residential Property and commercial, industrial and institutional Property, served by Contractor for the Collection of Solid Waste, Recyclable Materials, and Organic Waste.

California Code of Regulations/CCR

"California Code of Regulations" or "CCR" means the State of California Code of Regulations. CCR references are preceded with a number that refers to the relevant Title of the CCR (e.g. "14 CCR" refers to Title 14 of CCR).

1 **CalRecycle**

2 “CalRecycle” means California's Department of Resources Recycling and Recovery, and
3 any successor agencies, which is the department designated with responsibility for
4 developing, implementing, and enforcing SB 1383 regulations on cities (and others).

5 **Collect/Collection**

6 “Collect” or “Collection” means to take physical possession, transport, and remove Solid
7 Waste, Recyclable Materials, and Organic Waste within and from the Service Area.

8 **Commencement Date**

9 “Commencement Date” means the date specified when Collection, Processing, and
10 Disposal services required by this Agreement shall be provided.

11 **Commercial Business/Commercial Customer**

12 “Commercial Business” or “Commercial Customer” means Waste Generators whose
13 business activity includes but is not limited to hotels, motor courts, restaurants, offices or
14 office buildings, stores, warehouses, factories, hospitals, assisted living facilities and all
15 other premises used for functions other than dwelling houses, or as otherwise defined in
16 14 CCR Section 18982(a)(6). A multi-family complex that consists of fewer than five (5)
17 units is not a commercial business for purposes of implementing this Agreement.

18 **Complaint**

19 “Complaint” means the written statement (prepared by the Town Administrator, if based
20 on oral statements made by members of the public or Owners or occupants of property)
21 made by members of the public, Owners or occupants of properties served by Contractor,
22 or officers, employees or agents of the Town alleging non-performance or deficiencies in
23 performance of Contractor’s duties and obligations under this Agreement, or otherwise
24 alleging a violation by Contractor of the provisions of this Agreement.

25 **Compliance Review**

26 “Compliance review” means a review of records by the town to determine compliance
27 with this section.

28 **Composting (Compost)**

29 “Composting” means a controlled biological decomposition of organic materials yielding a
30 safe and nuisance free compost product.

31 **Construction and Demolition Debris**

32 “Construction and Demolition Debris” includes waste building materials, packaging and
33 rubble resulting from construction, remodeling, repair or demolition operations on
34 pavements, houses, commercial and industrial buildings, and other structures and
35 improvements.

1 **Containers**

2 “Containers” means watertight metal or plastic objects with lids or covers, designed, and
3 used to hold MSW, recyclable materials, organic waste, or cooking oil/grease prior to
4 collection, provided by the town or authorized contractor. Containers include wheeled
5 carts with lids, bins, open-top roll-off boxes, compactors, and oil/grease tanks.

6 **Contamination**

7 “Contamination” means placing materials in a container that is labeled and intended for
8 storage of another type of material, and which would interfere with the processing of the
9 intended material.

10 **Contractor**

11 “Contractor” means Northern Recycling & Waste Services, a limited liability company
12 organized and operating under the laws of the State of California and its managers,
13 members, directors, employees, agents, companies and subcontractors. The members of
14 the limited liability company are: Recovery Products & Services, Inc., a California
15 corporation, Garbarino Northern Recycling & Waste Services, LLC, Pestoni Paradise City,
16 LLC and Garaventa Enterprises, Inc., a California corporation.

17 **Contractor Compensation**

18 “Contractor Compensation” means the revenue received by the Contractor from Billings
19 for providing services in accordance with this Agreement.
20

21 **Contractor’s Proposal**

22 “Contractor’s Proposal” means the proposal submitted by the Contractor and received on
23 April 7, 2006 by the Town in response to the Town’s February 2006 Request for Proposals
24 for the Solid Waste, Recyclable Material, and Yard Waste Collection, Processing and
25 Disposal Services and certain supplemental written materials, which are incorporated by
26 reference.

27 **Cumulative Revenue Shortfall or Overage**

28 “Cumulative Revenue Shortfall or Overage” means the sum of the Revenue Shortfall(s)
29 plus the sum of the Revenue Overage(s) calculated at the end of each Fiscal Year and
30 inclusive of the most recent Rate Year with any positive balance referred to as an
31 “overage” and any negative balance referred to as a “shortfall”.

32 **Curbside**

33 “Curbside” means the location of a Container for pick-up, not more than fifteen (15) feet
34 from the street curb. Where no street curb exists, the location shall be within five (5) feet
35 from the outside edge of the street nearest the property’s entrance.

1 **Demolition Debris**

2 “Demolition Debris” means used or discarded construction materials generated during the
3 razing or renovation of a structure.

4 **Designated Waste**

5 “Designated Waste” means non-hazardous waste which may pose special disposal
6 problems because of its potential to contaminate the environment and which may be
7 disposed of only in Class II disposal sites, or Class III disposal sites pursuant to a variance
8 issued by the California Department of Health Services. Designated Waste consists of those
9 substances classified as designated waste by the State of California, in 23 California Code
10 of Regulations Section 2522.

11 **Dispose/Disposal**

12 “Dispose” or “Disposal” means the ultimate disposition of Solid Waste collected by
13 Contractor at a Disposal Site in Full Regulatory Compliance.

14 **Disposal Site(s)**

15 “Disposal Site(s)” means the Solid Waste facility or facilities utilized for the ultimate
16 landfill Disposal of Solid Waste Collected by Contractor. The Neal Road Recycling and
17 Waste Facility owned by the County of Butte, shall be the initial designated Disposal Site
18 of Contractor as of the effective date of this Agreement.

19 **Edible Food**

20 “Edible Food” means food intended for human consumption, or as otherwise defined in 14
21 CCR Section 18982(a)(18). For the purposes of this chapter or as otherwise defined in 14
22 CCR Section 18982(a)(18), "edible food" is not MSW if it is recovered and not discarded.
23 Nothing in this chapter or in 14 CCR, Division 7, Article 12 requires or authorizes the
24 recovery of edible food that does not meet the food safety requirements of the California
25 Retail Food Code.

26 **Effective Date**

27 “Effective Date” means the date on which the latter of the two Parties signs the Agreement
28 and the date on which Contractor may begin to take actions and incur costs in preparation
29 to provide Collection, Processing, and Disposal services required by this Agreement.

30 **Electronic Waste**

31 “Electronic Waste” (E-Waste) means discarded electronic equipment such as, but not
32 limited to, television sets, computer monitors, central processing units (CPU’s), laptop
33 computers, external computer hard drives, computer keyboards, computer mice, computer
34 printers, DVD and VCR players.

1 **Enforcement Action**

2 “Enforcement action” means an action of the town to address non-compliance with this
3 article including, but not limited to, issuing administrative citations, fines, penalties, or
4 using other remedies.

5 **Environmental Laws**

6 “Environmental Laws” means all federal and state statutes, County, local and Town
7 ordinances concerning public health, safety and the environment including, by way of
8 example and not limitation, the Act, the Comprehensive Environmental Response,
9 Compensation and Liability Act of 1980, 42 USC §9601 et seq.; the Resource Conservation
10 and Recovery Act, 42 USC §6902 et seq.; the Federal Clean Water Act, 33 USC §1251 et seq.;
11 the Toxic Substances Control Act, 15 USC §1601 et seq.; the Occupational Safety and
12 Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California
13 Health and Safety Code §25100 et seq.; the California Toxic Substances Control Act,
14 California Health and Safety Code §25300 et seq.; the Porter-Cologne Water Quality
15 Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic
16 Enforcement Act, California Health and Safety Code §25249.5 et seq.; as currently in force
17 or as hereafter amended, and all rules and regulations promulgated there under.

18 **Extra Services**

19 “Extra Services” means services provided by Contractor beyond the standard subscribed
20 services to customers.

21 **Facility/Facilities**

22 “Facility/Facilities” means any plant or site, owned or leased and maintained, operated or
23 used by Contractor or the Town for purposes of performing Contractor’s obligations
24 under this Agreement.

25 **Fiscal Year**

26 “Fiscal Year” means the same as calendar year (January 1 through December 31).

27 **Food Recovery**

28 “Food Recovery” means actions to collect and distribute food for human consumption that
29 otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).

30 **Food Recovery Organization**

31 “Food Recovery Organization” means an entity that engages in the collection or receipt of
32 edible food from commercial edible food generators and distributes that edible food to the
33 public for food recovery either directly or through other entities or as otherwise defined in
34 14 CCR Section 18982(a)(25), including, but not limited to:

- 35 1. A food bank as defined in Section 113783 of the Health and Safety Code;
- 36 2. A nonprofit charitable organization as defined in Section 113841 of the Health
37 and Safety Code; and,

1 3. A nonprofit charitable temporary food facility as defined in Section 113842 of the
2 Health and Safety Code.

3 A food recovery organization is not a commercial edible food generator for the purposes
4 of this chapter and implementation of 14 CCR, Division 7, Article 12 pursuant to 14 CCR
5 Section 18982(a)(7).

6 If the definition in 14 CCR Section 18982(a)(25) for food recovery organization differs from
7 this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this Agreement.

8 **Food Recovery Service**

9 “Food Recovery Service” means a person or entity that collects and transports edible food
10 from a commercial edible food generator to a food recovery organization or other entities
11 for food recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A food recovery
12 service is not a commercial edible food generator for the purposes of this chapter and
13 implementation of 14 CCR, Division 7, Article 12 pursuant to 14 CCR Section 18982(a)(7).

14 **Franchise**

15 “Franchise” means the special right granted by the Town for the Collection of Solid Waste,
16 Recyclable Materials, and Organic Waste within the Service Area, the transportation of
17 such material to appropriate places of processing, Recycling, Composting and/or
18 Disposal, and the Processing of Recyclable Materials.

19 **Franchise Fee**

20 “Franchise Fee” means the fee paid by Contractor to the Town as rental for the use of
21 Town property, including, without limitation, the Town streets.

22 **Franchised Services**

23 “Franchised Services” means the Collection of Solid Waste, Recyclable Materials and
24 Organic Waste within the Service Area, the transportation of such material to appropriate
25 places of processing, Recycling, Composting, and/or Disposal and the Processing of
26 Recyclable Materials and Organic Waste.

27 **Full Regulatory Compliance**

28 “Full Regulatory Compliance” means compliance with all applicable permits for a Facility
29 such that the Contractor will at all time maintain the ability to fully comply with its
30 obligations under this Agreement.

31 **Garbage**

32 “Garbage” means putrescible animal, fish, food, fowl, fruit or vegetable matter, or any
33 form thereof, resulting from the preparation, storage, handling, or consumption of such
34 substances.

35 **Generator**

36 “Generator” means any person as defined by the Public Resources Code, whose act or
37 process produced Solid Waste, Recyclable Materials, or Organic Waste as defined in the

Public Resources Code, or whose act first causes Solid Waste to become subject to regulation.

Gross Revenues

"Gross Revenues" means any and all revenue or compensation in any form to Contractor or other Affiliates of Contractor, for services performed pursuant to this Agreement, determined in accordance with Generally Accepted Accounting Principles, including, but not limited to, service recipient fees for Collection of Solid Waste, Recyclable Materials and Organic Waste within the Service Area, the transportation of such material to appropriate places of processing, Recycling, Composting, and/or Disposal and the Processing of Recyclable Materials and Organic Waste without subtracting Franchise Fees or any other cost of doing business.

Gross Revenues Collected

"Gross Revenues Collected" means cash receipts collected by the Contractor for the Collection of Solid Waste, Recyclable Materials, and Organic Waste within the Service Area, the transportation of such material to appropriate places of processing, Recycling, Composting and/or Disposal, and the Processing of Recyclable Materials, without subtracting Franchise Fees or any other cost of doing business.

Hazardous Substance

"Hazardous Substance" shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as "Hazardous Substances", "hazardous materials", "Hazardous Wastes", "toxic waste", "pollutant" or "toxic substances" or similarly identified as hazardous to human health or the environment, in or pursuant to (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC §9601 et seq. (CERCLA); (ii) the Hazardous Materials Transportation Act, 49 USC §1802, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC §6901 et seq.; (iv) the Clean Water Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USC §7901 et seq.; and (vii) California Water Code §13050; (b) any amendments, rules or regulations promulgated there under to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any other applicable federal, state or local Environmental Laws currently existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated biphenyl's ("PCBs"), petroleum, natural gas and synthetic fuel products, and by-products.

Hazardous Waste

"Hazardous Waste" means all MSW defined or characterized as hazardous waste by the Federal Solid Waste Disposal Act, as amended, including the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et seq.) and all future amendments thereto, or regulations promulgated thereunder; all MSW defined or characterized as hazardous waste by the principal agencies of the state (including without limitation the department of health services and the California Integrated Waste Management Board) having jurisdiction over hazardous waste generated by facilities with the state, and pursuant to

any applicable state or local law or ordinance, and all future amendments thereto, or regulations promulgated thereunder, including without limitation the California Integrated Solid Waste Management Act of 1989; radioactive wastes; any sewage sludge or other residue from wastewater treatment facilities; those substances or items which require special or extraordinary handling or disposal due to their hazardous, harmful, toxic or dangerous character or quality; and those substances and items which are not normally disposed of by generally accepted sanitary landfill disposal methods.

Household Hazardous Waste

“Household Hazardous Waste” means Hazardous Waste generated at Residential Premises within the Service Area.

Inspection

“Inspection” means an action or site visit where the town reviews records, containers, and an entity's collection, handling, recycling, or landfill disposal of MSW, recyclable material, organic waste, or edible food handling to determine if the entity is complying with requirements set forth in this chapter, or as otherwise defined in 14 CCR Section 18982(a)(35).

Materials Recovery Facility (MRF)

“Materials Recovery Facility” means a permitted Facility where Solid Waste, Recyclable Materials, or Organic Waste are sorted or separated for the purposes recovering reusable or Recyclable Materials.

Missed Pick-up

“Missed Pick-up” means failure of Contractor to pick up Solid Waste, Recyclable Materials, and/or Organic Waste that has been set out by the customer at the time, at the weight, in the volume, in the proper container, with the lawful contents in accordance with this Agreement, and at the prescribed level of service, as mutually agreed upon by the customer and Contractor.

Multi-Family Complex

“Multi-Family Complex” means a residential premises with five (5) or more dwelling units. Multi-family premises do not include hotels, motels, or other transient occupancy facilities, which are considered commercial businesses.

Municipal Solid Waste/MSW

“Municipal Solid Waste” or “MSW” means all fractions of discarded putrescible and non-putrescible solid, semi-solid and liquid wastes, including trash, refuse, paper, rubbish, ashes, industrial wastes, construction and demolition debris, discarded home and industrial appliances, manure, vegetable or animal solid and semi-MSWs, and other discarded substances or materials. MSW does not include:

- A. Hazardous waste, as defined in the State Public Resources Code Section 40141.

- 1 B. Low-level radioactive waste regulated pursuant to the State Radiation Control
2 Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the
3 State Health and Safety Code).
- 4 C. Untreated medical waste which is regulated pursuant to the State Medical Waste
5 Management Act (Part 14 (commencing with Section 117600) of Division 104 of
6 the State Health and Safety Code). Untreated medical waste shall not be disposed
7 of in a MSW landfill, as defined in State Public Resources Code Section 40195.1.
8 Medical waste that has been treated and deemed to be MSW shall be regulated
9 pursuant to Division 30 of the State Public Resources Code.
- 10 D. Recyclable materials which have been source or type-separated from other waste
11 material.

12 **Occupant**

13 "Occupant" means the Person who occupies a Premises.

14 **Operating Expenses**

15 "Operating Expenses" means all of Contractor's direct costs which are necessary to
16 perform the services under the Agreement including, but not limited to, labor, equipment,
17 materials and supplies, fuel, insurance, depreciation, and taxes and general and
18 administrative overhead.

19 **Operating Ratio**

20 "Operating Ratio" means 90.5% (.905).

21 **Operating Ratio Quotient**

22 "Operating Ratio Quotient" means the quotient resulting from the total Operating
23 Expenses over the Operating Ratio. By way of example if Operating Expenses total
24 \$1,900,000 then the Operating Ratio Quotient is \$2,099,447.50. ($1,900,000 / .905 =$
25 $2,099,447.50$).

26 **Organic Waste**

27 "Organic Waste" means MSWs containing material originated from living organisms and
28 their metabolic waste products, including but not limited to food, green material,
29 landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products,
30 printing and writing paper, manure, biosolids, digestate, and sludges or as otherwise
31 defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined by 14 CCR
32 Section 18982(a).

33 **Other Fees**

34 "Other Fees" means fees paid by the Contractor at the direction of the Town, including but
35 not limited to, a Vehicle Impact Fee.

1 **Owner (Ownership)**

2 “Owner” means the legal owner of real property; and as used in this chapter the singular
3 shall include the plural, and shall include an individual, a firm, an association, a
4 corporation, a partnership and the lessees, trustees, agents, employees, servants and
5 representatives of any such owner. Proof of the assessment of any real property, the
6 subject of this chapter, to any person or legal entity on the official assessor's rolls shall
7 constitute prima facie evidence that such person or legal entity to whom such property is
8 so assessed is the legal owner thereof.

9 **Party (Parties)**

10 “Party” refers to the Town and Contractor, individually or together (Parties).

11 **Pass-Through Costs**

12 “Pass-Through Costs” means those costs that, under the Agreement, Contractor is
13 obligated to pay without markup or profit and includes: disposal and processing fees,
14 depreciation, interest paid on debt and costs associated with complying with current or
15 then existing laws or regulations of any governing jurisdiction.

16 **Person**

17 “Person” means any individual, firm, association, organization, partnership, corporation,
18 business trust, joint venture, the United States, the State of California, the County of Butte,
19 towns, cities, or special purpose districts.

20 **Premises**

21 “Premises” means any land, or building in Service Area where Solid Waste, Recyclable
22 Materials or Organic Waste is generated or accumulated.

23 **Processing**

24 “Processing” means to prepare, treat, or convert through some special method.

25 **Processing Facility (site)**

26 “Processing Facility” means a permitted Facility where Organic Waste or Recyclable
27 Materials are processed for reuse, recycling, composting, mulching, transformation or
28 purpose other than Disposal.

29 **Rates**

30 “Rates” means the unit to be charged customers by Contractor for providing the Collection
31 of Solid Waste, Recyclable Materials, and Organic Waste within the Service Area, the
32 transportation of such material to appropriate places of processing, Recycling, Composting
33 and/or Disposal, and the Processing of Recyclable Materials. Rates may be adjusted time
34 to time in accordance with this Agreement.

35 **Rate Year**

36 “Rate Year” means the twelve-month period, commencing July 1, of one year and
37 concluding June 30 of the same year, for which Contractor compensation is calculated.

1 **Recyclable Materials**

2 "Recyclable Materials" means material which otherwise would become or be treated as
3 MSW but which, by means of a process of collecting, sorting, cleansing, treating and
4 reconstructing, may be returned to the economic mainstream in the form of finished or
5 source material for new, reused or reconstituted products, which may be used in the
6 marketplace. "Recyclable materials" includes paper, books, magazines, cardboard, box
7 board, plastic, metal, glass, and other similar materials authorized by the town for
8 collection by the authorized contractor.

9 **Recycling**

10 "Recycling" means the process of collecting, sorting, cleansing, treating and reconstituting
11 discarded materials which meet the quality standards necessary to be re-used,
12 remanufactured or processed. The Collection, transportation or Disposal of Solid Waste
13 not intended for, or capable of, reuse is not Recycling.

14 **Related Party Entity**

15 "Related Party Entity" means any Affiliate which has financial transactions with
16 Contractor pertaining to this Agreement.

17 **Residential**

18 "Residential" shall mean of, from, or pertaining to a Single-Family or Multi-Family
19 Dwellings and Premises including single-family homes, apartments, condominiums,
20 townhouse complexes, mobile home parks, cooperative apartments, and yacht harbors
21 and marinas where residents live aboard boats.

22 **Residential Property**

23 "Residential Property" means property used for residential purposes.

24 **Revenue Requirement**

25 "Revenue Requirement" means the sum of the Operating Ratio Quotient *plus* the Pass-
26 Through Costs.

27 **Revenue Shortfall or Revenue Overage**

28 "Revenue Shortfall or Revenue Overage" means (for any Rate Year) the deficit, if any, of
29 the Revenue Requirement *less* the Gross Revenues Collected; and "Revenue Overage"
30 shall mean (for any Fiscal Year) the surplus, if any, of the Gross Revenues Collected *less*
31 the Revenue Requirement.

32 **Route Review**

33 "Route Review" means a visual inspection of containers along a hauler route for the
34 purpose of determining container contamination and may include mechanical inspection

methods such as the use of cameras, or as otherwise defined in 14 CCR Section 18982(a)(65).

SB 1383

“SB 1383” means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Article 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

SB 1383 Regulations

“SB 1383 Regulations” means or refers to, for the purposes of this Agreement, the short-lived climate pollutants: organic waste reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Article 12 and amended portions of regulations of 14 CCR and 27 CCR.

Service Area

“Service Area” means that territory within the Town of Paradise with respect to which the Town exercises franchising authority for the Collection of Solid Waste, Recyclable Materials and Yard, the transportation of such material to appropriate places of processing, Recycling, Composting, and/or Disposal and the Processing of Recyclable Materials and Organic Waste which territory is shown on a map on file in the office of the Town Administrator, to which reference is hereby made for the description of said area.

Service Suspension

“Service Suspension” means an option for a residential customer to elect to stop service for an extended period of time due to Premises being vacant. Absent period must be greater than four (4) weeks and may only occur two times per year.

Single Family Dwellings

“Single Family Dwellings” means each Premises used for or designated as a single family residential dwelling, including each unit of a duplex, triplex or townhouse condominium in all cases in which there is separate or individual Solid Waste, Recyclable Materials, and Organic Waste Collection are provided separately to each dwelling unit.

Solid Waste

“Solid Waste” means all putrescible and non-putrescible solid, semisolid, and liquid wastes, as defined in California Public Resources Code §40191, as that section may be amended from time to time. For the purposes of this Agreement, “Solid Waste” does not include abandoned vehicles and parts thereof, Hazardous Waste or low-level radioactive waste, medical waste, Recyclable Materials, or Organic Waste.

1 **Solid Waste Committee**

2 “Solid Waste Committee” means two Town council members and the Town Manager or his/her
3 designee.
4

5 **State**

6 “State” means the State of California.

7 **Source Separated**

8 “Source Separated” means materials, including commingled recyclable materials, that
9 have been separated or kept separate from the MSW stream, at the point of generation, for
10 the purpose of additional sorting or processing those materials for recycling or reuse in
11 order to return them to the economic mainstream in the form of raw material for new,
12 reused, or reconstituted products, which meet the quality standards necessary to be used
13 in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the
14 purposes of this chapter, source separated shall include separation of materials by the
15 generator, property owner, property owner's employee, property manager, or property
16 manager's employee into different containers for the purpose of collection such that source
17 separated materials are separated from gray container waste or other MSW for the
18 purposes of collection and processing.

19 **Term**

20 “Term” means the time period of this Agreement.

21 **Town**

22 “Town” means the Town of Paradise a municipal corporation of the State of California,
23 and all the territory lying within the municipal boundaries of the Town as presently
24 existing or as such boundaries may be modified, named a party to this Agreement.

25 **Town Administrator**

26 “Town Administrator” means the Town Manager or his or her designee.

27 **Transfer Station**

28 “Transfer Station” means a Facility primarily used for the purpose of transferring Solid
29 Waste from collection vehicles to transfer vehicles (but which may include recovery
30 attributes) to more efficiently transport said Solid Waste to its ultimate Disposal Site.

31 **Universal Waste**

32 “Universal Waste” means Universal Waste as defined in California Code of Regulations
33 Title 22, Division 4.5, Ch 11, Article 1, §66261.9. Included in the definition are, but are not
34 limited to, common household batteries, fluorescent tubes and bulbs and other mercury-
35 containing lamps, thermostats, electronic devises, electrical switches and relays, pilot light
36 sensors, mercury gauges, mercury-added novelties, mercury thermostats and non-empty
37 aerosol cans that contained hazardous materials.
38

1 **Waste Generator**

2 “Waste Generator” means any Person, whose act or process produced Solid Waste, or
3 whose act first causes Solid Waste to become subject to regulation.

4 **Yard Waste**

5 “Yard Waste” means a subset of organic Recyclable Materials consisting of grass cuttings,
6 weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees (not
7 more than six (6) inches in diameter) and four (4) feet in length, and similar materials
8 generated at Premises within the Service Area, separated and set out for Collection,
9 processing, and Recycling. Yard Waste does not include materials not normally produced
10 from farms, gardens or landscapes, such as, but not limited to, brick, rock, gravel, large
11 quantities of dirt, concrete, sod, non-organic wastes, oil, and painted or treated wood or
12 wood products. Diseased plants and trees are also excluded from Yard Waste.
13

EXHIBIT B

**Town Facilities /
Special Events**

Exhibit B

TOWN FACILITIES / SPECIAL EVENTS

Town of Paradise Facilities/ Locations and Service Levels		
Facility	Location	Service Level
Fire Station No. 81 & Police Station	767 Birch Street / 5595 Black Olive Dr	3-yd Container, Recycling and Organic Waste Carts
Fire Station No. 82	5545 South Libby Road	2-yd Container, Recycling and Organic Waste Carts
Fire Station No. 83	1250 Wagstaff Road; or at CDF facility - Forest Service Road	2-yd Container, Recycling and Organic Waste Carts
Building Resiliency Center	6295 Skyway	2-yd Container and Recycling
Town Hall	5555 Skyway	Trash, Recycling, & Organic Waste Carts, & 2-yd Cardboard bin
Paradise Animal Shelter & Town Public Works Yard	925 American Way	2-yd Container, Recycling and Organic Waste Cards
Paradise Community Park	NE corner of Black Olive Drive & Pearson Road intersection	Roll Carts and/or Fixed Small Containers
Paradise Memorial Trailway	Locations (3 or 4) along trailway (near public road intersections)	Roll Carts and/or Fixed Small Containers
Bus Stop	Skyway in front of Town Hall building	Roll Carts and/or Fixed Small Containers
Bus Stop	Skyway in front of Terry Ashe Recreation Center, 6626 Skyway	Roll Carts and/or Fixed Small Containers
Bus Stop	Skyway in front of Les Schwab Tire Store	Roll Carts and/or Fixed Small Containers
Bus Stop	Clark Road in front of Paradise Plaza shopping center	Roll Carts and/or Fixed Small Containers
Bus Stop	Bank building near Clark Road & Wagstaff Road intersection	Roll Carts and/or Fixed Small Containers

Special Events

Johnny Appleseed Days
Gold Nugget Days
Chocolate Festival
Party in the Park

EXHIBIT C

Contractor Public Education Plan

Public Education Plan

Public Education Programs

Northern Recycling will educate the public on our comprehensive services, as well as provide information about increased recycling options and resources. This public education will be accomplished through direct contact with customers, effective marketing and PR materials, advertising in the local media, involvement in community events, and diverse recycling activities. Northern Recycling will offer expanded recycling programs -from curbside single-stream collection to increased source-separated debris box options.

Northern Recycling's public education will include:

- Informational brochure and other outreach materials
- Expanded, single-stream recycling educational information and outreach
- Quarterly Northern Recycling newsletter
- Outreach to residential customers through mailings, advertising, and community events
- Direct outreach to all commercial and multi-family accounts
- Recycling educational programs and tours
- Organic waste education and composting classes
- Hazardous waste/universal waste recycling management plan
- Information about the expanded source-separated debris box collection
- School presentations and tours

The combination of these methods will dramatically increase diversion in Paradise/Butte County, as well as provide comprehensive information about all of Northern Recycling's services. We fully expect that curbside recycling collection, expanded business outreach and recycling, organic waste collection, and increased source-separated debris box service will push diversion rates past 50 percent.

Northern Recycling will use a variety of public outreach methods to assure that all residents and businesses receive *all* the information about the service change and new recycling options.

Northern Recycling will begin advertising, attending community events, distributing literature, and mailing service information immediately after the awarding of the service contract. This comprehensive public education program will continue through the entire transition process.

Public education materials distributed will include:

- Quarterly newsletter
- Direct mailings

- Brochures
- Billing inserts
- Recycling posters
- Recycling stickers
- Community mailing advertisements
- Newspaper advertisements
- Social media advertising
- Presentations
- informational booths at community events

Presentations

Northern Recycling will conduct recycling outreach and public education presentations at various community events, schools, businesses, and more. Northern Recycling will build on already established presentation plans and experience, and conduct fruitful outreach to the Paradise/Butte County community. Northern Recycling will work with the Town and County to identify community groups and will contact the community groups directly to schedule presentations. Service information and recycling outreach will be given at the presentations, questions will be fielded, and various informational brochures and handouts will be distributed. Northern Recycling will continue to contact groups and businesses regarding presentations, as well as granting any presentation requests from the public. Additionally, Northern Recycling will work with schools and teachers to conduct recycling education and tours with student groups. Informational materials will be continuously created and updated in order to provide the most effective information to the public.

Participation at Town/County Events

Northern Recycling will provide informational materials and face-to-face education and support at the Fourth of July Street Fair, Johnny Appleseed Days, and ongoing community events.

Northern Recycling will work with the Town and County to provide public outreach and MSW, Recycling, and organic waste collection services and Town and County public events. Additionally, Northern Recycling will have a comprehensive special event-recycling program that provides waste and recycling consulting and MSW, recycling, and organic waste services to all special events, fairs, and festivals. Northern Recycling will work with event producers, vendors, and the general public to divert a significant amount of special event waste and educate the public on waste reuse, reduction, and recycling. This will include a pilot program for food waste collection at certain, qualifying events.

Northern Recycling will also organize several community events, including a free electronic waste drop-off event, a household hazardous waste collection event, a bulky item collection event, and an organic waste collection and composting event. All events will be advertised through the quarterly newsletter, billing inserts, and

other advertising mediums. Northern Recycling will work together with the Town and County to organize successful events and to promote the year-round drop off options at the hazardous waste facility. Northern Recycling will provide service and support for additional community cleanup events throughout the year.

Recycling Outreach and Waste Audits

Northern Recycling will conduct recycling outreach in order to increase recycling rates, decrease contamination, and educate the public on all facets of the recycling program. This will include information about our collection services, as well as expanded information about reduction, reuse, and recycling options. Outreach materials will be designed and distributed to residents, multi-family accounts, and commercial businesses.

Northern Recycling will conduct site visits of commercial businesses which will include service level recommendations and tips on increased recycling. Businesses will always be encouraged to increase recycling as a money saving initiative. Northern Recycling will provide personalized service in order to maximize recycling rates at these businesses. Northern Recycling will continue to visit at least 20 percent of the commercial and multi-family accounts annually and conduct waste audits. Northern Recycling will also conduct on-site assessments and trainings for any business upon request. This service will be announced through billing inserts, the newsletter, and other outreach. Northern Recycling will partner with the Paradise Ridge Chamber of Commerce and other business groups to connect with all area businesses.

Additionally, Northern Recycling will education the public and businesses about the recycling and cost saving benefits of source-separated debris boxes. This information will be distributed through the quarterly newsletter, billing inserts, brochures, and other outreach

EXHIBIT D

Payments to Town

EXHIBIT D

PAYMENTS BY CONTRATOR

1. Franchise Fees

Contractor shall pay a monthly Franchise Fee using the following %'s:

Town of Paradise	7%
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EXHIBIT E

**Rate Adjustment
Methodology**

Exhibit E

RATE ADJUSTMENT METHODOLOGY

General

Pursuant to Section 6.02(B), the Solid Waste Collection Rate shall be adjusted on an annual basis, as follows:

1. On or before June 1 of each Rate Year the Contractor will calculate for the Rate Year ending June 30:
 - a. The Total Operating Expenses;
 - b. The Total Pass-Through Costs;
 - c. The Gross Revenues Collected; and
 - d. The Revenue Requirement (equal to the Operating Ratio Quotient *plus* the Pass-Through Costs).
2. To the extent that the Revenue Requirement exceeds the Gross Revenues Collected then such amounts shall be included in the total Revenue Shortfall for such Rate Year and shall be *added* to the Cumulative Revenue Shortfall. To the extent that Gross Revenues exceeds the Revenue Requirement then such amounts shall be included in the total Revenue Overage and shall be credited against any Cumulative Revenue Shortfall OR added to the Cumulative Revenue Overage.
3. The Contractor shall provide a Notice of Rate Adjustment based on the calculations contained in 1 and 2 above. The Notice of Rate Adjustment shall set the Monthly Collection Rate Adjustment for the following Rate Year provided, however, that in no event shall any annual increase exceed the Rate Caps as described in Section 6.03(B) and restated as:

2024 through 2027 – 8% per annum
2028 through 2032 – 5% per annum
2033 through 2040 – 2.5% per annum

The calculation of rates contained in the Notice of Rate Adjustment shall assume that any Cumulative Revenue Shortfall be recaptured and paid to the Contractor over a period of ten (10) years. If there exists fewer than ten (10) years in the remaining term of this Agreement, then the Notice of Rate Adjustment for such years shall assume that any Cumulative Revenue Shortfall be repaid during the remaining term of the Agreement.

In addition to the annual rate adjustments and in conformance with the terms of Exhibit H (SB 1383 Compliance Programs), the Rate Schedule shall further be adjusted as follows when collection of Mixed Organics from Commercial and Residential Generators has commenced:

10.45% increase over standard Residential rates
41.29% increase over standard Commercial rates

Figure 1 includes a format and example of calculating the Cumulate Revenue Shortfall or Overage along with the calculation of Operating Ratio and Operating Ratio Quotient.

Notice of Rate Adjustment Requirements

In submitting its Notice of Rate Adjustment for the Solid Waste Collection Rate Schedule the Contractor is required to provide the following information:

- The Total Operating Expenses;
- The Total Pass-Through Costs;
- The Gross Revenues Collected;
- The Revenue Requirement (equal to the Operating Ratio Quotient *plus* the Pass-Through Costs);
- Documentation of any Cumulative Revenue Shortfall or Cumulative Revenue Overage;
- Proposed Rate;
- Copies of the current Residential, Commercial and Debris Box Collection Rate Schedule.

Figure 1
FORMAT FOR CALCULATING THE CUMULATIVE
REVENUE SHORTFALL OR OVERAGE

NORTHERN RECYCLING & WASTE SERVICES, LLC		
TOWN OF PARADISE FRANCHISE		
NEW RATE METHODOLOGY		
		YEAR
Operating Expenses		\$ 1,731,393
Operating ratio	0.905	\$ 1,913,141
Pass-through Costs:		
Disposal & Processing		\$ 340,117
Franchise Fee		\$ 125,658
Depreciation		\$ 136,549
Interest		\$ 71,126
Total		\$ 673,450
Revenue requirement		\$ 2,586,591
PY Shortfall or (Overage) (10%)		
Revenue requirement - Adjusted		\$ 2,586,591
Net revenue		\$ 1,748,833
Revenue shortfall/(overage)		\$ 837,758
Rate increase (decrease)		47.9%
Revenue shortfall/(overage) incl PY shortfall		\$ 837,758
Rate increase - adjusted		47.9%
Cumulative revenue under/over collected		\$ -

EXHIBIT F

**Solid Waste Collection
Rate Schedule**

Town of Paradise
Exhibit F
Solid Waste Collection Rates
July 1, 2024

Residential (includes solid waste, recycling and yard waste)

35-gallon – Care Rate*	\$ 29.49
35-gallon	\$ 33.66
65-gallon	\$ 43.76
95-gallon	\$ 48.83

* Service recipient must show proof annually of participation in PG&E's Care Program at the same service location.

Commercial carts

35-gallon	\$ 35.07
35-gallon Multi-Family	\$ 29.49
65-gallon	\$ 47.87
95-gallon	\$ 65.15
2ea. 95-gallon	\$ 108.77

Commercial – 1 Yard

1 p/u per week	\$109.72
2 p/u per week	\$169.55
3 p/u per week	\$228.86
4 p/u per week	\$288.72
5 p/u per week	\$347.39
6 p/u per week	\$406.80

Commercial – 1.5 Yards

1 p/u per week	\$132.55
2 p/u per week	\$208.40
3 p/u per week	\$268.74
4 p/u per week	\$348.80
5 p/u per week	\$414.85
6 p/u per week	\$472.58

Commercial – 2 Yards

1 p/u per week	\$149.97
2 p/u per week	\$255.05
3 p/u per week	\$341.71
4 p/u per week	\$418.04
5 p/u per week	\$499.54
6 p/u per week	\$585.87

Commercial – 3 Yards

1 p/u per week	\$185.16
2 p/u per week	\$309.60
3 p/u per week	\$434.59

Town of Paradise
Exhibit F
Solid Waste Collection Rates
July 1, 2024

4 p/u per week	\$568.99
5 p/u per week	\$670.49
6 p/u per week	\$789.12

Commercial – 4 Yards

1 p/u per week	\$228.42
2 p/u per week	\$389.36
3 p/u per week	\$546.20
4 p/u per week	\$713.79
5 p/u per week	\$875.23
6 p/u per week	\$1,036.55

Commercial – 6 Yards

1 p/u per week	\$267.70
2 p/u per week	\$498.74
3 p/u per week	\$719.49
4 p/u per week	\$929.85
5 p/u per week	\$1,140.23
6 p/u per week	\$1,360.97

Insta-bins

4 yards	\$167.75
6 yards	\$211.94

All commercial customers will be charged an additional \$4.35 per month to support the Town's Vegetative Waste Facility.

Debris Box – Haul Charge Only. Disposal will be added based upon the current tip fee at Neal Road Landfill or authorized dump site.

Open top:

10 cubic yards	\$364.15/per pull
20 cubic yards	\$364.15/per pull
30 cubic yards	\$364.15/per pull
40 cubic yards	\$364.15/per pull

Closed top & Compactor:

10 cubic yards	\$394.38/per pull
20 cubic yards	\$394.38/per pull
30 cubic yards	\$394.38/per pull
40 cubic yards	\$394.38/per pull

Town of Paradise
Exhibit F
Solid Waste Collection Rates
July 1, 2024

Special Charges:

Extra Pickup on-route (30-gallon bag or box)	\$5.00 each item or \$15.00 per yard
Extra Pickup off-route residential Cart	\$33.00 per container
Extra Pickup off-route commercial Bin	\$33.00 per yard
Bulky Item flatbed pickup (Small to Medium Non-freon)	\$33.00 (1 st item) \$15.00 each after
Bulky Item flatbed pickup (Large Non-freon)	\$45.00 (1 st item) \$25.00 each after
Bulky Item flatbed pickup (freon containing)	\$75.00 (1 st item) \$45.00 each after
Lock / Enclosure Service	\$2.50 per service per month
Lock Sale & delivery (Customer provided combo only)	\$35.00 each
Container Push out Charge (0-10 feet no fee)	\$5.00 per month / X every 10 feet
Cart Exchange / Cleaning	\$45.00 each container
1-6 yard Bin Exchange / Cleaning	\$90.00 each container
Cut-Off / Re-Establish service container re-delivery	\$35.00 each container
Overage Cart (over lid top by 10" with photo)	\$8.00 each container per occurrence
Overage 1–6-yard bin (over lid top by 10" with photo)	\$25.00 per yard
Weight Overage exceeding 300 lbs. per Yard	Current tip rate per ton
Additional Recycle or Organics Cart (must retain 6 months min.)	\$9.00 per cart
Additional Debris box & Insta-Bin days (\$250.00 per mo. Max.)	\$15.00 per day per container
Contamination Fee (Exceeding 10% after two written warnings)	\$35.00 each occurrence
Container Damage / Replacement or loss caused by customer	\$75.00 per cart / \$350 per yard (1-6 yd)
Walk in residential (No annual medical Waiver)	5 - 100 feet \$25.00 per month
	101- 200 feet \$50.00 per month
	201' – beyond negotiated collection location

Consideration due to additional collection costs and fluctuating recycling markets:

Commercial Bin Recycling 1-6 yard: 40% or 50% MSW collection rates

EXHIBIT G

Notary Certification

NOTARY CERTIFICATION

STATE OF CALIFORNIA

COUNTY OF _____ ss:

On _____, _____, before me, the undersigned, a Notary Public in and for the State of California, Personally appeared _____, known to me to be the _____ of Contractor that executed the within instrument on behalf of the Contractor therein named, and acknowledged to me that such Contractor executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County of _____ this _____ day of _____, _____.

Notary Public

My Commission Expires:

EXHIBIT H

SB 1383 Compliance Programs

SB 1383 Compliance Programs

To support the Town in complying with regulations under SB 1383, Contractor shall implement the programs identified in this Exhibit H. These programs are designed to meet the implementation and education requirements of SB 1383 and help the Town achieve annual diversion requirements set by CalRecycle. The Town's actual annual diversion rate depends on participation of businesses, residents, their respective adherence to program requirements and local code, the Town's enforcement of applicable codes, and the Town's implementation of other programs outside the scope of this Agreement. Accordingly, the Town shall amend or update the Town code to incorporate requirements necessary for the implementation of these programs.

1. Collection Requirements and Container Labeling

Collection of Mixed Organics from Commercial and Residential Generators shall commence at such time as an organic waste transload facility is operational at the Neal Road Recycling & Waste Facility or by **September 1, 2024**, whichever comes first.

Contractor shall provide a 3-container collection program for Solid Waste, Recyclables, and Mixed Organics. Collection containers shall be Grey (MSW), Blue (Recyclables), and Green (Organic Waste). Hardware such as hinges and wheels may be different colors.

New containers or lids placed by the Contractor shall include language or graphic images, or both, that indicate the primary materials accepted and primary materials prohibited in that container. Labels shall clearly indicate items that are prohibited container contaminants for each container.

2. Education and Outreach

To promote public education about recycling and organics requirements, Contractor shall create public education materials and conduct education programs and activities described in this Section.

Annual Notice: Contractor shall prepare and distribute to each Generator in the Town a mailer that includes information specified in 14 CCR Section 18985.1(a). Such mailer shall be distributed by Contractor to all Residential and Commercial mailing addresses including individual Multi-Family Dwelling Units. Contractor shall also make this notice available in an electronic format through the Contractor's website.

Instructional Service Guide: Contractor shall prepare a service guide that describes available services, including how to place Containers for Collection, which materials should be placed in each Container and prohibited materials, and provides Collection holidays.

Property Owners and Businesses: Contractor shall annually provide Property Owners and Commercial Business owners with public education materials in electronic format for their distribution to all employees, contractors, tenants, and Customers of the properties and businesses. The Contractor's public education materials shall include, at a minimum, information about Organic Waste recovery requirements and proper sorting of Discarded Materials. A Commercial Business or Multi-Family Property Owner may request these materials more frequently than the standard annual provision if needed to comply with the requirements of 14 CCR Section 18984.10 for Commercial Businesses and Multi-Family Property Owners to provide educational information to new tenants and employees before or within fourteen (14) days of occupation of the Premises. In this case, the Commercial Business or Multi-Family Property Owner may request delivery of materials by contacting the Contractor's customer service department not later than two (2) weeks in advance of the date that the materials are needed.

Technical Assistance Program: Contractor shall provide ongoing technical assistance for Commercial and Multi-family generators that are required to participate in source separated recycling under applicable laws including AB 341, AB 1826, and SB 1383 and corresponding regulations. Technical assistance may include on-site training, instructional guides, printed or electronic materials and other resources that satisfy regulation requirements.

Contamination Monitoring: Contractor shall perform daily contamination inspections by utilizing on-board monitoring systems or physical container inspections. For physical container inspections, Contractor's personnel shall lift the Container lid and observe the contents. For Collection vehicles equipped with a video camera and monitoring system, Contractor's personnel shall observe, via the hopper video camera and monitoring system, the contents of the Containers as the materials are emptied into the vehicle.

Contamination Notices: If Prohibited Container Contaminants exceed ten (10) percent in a Single-Stream Recyclable Materials Container or an Organic Materials Container, Contractor shall work with the Customer or on-site property manager to reduce Contamination. Drivers of Collection trucks shall take pictures of loads exceeding the ten (10) percent Contamination limit. Contractor shall record Contamination incidents on Customer accounts to include date of incident, record of picture taken, and type of Contamination.

Upon identification of Prohibited Container Contaminants in a Customer's Container Contractor shall place a written notice on each contaminated container or gate or door of the Premises; and send Customers a letter stating date and nature of

Contamination and shall include a copy of the picture(s). The notice and letter shall be pre-approved by the Town. Notices and letters shall also include actions that may be taken by Customers to correct the identified problem and a telephone number to contact to arrange for Collection. Contractor shall Collect within twenty-four (24) hours, once the reason or reasons for initial non-Collection are cured. Contractor shall provide a quarterly list of accounts receiving a Contamination notice to the Town for follow-up. Contractor shall charge for three or more Contamination incidents after Customer receives two written warnings for Contamination within one calendar year at a Contamination Processing Fee established by the Town.

Contractor will coordinate with the Town to develop procedures regarding alleged violations of these recycling programs.

3. Procurement

At Town option, Contractor agrees to provide the Town with any available procurement credits from renewable fuel purchases used by vehicles within the Town.

4. Commercial and Multi-Family Waivers

A. General

The Town may grant waivers described in this Section to Commercial Customers or Multi-Family Residential Customers that impact the scope of Contractor's provision of service for those Customers; provided, the Generator shall continue to subscribe with Contractor for franchised Collection services to the extent such services are not waived by the Town. Waivers issued shall be subject to compliance with SB 1383 requirements, pursuant to 14 CCR Section 18984.11, or other requirements specified by the Town.

B. Minimis Waivers

The Town may waive a Commercial Customer or Multi-Family Residential Customer's obligation to comply with some or all of the Recyclable Materials and Organic Materials requirements set forth in this Agreement, SB 1383, and of the Town Code if the Customer provides documentation or the Town has evidence demonstrating one of the following de minimis conditions:

1. The Commercial Customer or Multi-Family Residential Customer's total Discarded Materials Collection service is two (2) cubic yards or more per week, and Organic Waste subject to Collection in an Organic Materials Container comprises less than twenty (20) gallons per week, per applicable Container, of the Customer's total waste; or,

2. The Commercial Customer or Multi-Family Residential Customer's total Discarded Materials Collection service is less than two (2) cubic yards per week, and Organic Waste subject to Collection in an Organic Materials Container comprises less than ten (10) gallons per week, per applicable Container, of the Customer's total waste.

C. Space Waivers

The Town may waive a Commercial Customer or Multi-Family Residential Customer's obligation to comply with some or all of the Solid Waste, Recycling and Organic Waste Collection service requirements if the Town has evidence from its own staff, Contractor, a licensed architect, or a licensed engineer demonstrating that the Customer's Premises lacks adequate space for the Collection Containers required for compliance with such requirements.

A Commercial Customer or Multi-Family Residential Customer may request a physical space waiver through the following process:

1. Submit an application form specifying the type(s) of Collection services for which they are requesting a compliance waiver.
2. Provide documentation that the Premises lacks adequate space for one or more Containers, including documentation from Contractor, a licensed architect, or a licensed engineer.
3. Provide written verification to the Town that it is still eligible for a physical space waiver every five (5) years if the Town has approved a previous application for a physical space waiver.

Contractor shall provide the Town with required generator information on services and activity that is needed as part of the waiver application. Contractor may also assist generators with waiver applications or submit on their behalf.

5. Edible Food Recovery

Contractor shall provide the Town with necessary data and reporting to determine which customers are considered Tier 1 and Tier 2 commercial edible food generators.

At least annually, the Contractor shall provide Commercial Edible Food Generators with the following information:

- Information about the Town's Edible Food Recovery program;
- Information about the Commercial Edible Food Generator requirements under 14 CCR, Division 7, Chapter 12, Article 10;
- Information about Food Recovery Organizations and Food Recovery

Services operating within the Town, and where a list of those Food Recovery Organizations and Food Recovery Services can be found; and,

- Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

6. Reporting

Contractor will provide the data and/or prepare reports required to meet SB 1383 requirements which includes, but is not limited to:

- The number of generators that receive organic waste collection service;
- The number of route reviews conducted for prohibited container contaminants;
- The number of times notices, violations, or targeted education materials were issued to generators for prohibited container contaminants;
- The results of waste evaluations performed to meet the container contamination minimization requirements and the number of resulting targeted route reviews; and,
- The number of commercial edible food generators located within the jurisdiction.