

RESOLUTION NO. 5093-2022

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BARSTOW, CALIFORNIA, ADOPTING THE SECOND AMENDED AND RESTATED AGREEMENT FOR SOLID WASTE AND RECYCLABLE MATERIALS COLLECTION, PROCESSING, DISPOSAL AND STREET SWEEPING SERVICES FOR COMPLIANCE WITH SB 1383 – REDUCTION OF SHORT-LIVED CLIMATE POLLUTANTS IN CALIFORNIA

WHEREAS, the City of Barstow entered into a contract (“Franchise Agreement”) with Burrtec Waste Industries, In. (“Burrtec”) on July 1, 2004 for the collection of solid waste, garbage, rubbish, swill and recyclables within the City of Barstow; and

WHEREAS, on October 4, 2006, the City adopted Resolution 4299-2006, which approved the Amended and Restated Franchise Agreement; and

WHEREAS, on September 17, 2007, the City approved Amendment No. 1 to the Franchise Agreement; and

WHEREAS, on October 6, 2019, the City approved Amendment No. 2 to the Franchise Agreement; and

WHEREAS, on July 15, 2013, the City approved Amendment No. 3 to the Franchise Agreement; and

WHEREAS, on May 2, 2016, the City adopted Resolution 4831-2016, incorporating all previous amendments as the Amended and Restated Franchise Agreement; and

WHEREAS, on October 5, 2020, the City adopted Resolution 5005-2020, replacing Resolution 4831-2016 with a new Amended and Restated Agreement; and

WHEREAS, desires to replace Resolution 5005-2020 with a Second Amended and Restated Agreement attached hereto as Exhibit A; and

WHEREAS, under the proposed Second Amended and Restated Agreement the City and Burrtec agree to implement programs as required under Senate Bill 1383; and

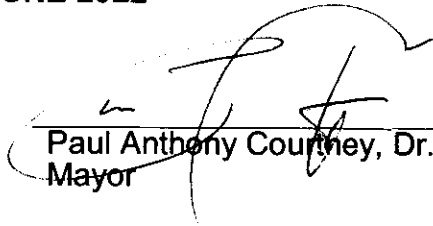
NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BARSTOW DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1: The Second Amended Restated Agreement for Solid Waste and Recyclable Materials Collection, Processing, Disposal and Street Sweeping Services attached hereto as Exhibit A is hereby adopted.

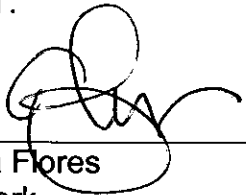
SECTION 2: Severability. If any one or more portions of this Resolution shall be ruled illegal or unenforceable in any respect by a court of competent jurisdiction the validity, legality and enforceability of the remaining portions and provisions thereof shall not in any way be affected or impaired and to that end the provision hereof are severable.

SECTION 3: The City Clerk shall certify to the passage and adoption of the Resolution and enter it into the book of original Resolutions.

PASSED AND ADOPTED THIS 20TH DAY OF JUNE 2022


Paul Anthony Courtney, Dr. B.A.
Mayor

ATTEST:


Andrea Flores
City Clerk

I, Andrea Flores, City Clerk for the City of Barstow, California and ex-officio Clerk of the City Council, do hereby certify, UNDER PENALTY OF PERJURY, that the foregoing is a true and correct copy of Resolution No. 5093-2022 which was introduced and adopted at the regular meeting of the City Council of the City of Barstow held on the 20th day of June, 2022 by the following vote:

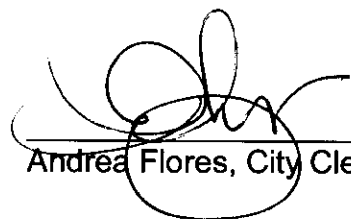
AYES: COUNCIL MEMBER KRUSE, ROSE, SILVA, MAYOR PRO TEM NOBLE, AND MAYOR COURTNEY.

NOES: NONE

ABSTAIN: NONE

ABSENT: NONE




Andrea Flores, City Clerk



**City of Barstow
California**

Approved
Jun 20, 2022 7:00 PM

**Council Resolution
5009**

**Burrtec Waste Franchise Amendment and Rate Updates for SB 1383 Program
Implementation**

Information

Department: Environmental Services **Sponsors:**
Category: Public Hearing

Attachments

Printout
Reso Burrtec Franchise 2022 SB 1383 Second ARA 6-9-2022 (ARG Edits)(284283.1)
Redline Exhibit to Reso Burrtec 2nd Amended Restated Agreement rev 6-9-2022
Clean Version Exhibit to Reso Burrtec 2nd ARA Option 1
Clean Version Exhibit to Reso Burrtec 2nd ARA Option 2 Extended Term
FINAL FULL 2 PG PROP 218 NOTICE 2022 RATES
(Upload New Attachment)

Fiscal Impact

Cost for the Prop 218 notice is approximately \$4,790.00 using AB 939 funds available in the FY 21-22 Budget. The proposed rate increase will result in an increase in franchise and administrative fee revenue for FY 22-23, as the City receives a franchise fee of 10% of all gross receipts excluding sewer fees, AB939/State Program Compliance Fees, and tipping fees, and an administrative fee of 5% of all gross receipts excluding the same.

Executive Summary

SB 1383 requires that jurisdictions provide organic waste collection service to all residents and businesses, conduct education and outreach, meet procurement targets, establish a monitoring and enforcement program, establish an edible food recovery program, maintain a detailed implementation record, provide periodic reports, and plan for capacity in support of the State's plan to considerably reduce and recycle organic waste. SB 1383 is the most significant solid waste/recycling mandate in the last 30 years.

As the City's exclusive franchise hauler, Burrtec Waste will be providing assistance with implementation of the organics collection program and other regulatory compliance activities, which means that the current franchise agreement must be amended to reflect the services being provided in accordance with the law. Additionally, rates must be updated as a direct result of the changes in service requirements, as well as for the annual Consumer Price Index (CPI) adjustment pursuant to the existing franchise. If approved, the service changes and rates would be effective July 1, 2022.

Discussion

Senate Bill 1383 was signed into law in 2016, regulations were finalized in late 2020, and the mandates went into effect on January 1, 2022. The law sets aggressive targets, requiring Californians to reduce organic waste disposal by 75% by 2025 and increase edible food recovery by 20% by 2025.

On December 6, 2021, the City Council adopted Ordinance 983-2021, expressing its commitment to support the statewide efforts to reduce emissions of short-lived climate pollutants and mandating organic waste disposal reduction and recycling in our community.

The City of Barstow and other jurisdictions across the state continue to work diligently towards achieving compliance with SB 1383 and doing their part to protect the health of local communities and the environment via new programs. The City has an existing organics recycling program for commercial entities as required by AB 1826 and now with SB 1383, the requirements will be expanding to residents. The City has conducted outreach and education to the community about the ordinance and proposed program via bill inserts, standalone mailers, a new web page, social media platforms, radio, presentations, and Channel 6 in preparation of this implementation.

Under the residential program, each single-family dwelling and each unit of multi-family dwellings of 2 to 4 units will be provided one (1) 35-gallon green barrel to collect source-separated organic waste (bagged food scraps and loose yard waste). Burrtec will provide weekly pickup of the organics on residents' regular trash & recycle pickup day and transport the material to its expanded Material Recovery Facility, Victor Valley Compost, where it will be processed into compost/mulch and sold to farmers, thereby giving back to the environment rather than causing adverse impacts. Burrtec is prepared to immediately deliver containers with program guides to all affected residents should this program be approved, and collection would begin on the regular service day following container delivery. Postcards are being mailed to residents to inform them of the pertinent information.

In addition to Burrtec providing the new residential organics route, which includes the collection, vehicle(s), equipment, containers, labor, and material processing, they will also be assisting with other obligations stipulated in the regulations, including but not limited to:

- **Education & Outreach Activities**
 - Burrtec will assist with the development and distribution of print and electronic material in English and Spanish, participate in community meetings and events, and provide information on the city's programs when dealing with the public.
- **Record Keeping and Reporting**
 - Burrtec will utilize a new, innovative software system to maintain all SB 1383 related activities to meet the regulations. City staff will have full access to the system at all times in order to view and/or update data as needed to achieve compliance.
- **Procurement**
 - Burrtec will coordinate and cooperate with the City to meet its annual procurement target as required by the regulations, including holding periodic compost/mulch giveaway events.
- **Monitoring & Enforcement**
 - Burrtec will assist in meeting contamination monitoring requirements including conducting waste evaluations in a manner which complies with the law. They will assist the City with identification of any non-compliant accounts and communications with those responsible for achieving compliance.
- **Capacity Planning**
 - Burrtec will assist the City with preparing an Organic Waste Recycling Capacity Plan for San Bernardino County, who is responsible for leading the efforts to ensure jurisdictions within its boundaries are taking specific steps to guarantee access to capacity in the future.

Burrtec has demonstrated to the City and CalRecycle, their commitment to work collectively on developing a comprehensive SB 1383 compliance program designed to fulfill the state-mandated requirements. The program is a massive undertaking for jurisdictions and similarly, this is no simple task for haulers. A strong partnership is essential in taking this on; therefore, we must continue to work together to meet the regulations in the most efficient and cost-effective manner.

Although the State is imposing these extensive requirements upon jurisdictions, it is not providing the significant financial support needed to fully implement the many facets of the program, which means a rate increase is necessary in order to cover costs associated with these legal obligations.

Additionally, pursuant to the existing franchise, Burrtec may submit a request for rate review once a year, to include a gross adjustment of 100% of the percentage increase in the Consumer Price Index (CPI) for all urban consumers in the Los Angeles-Anaheim-Riverside area, for the previous 12 month period for which information is received from the U.S. Department of Labor, but not to exceed 5% per year. The proposed rate increase includes a CPI adjustment of 3.83% across all rate categories.

Pursuant to Article XIID of the California Constitution, the City sent written notification of the proposed rate increase (Prop 218 Notice) to all owners of real property within its service area who would be directly liable to pay for trash collection services at least 45 days prior to the hearing. The notice included the basis upon which the rates were calculated, the reason for the proposed increase, and instructions on how to participate in the hearing.

The current proposed increase for standard residential service is of \$8.02 per month and is based on the following factors:

- A \$0.57 per month increase for collection service based on the 2021 average CPI. The CPI is part of the service component of the hauler rate, which means even though the City bills it as part of the total rate, that portion gets paid to Burrtec each month for them to provide the collection service.
- A \$5.41 per month increase for SB 1383 implementation, which covers costs for additional collection, vehicle(s), equipment, containers, labor, and regulatory compliance activities. This is also part of the hauler service component.
- A \$0.60 per month increase in the franchise fee to reflect the CPI increase. Pursuant to the franchise agreement, the franchise fee is 10% of the total gross receipts; the money goes to the City and is used towards the costs associated with managing the franchise. Based on the approved rate structure stipulated in the contract, any time the service fee goes up, it will result in an increase to the franchise fee.
- A \$0.30 per month increase in the administrative fee to reflect the CPI increase. Pursuant to the franchise agreement, the administrative fee is 5% of the total gross receipts; the money goes to the City and is used towards the costs associated with administering the various solid waste & recycling programs. Based on the approved rate structure stipulated in the contract, any time the service fee goes up, it will result in an increase to the administrative fee.
- A \$0.08 per month increase to the landfill disposal fee.
- A \$1.06 per month increase for the cost of processing of the organic material into compost.

With that being said, in consideration of the significant financial impact, this increase would have on the community, particularly those fixed or low-income households, the City and Burrtec have negotiated an alternative option, which includes a 10-year extension of the franchise agreement, changing the term end date from August 31, 2033 to August 31, 2043. The extension would allow the City to spread program costs over a 3-year period, resulting in a significant decrease in the currently proposed rate adjustment while still enabling us to move forward with full SB 1383 implementation without delay.

Should the Council vote to approve the extended-term contract option (Option 2), the rate increase would go from \$8.02 per month down to \$2.82 per month.

Again, this program is mandated by State law, and should the City decide not to move forward with this item, we would be subject to penalties by the State of up to \$10,000 per day. In order to avoid a non-compliance order and hefty fines, it is imperative that the Council take action on one of the two options being presented.

At this time, City staff is in favor of Option 2, as by spreading the costs over time, the incremental increase allows for a lesser burden on the ratepayer up front and provides a schedule for the customer to consider when planning their household budgets. Additionally, staff does not currently foresee any real potential to change haulers in the next 20 years, due to our geographical area and the presumably enormous undertaking that it would be to transfer the City's well-established waste collection and recycling programs to another entity that would have no roots in Barstow.

Attached to this report are the following documents for review:

1. Resolution adopting the Second Amended and Restated Franchise Agreement and related exhibits
2. Redline of existing franchise agreement showing changes under the second amended restated agreement.
3. Clean version of the second amended and restated agreement with the existing term end date of August 31, 2033. (Option 1)
4. Clean version the of second amended and restated agreement with extended-term end date of August 31, 2043 (Option 2).
5. Copy of hearing notice for the rate increase

Recommended Action

Option 1. Adopt Resolution No. 5093-2022 for the 2nd Amended and Restated Franchise Agreement with Burrtec Waste Industries, Inc., related exhibits and rate schedule at the existing term end date of August 31, 2033, and direct the City Clerk to handle the execution of the agreement; OR

Option 2. Adopt Resolution No. 5093-2022 for the 2nd Amended and Restated Franchise Agreement with Burrtec Waste Industries, Inc., related exhibits and rate schedule at the extended-term end date of August 31, 2043, and direct the City Clerk to handle the execution of the agreement.

Meeting History

Jun 20, 2022 7:00 PM Video

City
Council

Joint Special Council/BFPD

 Draft

ADMINISTRATIVE ANALYST JESSICA REED

- Presented the staff report as filed with the City Clerk.
- Clarified the amount the city was awarded for this grant is \$35,142.00 for first-round funding and maybe eligible for additional funding.

MAYOR PRO TEM NOBLE

- Asked when the second round of grant funding would be available.
- Asked why Option 2 was recommended.

ADMINISTRATIVE ANALYST JESSICA REED

- Stated funding would be available in September 2022.
- Stated that Option 2 allows for a smaller incremental fee increase instead of a larger rate adjustment.

COUNCIL MEMBER SILVA

- Suggested that Sections 3.40B (page 166 of the packet) and 3.29 (page 159) be consolidated as they are redundant.
- Asked for clarification on the process identified in Section 4.14E (page 169) of packet.
- Noted that the fee violations 3.388 (page 165 of packet) and 3.353 (page 162) are redundant.

MAYOR COURTNEY OPENED THE PUBLIC HEARING AT 7:46 P.M.

SPEAKERS

CARMEN HERNANDEZ, BARSTOW, CALIFORNIA

- Discussed concerns with Option 2 and extending the agreement with Burrtec for an additional 10 years given changes with CalRecycle and the State legislature.

MIKE HERNANDEZ, BARSTOW, CALIFORNIA

- Asked the rate of \$2.82 expires or is over the life of the agreement.
- Asked if penalties assessed to rate payers would be reviewed by Council.
- Discussed concerns with the lack of community representation at the SB 1383 organics recycling community meeting.

TED WEASMA, BARSTOW, CALIFORNIA

- Discussed concerns with the City entering into a 20 year agreement and suggested the City renegotiate the agreement.
- Asked if the rate \$2.82 rate would be locked in for 20 years.

MARCIA WEASMA, BARSTOW, CALIFORNIA

- Asked the City Council to renegotiate the agreement.

COUNCIL MEMBER SILVA

- Asked staff to explain the Option 2 rate increase.

GENERAL MANAGER OF ENVIRONMENTAL SERVICES KODY TOMPKINS

- Stated Option 1 would propose a rate increase of \$8.02 with the agreement between Burrtec and the City ending on August 31, 2033.
- Stated Option 2 would propose an increase of \$2.82 and allow the City to amortize program costs over a 3-year period, resulting in a significant decrease in the currently proposed rate adjustment while still enabling the City to move forward with full SB 1383 implementation without delay. Option 2 would also extend the agreement between Burrtec and the City to August 31, 2043.
- Also confirmed both rates are subject to annual Consumer Price Index (CPI) increases.

MAYOR COURTNEY CLOSED THE PUBLIC HEARING AT 8:18 P.M.

RESULT: APPROVED [UNANIMOUS]

MOVER: Timothy Silva, Council Member

SECONDER: James M. Noble, Mayor Pro Tem

AYES: James M. Noble, Marilyn Dyer Kruse, Barbara Mae Rose, Paul Anthony Courtney, Timothy Silva

RESOLUTION 5093-2022

EXHIBIT A

**SECOND AMENDED AND RESTATED AGREEMENT FOR
SOLID WASTE AND RECYCLABLES
COLLECTION, PROCESSING, DISPOSAL AND STREET SWEEPING SERVICES**

By and Between

**CITY OF BARSTOW,
a Municipal Corporation,**

and

BURRTEC WASTE INDUSTRIES, INC.

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**SECOND AMENDED AND RESTATED AGREEMENT FOR
SOLID WASTE AND RECYCLABLE MATERIALS COLLECTION,
PROCESSING, DISPOSAL, AND STREET SWEEPING SERVICES**

This Agreement for Solid Waste and Recyclables Collection, Processing, Disposal and Street Sweeping Services (“Agreement”) is entered into as of June 20, 2022 by and between the CITY OF BARSTOW, a municipal corporation, organized and existing under the laws of the State of California (“City”) and Burrtec Waste Industries, Inc., a California corporation (“Collector”), as follows:

RECITALS

This Agreement is entered into on the basis of the following facts, understandings, and intentions of the parties:

WHEREAS, the City and Contractor previously entered into that certain Exclusive Franchise Agreement for Solid Waste and Recyclable Materials Collection, Processing, Disposal and Street Sweeping Services dated November 1, 2020 (the “Agreement”), [including amendments thereto]; and,

WHEREAS, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (AB 939) (California Public Resources Code Section 40000, et seq.), has declared that it is in the public interest to authorize and require local agencies to make adequate provisions for Solid Waste handling within their jurisdictions; and,

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

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

WHEREAS, SB 1383 Regulations require the City to implement Collection programs, meet Processing facility requirements, conduct contamination monitoring, provide education, maintain records, submit reports, monitor compliance, conduct enforcement, and fulfill other requirements;

and, the City has chosen to delegate some of its responsibilities to the Contractor, acting as the City's designee, and Contractor desires to take on these responsibilities; and

WHEREAS, the City and Contractor desire to amend the Agreement as set forth herein.

NOW, THEREFORE, in consideration of the promises above stated and the terms, conditions, covenants, and agreements contained herein, the Parties do hereby agree as follows:

ARTICLE I PARTIES; EXCLUSIVE RIGHTS; TERM OF AGREEMENT

1.1 Parties to the Agreement. The parties to this Agreement are:

a. City: The City of Barstow, a municipal corporation, having its principal office at 220 East Mountain View, Suite A, Barstow, California 92311.

b. Collector: Burrtec Waste Industries, Inc. a California Corporation, having its principal place of business at 2340 West Main Street, Barstow, California 92311.

1.2 Representatives of Parties and Service of Notices. The representatives of the parties primarily responsible for the administration of this Agreement, and to whom formal notices, demands and communications shall be given, are as follows:

a. The principal representative of City shall be:

Willie Hopkins, City Manager (or his designee),
City of Barstow
220 East Mountain View, Suite A
Barstow, California 92311-2888
Telephone: (760) 255-5101
Email: whopkins@barstowca.org
Facsimile: (760) 256-1750

b. The principal representative of Collector shall be:

Mr. Cole Burr, President
Burrtec Waste Industries, Inc.
9890 Cherry Avenue
Fontana, CA 92335
Telephone: (909) 429-4200
Facsimile: (909) 429-4298

c. Formal notices, demands, and communications to be given hereunder by either party shall be made in writing and shall be effective upon the date of personal delivery, facsimile,

or in the case of mailing, on the date of delivery or attempted delivery as shown on the U.S. Postal Service certified mail return receipt.

d. If the name of the principal representative designated to receive the notices, demands or communications, or the address of such person, is changed, written notice shall be given to City representative within five (5) working days of the change.

1.3 Issuance of Exclusive Rights.

a. Subject to the terms and conditions of this Agreement, and applicable state laws, City hereby grants and issues to Collector the exclusive authority, right and privilege to collect, pick-up, gather, remove and dispose of all Solid Waste and Recyclable Materials generated or accumulated by all residential and commercial/industrial users or customers within the City, for the term of this Agreement, unless earlier terminated as provided herein.

b. Collector's exclusive rights hereunder shall be further subject to the rights of state, county, college and school district facilities to use a solid waste enterprise other than Collector.

c. Collector accepts the terms of this Agreement as defining the scope of its exclusive rights to provide Solid Waste and Recyclable Materials collection, processing, disposal and street sweeping services in the City of Barstow, and this Agreement supersedes all prior franchise rights and prior agreements. Collector waives any right or claim to provide Solid Waste or Recyclable Materials collection, processing, or disposal services in the City of Barstow under any prior grant of franchise, contract, license or permit, including but not limited to the 1997 Agreement and any right under Section 49520 of the Public Resources Code.

d. The City shall protect Collector's exclusive rights by proper ordinances, and by reasonable enforcement of those ordinances. Should the City be required to take administrative, law enforcement, or other legal action against any person that infringes on Collector's exclusive rights, Collector shall reimburse the City for its reasonable administrative, law enforcement, or other legal costs related to any such action. Nothing herein shall preclude Collector from taking such legal action against third parties as it deems appropriate to protect the exclusive rights hereunder.

1.4 Term. This Agreement shall commence on July 1, 2022 and continue in full force and effect until midnight on August 31, 2043 unless extended by mutual agreement of the City and Contractor.

ARTICLE II DEFINITIONS

Whenever any term used in this Agreement has been defined by Chapter 6.20 of the Barstow Municipal Code or Division 30, Part 1, Chapter 2 of the California Public Resources Code, the definitions in Chapter 6.20 or the Public Resources Code shall apply unless the term is otherwise

defined in this Agreement. In addition, the following definitions are hereby incorporated into this Agreement:

- i. "Act" shall mean the California Integrated Waste Management Act of 1989, as it now exists or may subsequently be amended, and implementing regulations found at California Public Resources Code Sections 40000 et. seq.
- ii. "Applicable Law" shall mean applicable federal, state or local law or regulation, including but not limited to, the laws governing transfer, storage or disposal of Solid Waste or Hazardous Waste, RCRA, CERCLA, the Act and the City Municipal Code.
- iii. "Automated Collection" or "Fully Automated Collection System" shall mean the collection of Solid Waste and Recyclable Materials using Standard Residential Solid Waste containers and vehicles designed so that Collector's employees are not required to leave the vehicle to collect the Solid Waste or Recyclable Materials.
- iv. "Back-Haul" means generating and transporting Organic Waste to a destination owned and operated by the Generator using the Generator's own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).
- v. "Bin" or "Residential Solid Waste Bin" shall mean a state-of-the-art bin or Solid Waste container with a capacity of between 1 and 3 cubic yards, designated for mechanical pickup by collection vehicles and equipped with a lid, or where appropriate for the subject premises, a roll-off or drop box or compactor.
- vi. "Black Container" has the same meaning as "Gray Container" in 14 CCR Section 18982(a)(28) and shall be used for the purpose of storage and collection of container waste or mixed waste.
- vii. "Blue Container" has the same meaning as in 14 CCR Section 18982(a)(5) and shall be used for the purpose of storage and Collection of Source Separated Recyclable Materials (SSBCOW).
- viii. "Brown Container" has the same meaning as in 14 CCR Section 18982.2(a)(5.5) and shall be used for the purpose of storage and collection of source separated food waste.
- ix. "Bulky Items" shall mean large and small household appliances, furniture, carpets, mattresses, and similar large items discarded by residential service recipients, provided such items may be lifted by no more than two people and may be contained within a standard size pickup truck.
- x. "California Code of Regulations" or "CCR" means the State of California Code of Regulations. CCR references in this Agreement are preceded with a number that refers to

the relevant Title of the CCR (e.g., “14 CCR, Division 7, Chapter 12” refers to Title 14, Division 7, Chapter 12 of the California Code of Regulations).

- xi. “CalRecycle” means California's Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations on jurisdictions and other regulated entities.
- xii. “CERCLA” or “Superfund” shall mean the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Sections 9601 et seq. and all future amendments.
- xiii. “City” shall mean the City of Barstow.
- xiv. “City Facilities” shall mean: City Hall, Harvey House, Corporation Yard, and any other facility used primarily by the City that may be constructed or leased during the term of this Agreement.
- xv. “City Manager” shall mean: the City Manager of the City or the designated representative of the City Manager of the City.
- xvi. “Collection Costs” shall mean, for purposes of Section 4.3, of this Agreement, all costs incurred by Collector, including the allocation of Collector’s overhead, for the collection and transportation of Solid Waste and Recyclable Materials to a disposal facility, except for the tipping fees or other costs charged for the actual disposal by a disposal facility and incurred directly or indirectly by Collector.
- xvii. “Collector” shall mean Burrtec Waste Industries, Inc. and may have the same meaning as “Contractor”.
- xviii. “Commercial Edible Food Generators” includes Tier One Commercial Edible Food Generators and Tier Two Commercial Edible Food Generators, or as otherwise defined in 14 CCR Section 18982(a)(7). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators, or as otherwise specified by 14 CCR Section 18982(a)(7).
- xix. “Commercial/Industrial Premises” shall mean any businesses located within the City that must apply for a City Business Permit / Licenses. Industrial customers may mean premises with roll-off bin services.
- xx. “Commingled Recyclable Materials” shall mean two or more different types of Recyclable Materials (e.g. glass bottles and steel cans) placed in the same container when set out for collection.

- xxi. "Compostable Plastics" or "Compostable Plastic" means plastic materials that meet the ASTM D6400 standard for compostability, or as otherwise described in 14 CCR Section 18984.1(a)(1)(A) or 18984.2(a)(1)(C).
- xxii. "Compost" has the same meaning as in 14 CCR Section 17896.2(a)(4), as may be amended from time to time.
- xxiii. "Composting Facility" shall mean the facility for processing organic material including green waste and/or food waste.
- xxiv. "Construction and Demolition Waste" shall mean any Solid Waste or other debris generated as a result of construction or demolition, including without limitation, discarded packaging or containers and waste construction materials, whether brought on site for fabrication or used in construction or resulting from demolition, excluding liquid waste and hazardous waste.
- xxv. "Control" shall mean, for purposes of Section 6.2 of this Agreement, the possession (direct or indirect) of the power to direct or cause the direction of the management and policies of a corporation, partnership, joint venture, or other association.
- xxvi. "Disposal Facility" shall mean the facility or facilitates including landfills, for disposing of Solid Waste and/or residue from a Processing Facility, Composting Facility and/or Transfer Station.
- xxvii. "Diversion (or any variation thereof including "Divert")" means activities which reduce or eliminate Discarded Materials from Disposal, including, but not limited to, source reduction, Reuse, salvage, Recycling, and composting.
- xxviii. "Diversion Rate" shall mean the calculation, in the manner required by Public Resources Code Sections 41780, et seq., of the percentage of total Solid Waste and recyclable materials generated in the City during a twelve-month period, that was diverted from landfill disposal or transformation in the same twelve month period.
- xxix. "Edible Food" means food intended for human consumption. For the purposes of this Agreement, Edible Food is not Solid Waste if it is recovered and not discarded. Nothing in this Agreement requires or authorizes the recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code. If the definition in 14 CCR Section 18982(a)(18) for Edible Food differs from this definition, the definition in 14 CCR Section 18982(a)(18) shall apply to this Agreement.
- xxx. "Effective Date" shall mean the date specified in the Preamble on page 1 of this Agreement.

- xxxi. "Environmental Statutes" shall mean, for purposes of this Agreement, 42 United States Code Sections 9600, et seq., 42 U.S.C. Sections 6901, et seq., California Health and Safety Code Sections 25300, et seq., or successor statutes.
- xxxii. "Excluded Waste" means Hazardous Substance, Hazardous Waste, Infectious Waste, Designated Waste, volatile, corrosive, Medical Waste, infectious, regulated radioactive waste, and toxic substances or material that Facility operator(s) reasonably believe(s) would, as a result of or upon acceptance, Transfer, Processing, or Disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be Disposed of in Class III Landfills or accepted at the Facility by permit conditions, waste that in Contractor's reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose Contractor or City to potential liability.
- xxxiii. "Food Recovery" means actions to collect and distribute food for human consumption which otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).
- xxxiv. "Food Recovery Organization" means an entity that primarily engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities, including, but not limited to:
- A. A food bank as defined in Section 113783 of the Health and Safety Code;
 - B. A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,
 - C. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this Agreement.

- xxxv. "Food Recovery Service" means a Person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery; or as otherwise defined in 14 CCR Section 18982(a)(26).
- xxxvi. "Food Scraps" means the unavoidable waste products from food preparation including but not limited to, carrot peelings, apple cores, meat trimmings, bones. Food Scraps excludes fats, oils, liquids, and grease when such materials are Source Separated from other Food Scraps.
- xxxvii. "Food-Soiled Paper" means compostable paper material that has come in contact with food or liquid, such as, but not limited to, napkins and pizza boxes.

- xxxviii. "Food Waste" means all food and food scraps such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. Food Waste excludes fats, oils, liquids, and grease when such materials are Source Separated from other Food Waste. Food Waste is a subset of SSGCOW. Edible Food separated for Food Recovery shall not be considered Food Waste.
- xxxix. "Gray Container" has the same meaning as in 14 CCR Section 18982(a)(28) and shall be used for the purpose of storage and Collection of Gray Container Waste.
- xl. "Gray Container Waste" means Solid Waste that is collected in a Gray Container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(6.5). Gray Container Waste may specifically include carpet, [Non-Compostable Paper] and textiles.
- xli. "Green Container" has the same meaning as in 14 CCR Section 18982(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste (SSGCOW).
- xlii. "Gross Receipts" means any and all monies or compensation in any form received from service recipients for services provided pursuant to this Agreement, including late charges.
- xliii. "Hauler Route(s)" means the designated itinerary or sequence of stops for each segment of the City's collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5)
- xliv. "Hazardous Substances" shall mean any substance, waste or mixture of wastes defined as a "Hazardous Substance" or "Hazardous Waste pursuant to the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. Sections 6901 et seq., the Comprehensive Environmental Response Compensation and Liability Action ("CERCLA"), 42 U.S.C. Sections 9601 et seq., and all future amendments to either of them, or as defined pursuant to the California Hazardous Substances Account Act, Health & Safety Code Section 25300 et seq., and any consumer products with any of the characteristics of a Hazardous Substance. Where there is a conflict in the definitions employed by two or more agencies having jurisdiction over hazardous or solid waste, the term "Hazardous Waste" shall be construed to have the broader, more encompassing definition.
- xlvi. "Household Hazardous Waste Element", or "HHWE", means the element required by Public Resources Code Section 41500. City adopted a Household Hazardous Waste Element on July 14, 1992.
- xlvii. "Large Event" means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an

average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this Agreement.

- xlvi. “Large Venue” means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of 14 CCR, Division 7, Chapter 12 and this Agreement, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of 14 CCR, Division 7, Chapter 12 and this Agreement, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this Agreement.
- xlviii. “Multi-Family Premises” shall mean any residential dwelling containing three (3) units or more.
- xliv. “Municipal Code” shall mean the Municipal Code of the City of Barstow, as it presently exists or may subsequently be amended.
 - i. “Non-Compostable Paper” includes, but is not limited to, paper that is coated in a plastic material that will not breakdown in the composting process, or as otherwise defined in 14 CCR Section 18982(a)(41).
 - ii. “Non-Organic Recyclables” means non-putrescible and non-hazardous recyclable wastes including, but not limited to, bottles, cans, metals, plastics, and glass, or as otherwise defined in 14 CCR Section 18982(a)(43). Non-Organic Recyclables are a subset of Source Separated Recyclable Materials.
 - iii. “Organic Waste” means Solid Wastes containing material originated from living organisms and their metabolic waste products including, but not limited to, food, Yard Trimmings, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges, or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined in 14 CCR Section 18982(a)(4) and 14 CCR Section 18982(a)(16.5), respectively.
 - iv. “Paper Products” include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling; or as otherwise defined in 14 CCR Section 18982(a)(51).

- liv. "Performance-based Compliance Approach" means the method of complying with the SB 1383 Regulations through implementation of a collection system, programs, and policies in accordance with 14 CCR, Division 7, Chapter 12, Article 17, or as otherwise defined by 18982(a)(52.5), and all associated requirements.
- lv. "Printing and Writing Paper" include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications; or as otherwise defined in 14 CCR Section 18982(a)(54).
- lvi. "Processing" means the controlled separation, recovery, volume reduction, conversion, or Recycling of Solid Waste including, but not limited to, organized, manual, automated, or mechanical sorting, the use of vehicles for spreading of waste for the purpose of recovery, and/or includes the use of conveyor belts, sorting lines, or volume reduction equipment, or as otherwise defined in 14 CCR Section 17402(a)(20).
- lvii. "Processing Facility" shall mean the facility or facilities for sorting and/or processing commingled or source separated Recyclables and/or Solid Waste.
- lviii. "Prohibited Container Contaminants" means the following: (i) Discarded Materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for the [City's] Blue Container; (ii) Discarded Materials placed in the Brown Container that are not identified as acceptable Source Separated Food Waste for the [City's] Brown Container; (iii) Discarded Materials placed in the Green Container that are not identified as acceptable SSGCOW for the [City's] Green Container; (iii) Discarded Materials placed in the Gray Container that are acceptable Source Separated Recyclable Materials and/or SSGCOW to be placed in [City's] Green Container, Brown Container, and/or Blue Container; and (iv) Excluded Waste placed in any Container.
- lix. "RCRA" shall mean the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901 et seq.
- lx. "Recycle" or "Recycling" means the process of Collecting, sorting, cleansing, treating, and reconfiguring materials for the purpose of returning them to the economic mainstream in the form of raw material for new, Reused, or reconstituted products that meet the quality standards necessary to be used in the marketplace. Recycling includes processes deemed to constitute a reduction of Landfill Disposal pursuant to 14 CCR, Division 7, Chapter 12, Article 2. Recycling does not include gasification or transformation as defined in Public Resources Code Section 40201.
- lxi. "Recyclable Materials" shall mean those materials that are suitable for recycling, as determined by the City Manager or designated representative and as set forth in this Agreement. A list of Recyclable Materials is included in this Agreement as Exhibit "B".

Exhibit “B” may be changed from time to time, upon mutual agreement of the City and Collector.

- lxii. “Recycling” shall mean the process of collecting, sorting, cleansing, treating and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw materials for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace. Recycling does not include transformation as defined in Public Resources Code Section 40201.
- lxiii. “Recycling Container” shall mean a container suitable for automated collection, to be provided to residential and commercial customers and used for the temporary accumulation and collection of Recyclable Materials.
- lxiv. “Residential Premises” shall mean any residential single-family dwelling up to a Two (2)-unit complex.
- lxv. “Reuse” or any variation thereof, means the use, in the same, or similar, form as it was produced, of a material which might otherwise be discarded, or as otherwise defined in 14 CCR Section 17402.5(b)(2).
- lxvi. “Solid Waste” shall have the meaning set forth in Public Resources Code Section 40191.
- lxvii. “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 Chapter 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,
- lxviii. “SB 1383 Regulations” or “SB 1383 Regulatory” refers to the Short-Lived Climate Pollutants (SLCP): Organic Waste Reductions regulations developed by CalRecycle and adopted in 2020 that created Chapter 12 of 14 CCR, Division 7 and amended portions of regulations of 14 CCR and 27 CCR.
- lxix. “Self-Hauler” or “Self-Haul” means a person, who, [in compliance with all applicable requirements of the City Code,] hauls Solid Waste, Organic Waste or recyclable material he or she has generated directly to the appropriate facility, as required by SB 1383 Regulations. Self-hauler also includes a person who Back-Hauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66).
- lxx. “Service Level” refers to the number and size of a Customer’s Container(s) and the frequency of Collection service, as well as ancillary services such as lock/unlock service, Container push/pull service, etc.

- lxxi. "Source Reduction and Recycling Element," or "SRRE," means the element required by Public Resources Code Section 41000, et seq. City adopted a Source Reduction and Recycling Element on July 14, 1992.
- lxxii. "Source Separated" means materials, including commingled Recyclable materials, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or Processing those materials for Recycling or Reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of the Agreement, Source Separated shall include separation of materials by the Generator, Property Owner, Property Owner's employee, property manager, or property manager's employee into different Containers for the purpose of Collection such that Source Separated materials are separated from Gray Container Waste and other Solid Waste for the purposes of Collection and Processing.
- lxxiii. "Source Separated Blue Container Organic Waste" or "SSBCOW" means Source Separated Organic Wastes that can be placed in a Blue Container that is limited to the collection of those Organic Wastes and Non-Organic Recyclables as defined in Section 18982(a)(43), or as otherwise defined by Section 17402(a)(18.7).
- lxxiv. "Source Separated Green Container Organic Waste" or "SSGCOW" means Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate collection of Organic Waste by the generator, excluding Source Separated Blue Container Organic Waste, carpets, Non-Compostable Paper, and textiles.
- lxxv. "Source Separated Recyclable Materials" means Source Separated Non-Organic Recyclables and SSBCOW.
- lxxvi. "Standard Collection Services" shall mean the weekly collection of Solid Waste from Residential, Commercial or Industrial premises using suitable containers provided by Collector.
- lxxvii. "Standard Compliance Approach" means the method for complying with the SB 1383 Regulations through implementation of a collection system pursuant to 14 CCR, Division 7, Chapter 12, Article 3, and all associated program and policy requirements.
- lxxviii. "Tier One Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following, each as defined in 14 CCR Section 18982:
 - A. Supermarket.
 - B. Grocery Store with a total facility size equal to or greater than 10,000 square feet.

- C. Food Service Provider.
- D. Food Distributor.
- E. Wholesale Food Vendor.

If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this Agreement.

lxxix. “Tier Two Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following, each as defined in 14 CCR Section 18982:

- A. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- B. Hotel with an on-site food facility and 200 or more rooms.
- C. Health facility with an on-site food facility and 100 or more beds.
- D. Large Venue.
- E. Large Event.
- F. A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
- G. A local education agency with an on-site food facility.

If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this Agreement.

lxxx. “Tipping Fees” shall mean, the cost charged by a landfill, transfer stations, material recovery facilities recyclers to dispose of one (1) ton of Solid Waste. A proportionate share of the cost of the Tipping Fees are reflected in the rates charged to each customer as set forth in Article IV below.

lxxxi. “Waste Disposal Agreement” shall mean that certain Waste Disposal Agreement, between the City and the County of San Bernardino, whereby the City has agreed to restrict the flow of Controllable Waste and other materials to such locations as are designated by the County of San Bernardino.

lxxxii. “Yard Trimmings” means types of SSGCOW resulting from normal yard and landscaping installation, maintenance, or removal that the Generators Source Separate and set out in Green Containers for Collection for the purpose of Processing by the Contractor.

ARTICLE III COLLECTOR’S OBLIGATIONS

3.1 Governing Requirements. Collector shall acquire and maintain all necessary permits and licenses, and shall comply with all provisions of this Agreement, the Municipal Code (including,

but not limited to, Chapter 6.20, which is incorporated herein by this reference), and all other applicable laws, rules and implementing regulations, as they from time to time may be amended, including, but not limited to the Act.

3.2 Payments. The City shall bill all residential and commercial/ industrial customers/owners for sewer and trash services and shall collect all Gross Receipts pursuant to the rate schedule set forth in Exhibit A, which includes items a) through i). The Collector shall bill all industrial customers/owners with permanent/temporary roll off services and, and shall collect all Gross Receipts. Collector shall pay, on a monthly basis, to the City the portion of Gross Receipts received by Collector as set forth below:

- a. Franchise Fee equivalent to ten (10%) of all Gross Receipts from residential, commercial/industrial accounts, excluding Sewer Fees, AB 939 Fees and tipping/dump fees; and
- b. Administrative Fee equivalent to five (5%) of all Gross Receipts, excluding Sewer Fees, AB 939 Fees and tipping/dump fees;
- c. AB 939 Fee: 100% of the portion of Gross Revenues attributed to AB 939 Fees;
- d. Tipping Fee: 100% of the portion of Gross Revenues attributed to the cost of the Tipping Fee;
- e. Sewer Fees: 100% of the portion of Gross Revenues attributed to the cost of sewer services;
- f. Processing Fee: 100% of the portion of fee attached to liens;
- g. 100% of revenues from liens/assessments placed on a parcel, which reflect any portion of the delinquent billings prior to 1 July 2016, received by Collector will all be passed directly through to the City. This pass through payment reflects the fact that Collector has already received payment by the City for these delinquent accounts.
- h. Revenue received by Collector from liens/assessments recorded on a parcel for delinquent billings for services after 1 July 2016 shall be paid to the City in accordance with subparagraphs a through f above, ~~including~~ less a \$45 Administrative Fee for each delinquent account for which payment is received though the lien/assessment process. The \$45 Administrative Fee reflects Collector's administrative costs in processing the lien/assessment for the delinquent account, which shall only be recovered upon payment of the lien/assessment.
- i. Revenue received by the City from the County for payment of assessments will be processed according to the above subparagraphs a through g above.

City shall pay, on a net 30 basis, to the Collector, the Hauler portion of the rate for each service billed by City for that month as set forth in Exhibit D - Hauler Service Fee Schedule.

3.3 AB 939 Fee. City will collect any AB 939 Fee adopted by City pursuant to California Public Resources Code Section 41901.

3.4 Recycling. All direct and indirect proceeds from the sale, use, return and collection of Recyclable Materials received by Collector shall be retained by the Collector. Collector covenants and agrees to provide to the City copies of all receipts, weigh amounts and such other relevant records on a monthly basis as required by the Franchise Agreement in order to determine and confirm the quantity and value of all Recyclable Materials collected and processed by Collector. The City retains the right, upon reasonable notice, to inspect and audit Collector's facilities in order to confirm the quantities of Recyclable Materials processed by Collector. Upon demand, Collector shall also provide the City with reasonable access to the Collector's books and records in respect of the quantity of Recyclable Materials processed by the Collector and the proceeds thereof.

3.5 Manner of Collection. Collector shall haul all Solid Waste and Recyclable Materials generated and presented for collection at each residential and commercial/industrial premises in conformity with the provisions of this Agreement and Chapter 6.20 of the Municipal Code. The Collector shall verify all service addresses on the approved route schedule and shall red tag all improper cans/containers. The red-tag will be a notice of rejection for service. The Collector shall notify the City of all red tagged cans/collectors within 24 hours of identification of the same. The parties covenant to cooperate to identify and resolve any improper service locations.

3.6 Red Tag and Rejection of Waste/Recycling. Overweight or overflowing / improperly filled containers, including contaminated containers as described in section 3.18 (d) may be rejected as determined by Collector with the concurrence of the City Manager or designated representative. Correction of overweight, overflowing/improperly filled or contaminated containers by the Collector/Hauler may be charged by Collector at its special services hourly rate. Special Services may be provided upon request at a rate not to exceed that approved by City Council.

3.7 Day and Time for Collection.

Residential collection shall be conducted Monday through Friday except as provided herein for holidays. Commercial/industrial collection shall be conducted Monday through Saturday. Collection shall not be made on Sundays.

Collector agrees that, in order to protect the peace and quiet of customers, the collection of Solid Waste and Recyclable Materials in residential areas and in commercial/industrial areas adjacent to residential areas, shall not commence before 5:30 a.m. or continue after 4:30 p.m. unless otherwise provided for in Chapter 6.20 of the Municipal Code. Collector agrees to maintain business office hours of 8:00 a.m. until 5:00 p.m. Monday through Friday.

3.8 Collection on Holidays.

If the collection on any given route falls on a holiday Collector shall provide collection service for such route on the next workday following such Holiday unless otherwise provided for in Chapter 6.20 BMC. Collector is responsible for timely notification of any scheduled route changes to the public. The following holidays are observed: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the Day After (Office Personnel Only), and Christmas.

3.9 Collection from Residential Premises.

a. Automated Collection. Collector shall furnish all labor, supervision, materials, permits, licenses, and equipment necessary to provide automated collection of Solid Waste and Recyclable Materials from residential premises within the City.

b. Collector to Provide Containers for Automated Collection. Collector shall provide the initial containers and any replacement containers to all residential premises. All customers shall receive one standard residential solid waste container having an approximate capacity of 95 gallons, and one standard residential recycling container having an approximate capacity of 95 gallons. All containers provided by Collector shall be constructed of rigid, durable materials with a minimum five (5) year life expectancy warranted by the manufacturer. Customers may have one (1) additional recycling container at no charge; if warranted after the City has conducted a Waste Audit.

c. Smaller Containers for Single Family Residential. Collector will provide 35-gallon trash/recycling automation containers for households that only generate that amount of trash, as determined by the Collector. Residential customers who request a smaller container are eligible only where there are no extra bags of trash and zero contamination of the recycling bin. No multiple smaller containers are offered. This is contingent upon City Council approval for the rate for service.

Repairs to containers for damage caused by ordinary wear and tear by the customers or by Collector shall be the responsibility of Collector. These repairs include replacement of wheels, lids, hinges, axles, and handles. Collector shall have the right to charge customers for containers lost or damaged through gross negligence or willful misconduct.

The color and any labels or embossments of the containers shall be subject to approval by the City Manager or designated representative. Collector's name or logo shall be embossed or affixed on all standard residential containers. Collector shall not place any labels or embossments on the standard residential containers or Collector's trucks without prior approval by City.

d. Frequency of Collection - Residential Premises. Collector shall collect all Solid Waste and Recyclable Materials from residential premises once each week on a regular schedule which will specify the day during which collection will occur in the City. The initial schedule for collection from residential premises shall be submitted to City for approval by the City Manager

or designated representative. All Solid Waste and Recyclable Materials from residential premises shall be collected on the same day during each week except as otherwise provided herein. Collector shall perform quarterly route audits to insure all containers being serviced are identified and are cross-referenced to the billing statements.

e. Residential — Bulky Items. Collector shall provide all residential customers ~~four~~ (4) two (2) bulky item collections per calendar year at no additional charge. Bulky items may include white goods, brown goods (couches and mattresses) as defined in this document. In addition, up to two (2) Cathode Ray Tubes (CRTs) or other Consumer Electronic Devices, (CEDs) and a maximum of four (4) passenger vehicle tires with or without rims per calendar year may also be placed at the curb for pickup with bulky items. No oversize tires or commercial type will be accepted. Collector may charge customers for additional Bulky Item pickups. The charges for additional bulky item pickups are included in Exhibit "A". Customers desiring to have bulky items and CEDs or tires picked up shall notify Collector by telephone at least seven (7) calendar days in advance of the pickup date desired by customer.

f. Multi-Family Residential - Bulky Items. Collector shall provide weekly bulky item collection to multi-family complexes receiving bin service at the MF Bin Rate. Bulky items shall include those items identified for residential pickup in paragraph 3.8e above. Multi-Family service fees shall be adjusted annually based on the volume of Bulky Items collected in the previous twelve (12) months.

g. Holiday Tree Recycling. Collector shall collect, transport and divert the holiday trees from the landfill which are placed for collection at the curb on regular collection days, on all residential premises within the City during the two- week period beginning after December 26, the exact dates of which will be published by Collector annually before December 1st.

h. Residential Curbside Recycling Program. Collector shall provide separate curbside commingled automated collection of Recyclable Materials to all residential premises. Curbside collection shall be performed weekly, on the same day as Solid Waste collection. Collector shall provide residents and commercial customers with Recycling Containers. Collector shall repair or replace damaged Recycling Containers. Collector shall replace any Recycling Containers reported to the police as stolen. Subject to the foregoing, Collector may charge customers for damage to Recycling Containers caused by the gross negligence or willful misconduct of a customer.

3.10 Collection from Commercial/Industrial Premises.

a. Collection Services. Collector shall furnish all labor, supervision, materials, permits, licenses, and equipment necessary to provide Solid Waste and Recyclable Materials collection for commercial/industrial premises within the City. Collector will provide control and accountability of all waste processed under this Agreement.

b. Collector to Provide Bins/Frequency of Collection. Collector shall collect all Solid Waste and Recyclable Materials from Commercial/Industrial premises at a minimum of once each

week. Collector shall make arrangements with each commercial/industrial customer concerning the size of solid waste container and frequency of collection. Each such container or bin shall be a standard commercial/industrial solid waste container.

c. Clean up of Waste Enclosures or Overflowing Bins. Collector shall exercise all reasonable care and diligence in collecting Solid Waste and Recyclable Materials, and shall, at a special rate determined in the reference, clean out all overflowing bins or waste enclosures within twenty-four (24) hours of notification by City. Collector may charge the customer for the actual costs of clean up.

3.11 City Facilities.

a. Collector shall collect and dispose of all Solid Waste and Recyclable Materials from all City Facilities, including but not limited to the collection of street sweeping waste, at all City Facilities. Collector shall provide each City Facility with sufficient bins and other containers, as determined by the City Manager or designated representative for the collection of Solid Waste and Recyclable Materials.

b. All services provided pursuant to this Section 3.11 shall be provided at Collector's expense, with no charge to City, and shall not be included in the rates charged to service recipients in the City. The City Manager or designated representative may delete a City Facility from the list of facilities to be provided collection services by Collector pursuant to this Section at any time, upon written notice to Collector.

c. Collector shall provide sufficiently trained staff to work at the Household Hazardous Waste (HHW) Satellite Collection Facility ("Bin"). The costs to dispose of the HHW collected shall be paid by the City. The Collector shall pay for all operating costs for the facility. and shall maintain operation records which include but are not limited to:

- (1) Training records for employees
- (2) Weekly inspection reports
- (3) Weekly Supply Inventory

3.12 Street Sweeping. Collector shall be responsible for providing all street sweeping services within the City at the sole expense of Collector. Collector shall provide these services either through its own forces or through the use of contractors or subcontractors (Contractors). Street sweeping activities shall be conducted in conformance with the standards as outlined below. If Collector provides the street sweeping services through a Contractor, Collector shall incorporate all the standards specified in this paragraph within the Contractor agreement; City shall not be a party to such Contractor agreement, but shall be named as a third-party beneficiary of such services. Failure of the Contractor to comply with the service standards set forth in this Agreement shall not excuse Collector's obligation to perform or cause to be performed the street sweeping services at Collector's sole expense.

a. Street Sweeping Standards. Collector/Contractor shall use and furnish at the Collector's/Contractor's own expense all labor, equipment, and materials necessary for the satisfactory performance of the street sweeping and parking lot sweeping work as set forth herein.

b. After sweeping, curbs and gutters shall be left in a clean condition. A clean condition is defined as the absence of residue in the streets and gutters upon the completion of the sweeping operation. The sweeping shall include as many passes as necessary to leave the street in a clean condition.

c. Collector/Contractor shall operate the sweepers used in conjunction with this contract using a Geographical Position System (GPS) Monitoring System. Each month the reports will be printed and certified by the Collector for compliance and submitted to the City for acceptance.

d. Street sweeping services are performed twice per month, meaning that every street in the City must be swept twice per month, with no less than 7 days or greater than 14 day intervals between each occurrence.

e. Street sweeping activities shall be performed based on the street sweeping map which the City will develop and provide to the Collector based on the routes for the trash service.

f. Collector/Contractor shall develop and provide a color coded sweeping schedule for a 12- month period which will coincide with the trash routes. Each respective route will be color coded to identify what day during a week/month a specific street will be swept. Collector/Contractor shall perform street sweeping services in accordance with the trash routes. Route changes will not be allowed without prior authorization from the City. Should a route change be approved, Collector/Contractor shall be responsible for notifying individual households that are affected in writing at least two weeks prior to beginning the new schedule.

g. Collector/Contractor shall provide parking lot sweeping twice per month during the same weeks as the regular street sweeping operation. Parking lots to be swept include the following locations listed in Exhibit D of this agreement.

h. Collector/Contractor shall provide a 24-hour telephone number and / or a list of employees (including their telephone numbers) who are available for 24-hour emergency callout service.

i. If sweeping services are not to be performed on certain holidays, the Collector/Contractor must provide a schedule for sweeping the missed streets. City shall be advised in advance of holidays to be observed by Collector/Contractor and shall also be provided with a makeup schedule that is no more than one week later. Once the makeup schedule is established, it shall not be changed without prior approval by the City.

j. Collector/Contractor shall dispose (City pays the landfill bill) of all sweeping refuse collected by hauling the material to a legally established refuse disposal site, or other site approved by the City. Sweeping refuse shall not be stored on the street but shall be loaded into trucks or in appropriately placed containers, which shall be approved by the City. If containers are used, they shall be dumped upon completion of the sweeping cycle. The Collector/Contractor shall be responsible for the disposal service of the street sweeping refuse collected.

k. Collector/Contractor shall provide at Collector/Contractor's own expense sufficient water for the street sweeping equipment necessary to comply with this project and to assure that curbs and gutters are left in a clean condition. Furthermore, water will be used to such an extent that the amount of dust that is kicked up during sweeping services is kept to a minimum. Water meters shall be obtained from the Golden State Water Company.

l. All street sweepers shall be operated at a safe speed which will allow for maximum debris pick-up.

m. Collector/Contractor shall comply with the requirements of the City's National Pollution Discharge Elimination System (NPDES) Permit, including preparation and submittal to the City of a monthly report which includes information regarding the quantity of material picked up during the sweeping process. Reporting procedures and forms are subject to change by the enforcement agency.

n. In the event that delays in the sweeping schedule occur, Collector/Contractor shall notify the City as soon as possible and provide a make-up schedule satisfactory to the City.

3.13 Special Events. Upon request from the City Manager or designated representative, Collector shall provide Solid Waste and Recyclable Materials collection to special events conducted by City, at Collector's expense, with no charge to City. Such services shall include delivery, placement, removal and disposal of all wheeled carts and bins as needed for each event, signed in such a way as to indicate their use, subject to City Manager's or designated representative's approval. The number of bins and containers shall be adequate to allow convenient Solid Waste and Recyclable Materials disposal for event participants, as determined by the City Manager or designated representative. Collector shall provide Solid Waste and Recyclable Materials collection the next working day, and shall remove containers by the end of the same day the event is finished if possible.

a. Adopt A Block. Collector shall provide for up to five (5) events with up to three (3) roll-off bins per event each year for use by the City. The Cost to dispose of the waste collected shall be paid by the City. These events are not in conjunction with any other service offered herein, at no additional charge to City.

b. Free Dump Day. Collector shall provide sufficiently trained staff to work at the bi-annual events. The costs to dispose of the waste collected shall be paid by the City. The Collector shall pay for all operating costs for the facility.

3.14 Special Services.

a. Illegally Dumped Materials. Collector shall provide twelve (12) roll-off containers throughout the year for use by the City, not in conjunction with any other service offered herein, at no additional charge to City. The Collector shall also provide a collection truck and driver for ten (10)- hours per month to pick up illegally dumped materials within the public right-of-way. The City will be responsible for all disposal costs. After each pickup, Collector shall provide the City with an update of the remaining hours available in that month for use.

b. Drop-Off Site. Collector shall provide a drop-off location and staff for the use of residential customers that operates on Monday through Saturday for:

(1) Scrap Metal (to include the removal of Freon / refrigerant before processing for scrap);

(2) Green waste (residential generated tree trimmings, grass and leaves);

(3) Tire collection (for passenger vehicle tires with or without rims and

(4) Any and all other materials which may during the life of this contract be regulated by CalRecycle which require diversion from the landfill as directed by the City Manager or designated representative.

The Collector will be responsible for preparing the material generated above and transporting it to certified recyclers for processing, including but not limited to the removal and certification of all ozone depleting substances from items turned in for recycling; and the removal of tires from rims.

c. Shopping Cart Retrieval/Return. Collector shall collect abandoned shopping carts in the public right-of-way and return all marked/identified carts to the appropriate store. Where there are no markings, Collector will retrieve and process for recycling. Collector will provide tracking information in monthly reports. Collector may seek recovery of their costs for the cart collection program from the actual store, and Collector shall not charge the City for shopping/cart retrieval and return services.

3.15 Deposit of Solid Waste/Processing of Recyclable Materials.

a. Collector shall deposit all Solid Waste collected in accordance with the Source Reduction and Recycling Element hierarchy plan for the City and Waste Disposal Agreement between the City and County. Collector further covenants and agrees to segregate and maintain the waste stream of Solid Waste and Recyclable Materials collected under this Agreement separate from other waste streams managed by Collector.

b. All Recyclable Materials collected from commercial/industrial premises, and all Recyclable Materials collected from residential premises, shall be transferred to a Material Recovery Facility which is properly permitted by local and state permitting agencies and otherwise complies with applicable federal, state, and local laws and regulations approved by the City Manager or designated representative.

c. All organic material and waste will be collected from commercial/industrial premises and multi-family dwellings of (5) units or more in compliance with AB1826 and SB1383.

d. Upon notice of any material development, the Collector shall promptly inform the City of any information related to the fitness of such facilities to accept waste, including whether such facility is on a state or federal Superfund list, or is being considered for inclusion on such a list. In the event of any material information which indicates an increase in the City's liability related to the disposal of Solid Waste under the terms of this Agreement, Collector shall inform the City, in writing, and shall propose an alternative course of action in order to reduce the potential liability to the City.

e. In the event that the City and Collector mutually agree (during the term of this agreement) to allow the Collector to develop and operate a local facility for the transfer of all solid waste including, refuse, recyclables and organic waste, the parties agree to the following provisions.

(1) All solid waste received shall be taken to a processing facility, disposal facility and or composting facility as defined in this agreement.

(2) Collector shall assume control of all solid waste generated in the City for the balance of the agreement term.

(3) All applicable transfer, disposal and or processing costs shall be negotiated with the City.

3.16 Records and Reports; Audits.

a. Collector shall keep an auditable journal recording each instance reported to Collector that Solid Waste or Recyclable Materials are not collected in compliance with the terms of this Agreement or applicable ordinance or regulation. The journal shall include the reason for non-collection, including but not limited to instances of Hazardous Waste found in the Solid Waste or Recyclable Materials.

b. Collector shall compile and keep the following information for each month and shall deliver a written report, signed by ~~an officer~~ a representative of Collector, to the City Manager or designated representative, within 10 days of the preceding month.

(1) Total tons of Recyclable Materials collected from residential, multi-family and commercial/industrial premises, by type;

(2) The name, address and telephone number of each waste disposal facility used by Collector during the reporting month;

(3) The name, address and telephone number of each facility where Solid Waste and Recyclable Materials were delivered by Collector during the reporting month;

(4) Summaries of the net amount of all waste disposed during the reporting period and where the waste was disposed of, by residential, multi-family and commercial/industrial service sectors or monthly report currently generated by the Collector. City may review all supporting documentation (which Collector shall retain) for Collector's summaries on Collector's business premises after giving 48 hours written notice of such a request;

d. Collector shall maintain financial statements and other relevant information consistent with generally accepted business practices regarding the operation of Collector's waste collection business and annually provide audited financial statements to City. Other financial information shall be available on Collector's business premises upon reasonable written notice. All financial information provided to City must be held strictly confidential and not publicly disclosed, to the extent permitted by law.

e. Collector shall submit an annual report, in such form and utilizing such media as approved by City, within ninety (90) days after the close of each calendar year. This report shall include, but is not limited to, the following information:

f. A summary of the previous year's activities including, but not limited to, services begun or discontinued during the reporting year, and the number of customers for each service route;

g. A list of Collector's officers and members of its board of directors;

h. In order to verify reports of the amounts of Solid Waste and Recyclable Materials collected by Collector from each designated route and disposed of, City shall be entitled to conduct an audit of any designated route upon demand. The audit demand will be made by City by telephone 48 hours prior to the regularly scheduled collection day of the designated route. Telephone notice shall be followed by written notice and email or fax to Collector. The audit demand shall entitle City to conduct a physical route audit of any or all designated routes for the purposes of verifying customers served, disposal amounts collected, and any other information as may be deemed necessary and beneficial to City so long as the audit activity does not interfere with Collector's personnel who are servicing the route being audited. The standard route audit will include, but is not limited to: (1) verification of the addresses which are served by the designated collection vehicle; (2) verification of the landfill or other facility to which the Solid

Waste or Recyclable Materials are taken; and (3) the quantity of Solid Waste and Recyclable Materials in tons collected from the designated route.

3.17 Equipment.

a. Collector warrants that it shall provide an adequate number of vehicles and equipment for the collection, disposal, and transportation services for which it is responsible under this Agreement. All equipment used by Collector to perform work under this Agreement shall conform to the highest industry standards and shall be maintained in a clean and efficient condition. All vehicles utilized will be designated and dedicated for the sole purpose of performing under this Agreement. All motor vehicles used in implementing this Agreement shall comply with applicable provisions of the Municipal Code, including but not limited to Chapter 6.20. The current certificates generated from the bi-annual California Highway Patrol inspections of each vehicle shall be submitted to the City Manager or designated representative at the time of execution of this Agreement, and bi-annually thereafter. All vehicles used by Collector under this Agreement shall be registered with the Department of Motor Vehicles of the State of California. All vehicles and bins used to perform this Agreement shall be kept clean, in good repair and will be uniformly painted to the satisfaction of the City Manager or designated representative. All vehicles and bins shall be cleaned; both inside and out as needed; not less than once a year. Any Solid Waste or miscellaneous debris dropped or spilled in collection, transfer or transportation shall be immediately cleaned up by Collector. A broom and a shovel shall be carried at all times on each vehicle for this purpose. Collector shall not store any vehicle on any public street.

b. Collector shall provide the annual report conducted by the County for all vehicles tested using County's criteria or the Department of Transportation Certifications.

c. All of Collector's vehicles used in the performance of this Agreement shall be Alternative Fuel Vehicles, defined as vehicles which operate on compressed natural gas ("CNG") or liquefied natural gas ("LNG"). Collector shall be permitted to operate non-alternative fuel vehicles for periods not to exceed thirty (30) calendar days under the following circumstances: (1) as back-up for regular route vehicles when such vehicles are out of service for repair or maintenance; (2) to supplement the regular collection vehicles for special programs such as community clean-up days; or (3) in an emergency situation.

d. All vehicles and equipment shall have painted thereon, or affixed thereto, in letter and numerals at 4-6 inches in height, the name and telephone number of Collector, which name and telephone number shall be clearly visible at all times. Each vehicle or equipment utilized by Collector shall be clearly marked and in a location or locations on such vehicles or equipment to be specified by City. A list showing each vehicle or equipment so identified shall be supplied to City and maintained in a current manner. All vehicles, high visibility bins, and roll offs containers shall have reflectors clearly affixed. All vehicles and equipment used in the performance of this Agreement shall be subject to inspection by City, and, upon notice given by City; Collector shall make the vehicles and equipment available for inspection.

e. If the City Manager or designated representative finds that any vehicle or equipment being used by Collector does not meet the requirements of this Section, then the vehicle or equipment requiring correction of defects shall not be used by Collector in the performance of this Agreement until corrected to the reasonable satisfaction of the City Manager or designated representative.

3.18 Employees; Training.

a. During the life of this Agreement, Collector shall employ sufficient personnel qualified by reason of education, training, and experience to discharge adequately the services agreed to be performed by Collector pursuant to the terms of this Agreement. Collector shall provide service of the highest quality at all times, and personnel retained to perform this Agreement will be temperate, competent, and otherwise fully qualified to fulfill the obligations of Collector.

b. All employees of Collector performing Collection Services under this Agreement shall be dressed in clean uniforms with suitable identification, and no portion of this uniform may be removed while working. Uniforms shall be approved by City Manager or designated representative.

c. Collector shall not discriminate during the performance of this Agreement against any employee or applicant for employment because of the employee's or applicant's race, religion, national origin, ancestry, sex, age, disability, marital status, or sexual orientation.

d. Collector shall provide regular and continuing training to its personnel, including but not limited to safety training and customer service training, to insure that the highest quality of service is provided at all times. Collector shall also conduct yearly training programs for all of its waste collection employees, to instruct them on: (a) determining what is Hazardous Waste; (b) being aware of and locating, if possible, Hazardous Waste items when undertaking collection of Solid Waste and Recyclable Materials in the City; (c) following proper procedures by tagging Hazardous Waste items as "hazardous - special handling required"; (d) advising customers of the various alternatives for proper disposal; and (e) proper "spill response" procedures when Hazardous Waste is observed anywhere in the City.

3.19 Collection Impediments.

Collection impediments listed in this Section may require special efforts to accomplish the level of service required by this Agreement. If this special effort requires the distribution of containers, it shall be the responsibility of Collector to distribute them.

a. Rain or Natural Disaster.

(1) In the event of a natural disaster or other emergency situation, Collector may be requested to provide assistance with debris removal. Collector shall provide City with a 24-hour emergency contact list, and Collector's equipment and vehicles shall be made available in a timely manner. The City shall pay Collector for the actual cost of such emergency equipment.

(2) Some streets become impassable during periods of heavy or prolonged rain, or due to a natural disaster. When Collector determines that collection vehicles can no longer provide service in the street, Collector shall notify the City Environmental Services Administrator. The Collector agrees to return service to the impassable street as soon as the emergency condition has ended.

b. Infrastructure Renovation. Periodically major renovation is necessary to maintain the infrastructure of City. This includes, but is not limited to, such activities as replacing gas, water, and sewer lines, surfacing or resurfacing streets, and replacing wiring for telephone, electricity, or cable television.

If the City is notified in advance of these activities, the City Environmental Services Department staff will notify Collector. However, it is not uncommon for work to be initiated without prior notification to City. Alternate Solid Waste and Recyclable Materials collection service must be provided by Collector during this period of disruption. Each circumstance must be evaluated individually, by the City and Collector, to determine the appropriate alternative.

c. Street Blocked by Materials. When material is placed in the roadway in such a way that the collection vehicle cannot proceed down the roadway or the roadway is blocked by an illegally parked vehicle, Collector shall make a reasonable attempt to collect the Solid Waste and Recyclable Materials as scheduled and shall notify the City's Police Department.

d. Contamination. Collector shall use reasonable efforts to inspect the Solid Waste and Recyclable Materials in order to determine if there are contaminants or improperly disposed of materials within the Solid Waste and Recyclable Materials. In the event Collector identifies any contaminants or improperly disposed materials, Collector shall (i) notify the resident or commercial customer, and (ii) shall properly dispose of the contaminant or improperly disposed material. In the event of circumstances, which pose a threat to the health and safety of persons or the environment, or in the event of an emergency, Collector shall immediately notify the Environmental Services Department and/or City Manager or designated representative of the nature of the contamination and a proposed method of properly disposing of the same.

Contaminated recycling containers will be red tagged by Collector and customer/account will be charged the special services hourly rate.

3.20 Insurance. Collector shall carry public liability insurance for the term of this Agreement in an amount not less than Five Million Dollars (\$5,000,000) aggregate, One Million Dollars (\$1,000,000) per occurrence, for each year within the term of this Agreement. Collector additionally shall provide Workers' Compensation Insurance for its employees or shall have been

issued a certificate to self-insure in accordance with California state law. All public liability insurance obtained by Collector shall name as an additional insured the City, its officers, agents and employees and shall require that sixty (60) day written notice be given prior to the reduction or modification of the limits or cancellation or expiration of the policy. Additional requirements applicable to the policies of insurance required by this Section 3.20 are set forth in Exhibit "B", attached hereto and incorporated herein by this reference. Collector shall provide City with a certificate or certificates showing that the required insurance will be in effect at least thirty days (30) in advance of the first day Collector will perform services under this Agreement. No work shall be done by Collector during any period when Collector is not covered by insurance as required in this subsection.

3.21 Indemnification.

Collector shall indemnify, defend (with counsel selected by City) and hold harmless City, its officers, agents, and employees from any and all claims and losses whatsoever occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, any and all claims, lawsuits or actions arising from the awarding or execution of this Agreement, and from any and all claims and losses occurring or resulting to any person, firm, corporation or property for damage, injury or death arising out of or connected with Collector's performance of its obligations pursuant to this Agreement or arising from or attributable to any alleged breach of warranty of merchantability or fitness of purpose or other laws relating to product liability for Recyclable Materials collected pursuant to this Agreement, or to the repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure or other plan (regardless of whether undertaken due to governmental action) concerning any hazardous substance or Hazardous Wastes at any place where Collector transfers, stores or disposes of Solid Waste or Recyclable Materials pursuant to this Agreement, or its activities pursuant to this Agreement result in a release of hazardous substances into the environment. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of the Comprehensive Environmental Response, Compensation and Liability Act, "CERCLA," 42 U.S.C. Section 9607(e), and California Health and Safety Code Section 25364, to defend, protect, hold harmless and indemnify City, unless such claim is due to the sole negligence or willful acts of the City its elected officials, officers, employees, agents or contractors. Collector's obligation to indemnify, defend and save harmless City as stated hereinabove shall include, but not be limited to, paying all legal fees and cost incurred by legal counsel of City's choice in representing City in connection with any such claims, losses, lawsuits or actions. In connection with claims, liability, lawsuits or actions arising out of the Environmental Statutes, this clause shall not restrict any rights City has against Collector, including, but not limited to, the right of contribution, pursuant to the Environmental Statute.

THIS PROVISION SHALL SURVIVE THE EXPIRATION OF THE PERIOD DURING WHICH SOLID WASTE AND RECYCLABLE MATERIALS COLLECTION, PROCESSING AND DISPOSAL SERVICES ARE TO BE PROVIDED UNDER THIS AGREEMENT.

3.22 Privacy.

a. Collector shall strictly observe and protect the rights of privacy of customers. Information identifying individual customers, or the composition or contents of a customer's Solid Waste and Recyclable Materials, shall not be revealed to any person, governmental unit, private agency, or company, unless upon the authority of a court of law, authorized Federal, State, or municipal law enforcement agency, by statute, or upon valid authorization of the customer. This provision shall not be construed to preclude Collector from preparing; participating in, or assisting in the preparation of waste characterization studies or waste stream analyses which may be required by the Act.

b. Collector shall not market or distribute mailing lists with the names and addresses of residential or commercial/industrial service recipients.

c. The rights accorded customers pursuant to this Section 3.22 shall be in addition to any other privacy rights accorded customers pursuant to Federal or State law.

3.23 Hazardous Waste Notifications and Procedures.

The collection, transportation and disposal of Hazardous Waste as defined in this Agreement, is specifically beyond the scope of the terms and conditions of this Agreement. Collector and City shall take all reasonable steps necessary to prevent Hazardous Waste from being collected, transported, or disposed by Collector under this Agreement.

Collector shall not be required to filter through and thoroughly inspect the Solid Waste or Recyclable Materials disposed of in containers by City's residents and commercial/industrial establishments in order to ensure it does not contain any Hazardous Waste. Collector, however, shall take all reasonable steps to avoid collecting Hazardous Waste and shall refuse to collect and dispose of any such waste of which it becomes aware.

Collector and City shall work together to provide written information regarding household and other Hazardous Waste to all customers upon initially beginning service and on a yearly basis thereafter. This information shall specify what types of waste may and may not be disposed of through routine collection procedures, the availability of household Hazardous Waste collection programs, the tagging procedure if Hazardous Waste is found in the customer's deposited waste, and other pertinent information. Examples of Household Hazardous Waste include, but are not limited to, used motor oil, oil-based paint, paint thinner, automotive products, and aerosol containers and cathode ray tubes.

If Collector observes any substances, which it or its employees reasonably believe or suspect to contain Hazardous Wastes unlawfully disposed of or released on City property, streets in the City, storm drains, or public rights of way, Collector also will immediately notify the City's Environmental Services Department and the Barstow Fire Protection District.

3.24 Ownership of Solid Waste and Recyclable Materials. Ownership and the right to possession of Solid Waste and Recyclable Materials placed in containers for collection at the usual place of collection transfer directly from the residential householder or commercial/industrial owner to Collector by operation of law, pursuant to Municipal Code Section 6.20.350, and, in the case of residential premises, by Public Resources Code Section 41950(c). Subject to the provisions of this Agreement, Collector shall have the right to retain any benefit or profit resulting from its right to retain, recycle, dispose of or use the Solid Waste or Recyclable Materials which it collects except as otherwise provided herein, provided, however, all direct and indirect monetary benefits under this Agreement shall otherwise flow through and be accounted for by the City. At no time does City obtain any right of ownership or possession of Solid Waste or Recyclable Materials placed for collection, and nothing in this Agreement shall be construed as giving rise to any inference that City has any such rights. City and Collector agree that, for purposes of the Uniform Commercial Code and all other laws imposing liability for defective products, it is Collector, and not City, which is to be considered the “merchant” of goods recycled pursuant to this Agreement.

3.25 Performance Monitoring. The City Manager or designated representative shall have the right to observe and review Collector’s operations. City shall also have the right to enter Collector’s premises at all reasonable hours and with reasonable notice for the purposes of such observation and review. Collector will allow a City representative to ride with Collection vehicles on any route or routes, upon receipt of a request thereto by 3 p.m. of the working day prior to the date(s) of route monitoring but only if the City representative does not interfere with the rendering of service by Collector. All City representatives shall execute liability waivers prior to riding Collector’s vehicles.

3.26 Mandated Operational Changes. City shall have the right to require changes in collection or disposal methods and Collector shall comply therewith. If such changes result in increased or decreased costs to Collector, either Collector or City may request a rate review. Any changes in rates must be approved by City as provided by Article IV of this Agreement. The parties agree that the intent of this Section 3.27 is to authorize Collector to amortize any additional capital expenditures and recover any additional operational costs associated with any required changes, and to allow customers to receive the savings resulting from any decreased costs associated with any required changes.

3.27 Community Education and Information; Press Releases. Collector working with the City, shall develop and implement a public education and information program in order to explain the use of automated collection, maximize participation in the residential recycling effort, and provide information on the availability of Bulky Goods services and other special collection services, as well as on the complaint resolution procedure set forth in Section 3.28, as well as periodically (no less often than annually) thereafter, and methods of informing customers of available services. The various elements of the public education and information program shall be reviewed and approved by the City Manager or designated representative prior to implementation, and not later than ninety (90) days after execution of this Agreement. The direct costs of implementing the program shall be borne by Collector.

3.28 Customer Service Performance Standards.

a. Collector shall provide professional and courteous customer service. Every attempt shall be made to assist the customer in a timely and helpful manner.

b. All customer service records and logs kept by Collector shall be available to City upon request with reasonable notice, and at no cost to City.

c. City may, at City's own expense, conduct surveys to determine customer satisfaction. Collector covenants to cooperate and to provide assistance in the development of the survey. If the City determines that customer service quality required by this Agreement is not being maintained, Collector and City covenant to cooperate in order to improve the customer service quality within a reasonable time.

d. Collector's office hours shall be, at a minimum, from 8:00 a.m. to 5:00 p.m. Monday through Friday. A representative of Collector shall be available during office hours for communication with the public at Collector's principal office. Collector shall provide a listed telephone number, and shall courteously, quickly, and expeditiously receive and answer all telephone calls. Normal office hours telephone numbers will either be a local or toll-free call.

3.29 Complaints/Compliments.

a. All customer complaints and compliments shall be directed to Collector. Collector agrees to use its best efforts to resolve all complaints by close of business of the same business (waste collection) day on which the complaint is received.

b. Collector shall keep a formal, auditable record of all complaints and compliments received, listing the date of customer complaints/compliments, describing the nature of the complaint, compliment or request, the name and address of the customer, and when and what action was taken by Collector to resolve the complaint. All such records shall be maintained for a period of three (3) years, and shall be available for inspection by City upon demand. Collector shall prepare monthly summaries of all material complaints/compliments.

c. Service complaints may be investigated by the City Manager or designated representative. In addition, a customer dissatisfied with Collector's decision regarding a complaint may ask the City Manager or designated representative to review the complaint. To obtain this review, the customer must request City review within thirty (30) days of receipt of Collector's response to the complaint, or within forty-five (45) days of submitting the complaint to Collector, if Collector has failed to respond to the complaint. The City Manager or designated representative may extend the time to request its review for good cause.

d. Before reviewing the complaint, the Environmental Services Department staff shall refer the complaint to Collector. If Collector fails to cure the complaint within ten (10) days,

the Environmental Services Department staff shall review the customer's complaint and determine if further action is warranted. Environmental Services Department staff may request written statements from Collector and customer, and/or oral presentations.

3.30 Solid Waste Management Plan: Diversion Rate.

a. The parties acknowledge and agree that the Act requires City to develop and implement a solid waste management plan which includes, among other components, a Source Reduction and Recycling Element ("SRRE") and a Household Hazardous Waste Element ("HHWE"). City's SRRE and HHWE, as they now exist or may subsequently be amended, are incorporated herein by this reference. By executing this Agreement, Collector acknowledges receipt of a copy of the SRRE and HHWE.

b. Collector agrees to implement all provisions of City's SRRE and HHWE, including any recycling programs, as directed by City (except for those programs that are not within the control of Collector), and as set forth in this Agreement, such that City shall achieve a Diversion Rate of 50% and thereafter maintain a Diversion Rate of 50% or any Diversion Rate which may subsequently be required by the Act or any successor statute. Collector's obligations hereunder shall include, without limitation, the development, in cooperation with City, of public education and information programs relating to such policies and plans. The direct costs of implementing such programs shall be borne by Collector, subject to the provisions of Section 4.3.5 regarding rate adjustments for changes in service requirements.

c. City agrees to cooperate in good faith with Collector to facilitate Collector's compliance with these objectives. Such actions of City shall include but not be limited to the adoption and enforcement of reasonable ordinances and local regulations, including such as may reasonably be recommended by Collector, in order to ensure compliance by residential householders and by commercial/industrial business owners with the policies and programs implemented by Collector. City further agrees to reasonably cooperate with Collector in adopting and implementing local resource recovery and waste diversion programs, including those recommended by Collector, in order to ensure compliance with all State mandates.

3.31 Independent Contractor. Collector and the agents and employees of Collector in the performance of this Agreement shall act in an independent capacity and not as officers, employees, or agents of City.

3.32 Performance Security. Within thirty (30) days after the date of this Agreement, Collector shall execute and file with City a surety bond executed by Collector as principal and by a corporate surety authorized to do business in the State of California as surety, or a cash bond, or a letter of credit issued by a credit agency approved by the City Manager or designated representative, in the minimum amount of \$250,000.00. The bond or letter of credit shall guarantee the faithful performance by Collector of its obligations set forth in this Agreement throughout the term of this Agreement. Collector shall keep the bond or letter of credit in full force and effect throughout the term of this Agreement, and shall cause it to be renewed annually, or more often as needed.

3.33 Collection Systems.

a. General. Contractor shall provide an approved Collection program for the separate Collection of Source Separated Recyclable Materials, SSGCOW, and Gray Container Waste as specified in this Agreement, using Containers that comply with the requirements of this Agreement and SB 1383 Regulations. Contractor shall not knowingly Collect Blue, Brown, Green, or Gray Containers that include Prohibited Container Contaminants.

b. Source Separated Recyclable Materials Collection (Blue Container). Contractor shall provide Blue Containers to Customers for Collection of Source Separated Recyclable Materials and shall provide Source Separated Recyclable Materials Collection service, Contractor shall Transport the Source Separated Recyclable Materials to Facility that recovers the materials designated for Collection in the Blue Containers, in accordance with SB 1383 Regulations.

c. SSGCOW Collection (Green Container). Contractor shall provide Green Containers to Customers for Collection of SSGCOW and shall provide SSGCOW Collection service. Contractor shall Transport the SSGCOW to a Facility in accordance with SB 1383 Regulations. Contractor may provide Brown Containers to Customers for Collection of Source Separated Food Waste. Contractor shall transport Source Separated Food Waste to a facility in accordance with SB 1383 Regulations.

Contractor may collect compliant Compostable Plastics, as defined, in the Green Containers for Processing. If the Contractor elects to Collect Compostable Plastics in the Green Container, then Contractor shall provide annual written notification to the City that the Facility has and will continue to have the capabilities to Process and recover the Compostable Plastics. If the Facility cannot process and recover Compostable Plastics, then Contractor will not Collect Compostable Plastics in the Green Container.

d. Gray Container Waste Collection. Contractor shall provide Gray Containers to Customers for Collection of Gray Container Waste, and shall provide Gray Container Waste Collection service. Contractor shall Transport the Gray Container Waste to a Facility in accordance with the SB 1383 Regulations. Contractor may allow carpets and textiles to be placed in the Gray Containers. Prohibited Container Contaminants shall not be collected in the Gray Containers.

3.34 Use of Plastic Bags for SSGCOW Collection. Contractor may require Customers and Generators to place Food Waste in plastic bags or other paper wrappings and put the bagged or wrapped Food Waste in the Green Container. Contractor shall provide written notification to the City that allowing the use of bags does not inhibit the ability of the City to comply with SB 1383 Regulations, and that the Facility can Process and remove plastic bags when it recovers SSGCOW. Contractor shall provide annual written notification to the City that the Facility has and will continue to have the capabilities to Process and remove plastic bags when it recovers SSGCOW.

3.35 Contamination Monitoring.

a. Actions Upon Identification of Prohibited Container Contaminants. Upon finding Prohibited Container Contaminants in a Container, Contractor shall follow the protocols set forth in this Section.

(1) Record Keeping. The driver or other Contractor representative shall record each event of identification of Prohibited Container Contaminants in a written log or in the on-board computer system including date, time, Customer's address, type of Container (Blue, Green, or Gray Container); and maintain photographic evidence, when possible.

(2) Courtesy Pick-Up Notices. Upon identification of Prohibited Container Contaminants in a Customer's Container, Contractor shall provide the Customer a courtesy pick-up notice. The courtesy pick-up notification shall: (i) inform the Customer of the observed presence of Prohibited Container Contaminants; (ii) include the date and time the Prohibited Container Contaminants were observed; (iii) include information on the Customer's requirement to properly separate materials into the appropriate Containers, and the accepted and prohibited materials for Collection in the Blue Container, Brown Container, Green Container, and/or Gray Container; (iv) inform the Customer of the courtesy pick-up of the contaminated materials on this occasion with information that consecutive instances of Prohibited Container Contaminants, Contractor may assess contamination Processing fees; and, (v) Contractor may include photographic evidence. Contractor shall leave the courtesy pick-up notice attached to or adhered to the Generators' contaminated Containers; at the Premises' door or gate; or, may deliver the notice by mail, e-mail, text message, or other electronic message.

(3) Notice of Assessment of Contamination Processing Fees. If the Contractor observes Prohibited Container Contaminants in a Generator's Container on more than two occasions within a six-month time period, and issued courtesy pick-up notices on each of those occasions, the Contractor may impose a contamination Processing fee in an amount as determined by resolution of the City Council (which may be adjusted annually pursuant to Section 4.3 – Rate Adjustment). Contractor shall notify the City in its monthly report of Customers for which contamination Processing fees were assessed. Contractor shall leave a contamination processing fee notice attached to or adhered to the Generators' contaminated Containers; at the Premises' door or gate; or, deliver the notice by mail, e-mail, text message, or other electronic message. The contamination processing fee notice shall describe the specific material(s) of issue, explain how to correct future set outs, and indicate that the Customer will be charged a contamination Processing fee on its next bill. The format of the contamination processing fee notice shall be approved by the [City.]

b. Disposal of Contaminated Materials. If the Contractor observes Prohibited Container Contaminants in a Generator's Container(s), Contractor may dispose of the Container's contents, provided Contractor complies with the noticing requirements in subsection A above.

3.36 Route Reviews and Waste Evaluations. Contractor shall meet its SB 1383 Regulations contamination monitoring requirements commencing January 1, 2022, using either Route

Reviews or Waste Evaluations; provided however, that if Contractor complies with SB 1383 Regulations using a Performance-based Compliance Approach, it shall monitor containers using waste evaluations, as outlined herein:

a. Route Reviews.

(1) If Contractor elects to perform Route Reviews, Contractor shall, conduct Hauler Route reviews for Prohibited Container Contaminants in Collection Containers in a manner that is deemed safe by the Contractor; is approved by the City; is conducted in a manner that results in all Hauler Routes being reviewed annually, and is consistent and in accordance with SB 1383 Regulations. Containers may be randomly selected along the Hauler Route. This Section should not be construed to require that every container on a Hauler Route must be sampled annually. Contractor may prioritize the inspection of Customers that are more likely to be out of compliance.

(2) Upon finding Prohibited Container Contaminants in the Container, Contractor shall follow the contamination monitoring noticing procedures in Section 3.35.

b. Waste Evaluations. Alternatively, if Contractor elects to perform Waste Evaluations, Contractor shall, conduct waste evaluations that comply with and meet the requirements of 14 CCR Section 18984.5(c). The City maintains the right to observe, or hire a third party to observe, the waste evaluations.

(1) Sampling Method, Study Protocols. The Contractor shall conduct waste evaluations for Prohibited Container Contaminants by sampling the contents of Containers on Hauler Routes in the following manner:

(a) If using a Standard Compliance Approach, Contractor shall conduct waste evaluations at least twice per year and in two distinct seasons of the year in a manner that complies with the requirements of 14 CCR section 18984.5(c). If using a Performance- based Compliance Approach, Contractor shall conduct waste evaluations at least twice per year for the Blue and Green Containers and at least once per quarter for the Gray Containers.

(b) The Contractor’s waste evaluations shall include samples of Source Separated Recyclable Materials, SSGCOW, and Gray Container Waste.

(c) The waste evaluations shall include samples from each Container type served by the Contractor and shall include samples taken from different areas in the City that are representative of the [City’s] waste stream.

(d) The waste evaluations shall include at least the minimum number of samples specified in SB 1383 Regulations.

(e) The Contractor shall Transport all of the material Collected for sampling to a sorting area at a permitted solid waste Facility where the presence of Prohibited Container Contaminants for each Container type shall be measured to determine the ratio of Prohibited Container Contaminants present in each material stream by weight. To determine the ratio of Prohibited Container Contaminants, the Contractor shall use protocols established in accordance with SB 1383 regulations.

(2) Contamination Response. If the sampled weight of Prohibited Container Contaminants exceeds twenty-five percent (25%) of the measured sample for any material stream, the Contractor shall:

(a) If using a Performance-based Compliance Approach, notify the City within [fifteen (15)] working days of the waste evaluation. [***Note: City is required to notify CalRecycle within 30 days if using performance-based compliance approach.]

(b) Within [fifteen (15)] working days of the waste evaluation, notify all Generators on the sampled Hauler Route of their requirement to properly separate materials into the appropriate Containers. The Contractor may provide this information by placing a written notice on the Generators' Containers or the gate or door of the Premises; and/or by mail, email, or electronic message to the Generators. The format of the warning notice shall be approved by the City.

(c) If using a Performance-based Compliance Approach, Contractor shall allow a representative of the City and/or CalRecycle to oversee its next scheduled quarterly sampling of the Gray Containers, upon request.

(3) Material Exceptions. Organic Waste that is textiles, carpet, hazardous wood waste, human waste, pet waste, or material subject to a quarantine on movement issued by a County agricultural commissioner is not required to be measured as Organic Waste when calculating the amount of Organic Waste present in the Gray Container Waste.

c. Recordkeeping Requirements. Contractor shall maintain all applicable records required under SB 1383 Regulations, and report to the City on contamination monitoring activities, route reviews and/or waste evaluations, and actions taken.

d. Nothing in this section shall prohibit Contractor from meeting its compliance requirements by any alternative methods or procedures, provided it complies with SB 1383, the SB 1383 Regulations, and/or any other applicable law, as may be amended from time to time.

3.37 Education and Outreach

a. Contractor shall, create all applicable education materials and conduct all education programs and activities as provided by and in accordance with the SB 1383

Regulations. Contractor shall cooperate and coordinate with the City on public education activities.

b. On or before February 1, 2022, the Contractor shall develop a list of Food Recovery Organizations and Food Recovery Services operating within the City, maintain the list on the Contractor's City-specific website, share the list with the City if the City wants to post the list on additional City websites, and update the list annually. The list shall include, at a minimum, the following information about each Food Recovery Organization and each Food Recovery Service:

- (1) Name and physical address;
- (2) Contact information;
- (3) Collection service area; and,
- (4) An indication of types of Edible Food the Food Recovery Service or Food Recovery Organization can accept for Food Recovery.

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

- (1) Information about the [City's] Edible Food Recovery program;
- (2) Information about the Commercial Edible Food Generator requirements under 14 CCR, Division 7, Chapter 12, Article 10;
- (3) Information about Food Recovery Organizations and Food Recovery Services operating within the City, and where a list of those Food Recovery Organizations and Food Recovery Services can be found; and,
- (4) Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

d. The Contractor may provide the information required above by including it with regularly scheduled notices, education materials, billing inserts, or other information disseminated to Commercial Businesses.

e. Contractor shall comply with all applicable public education and outreach record keeping and reporting requirements as provided by SB 1383 and the SB 1383 Regulations.

3.38 Commercial General Waiver Program Coordination

a. **General.** In accordance with SB 1383 Regulations and the [City Code], the City may grant waivers to Generators that impact the scope of Contractor's provision of service for those Customers. Waivers issued shall be subject to compliance with SB 1383 Regulatory requirements, pursuant to 14 CCR Section 18984.11. If using a Performance-based Compliance Approach, the City agrees it will only grant waivers if at least ninety percent (90%) of Single-Family Generators and ninety percent (90%) of Commercial Generators (including Multi-Family Generators) participate in the three-Container Collection program.

b. Requests Submitted to Contractor. Generators may submit requests for waivers to the Contractor. Contractor shall review the Generator's waiver application and inspect the Generator's Premises to verify the accuracy of the application. Contractor shall provide documentation of the inspection, including the Contractor's recommendation to approve or deny the waiver request, and send this information to the City for the [City's] review and approval. The City ultimately retains the right to approve or deny any application, regardless of the Contractor's recommendation. Contractor shall report information regarding waivers reviewed to the City.

c. Contractor Change in Customers' Service Levels. When the City grants a waiver to a Generator, the City shall notify the Contractor within ten (10) business days of the waiver approval with information on the Customer and any changes to the Service Level or Collection service requirements for the Customer. Contractor shall have five (5) business days to modify the Customer's Service Level and billing statement, as needed.

d. Reverification of Waivers. Contractor shall conduct such reverifications of waivers through inspection of each Generator's Premises and review of applicable records at least once every five (5) years for de minimis and physical space constraint waivers. Contractor shall maintain a record of each waiver verification and provide a report to the City documenting the waiver reverifications performed and recommendations to the City on those waivers that Contractor concludes are no longer warranted. The City shall make a final determination of the waiver eligibility of Generators.

e. Contractor Recordkeeping of Generators Granted Waivers. Upon Contractor request, the City shall provide Contractor an updated listing of waivers approved by the City, including the Generators' names, mailing address, service address, and type of waiver. Contractor shall maintain waiver-related records and report on waiver verifications, as required herein.

3.39 Inspection and Enforcement. Beginning January 1, 2024, Contractor shall assist the City with and/or conduct applicable inspections and enforcement, to the extent delegable, as required by SB 1383 Regulations. Contractor shall maintain all applicable records from inspection and enforcement in accordance with SB 1383 Regulations.

3.40 Complaints.

a. Contractor shall coordinate with the City and/or investigate any applicable complaints, if required by and in accordance with SB 1383 Regulations.

b. Contractor agrees to maintain a log of all applicable oral and written complaints received by Contractor from Customers or other Persons. Contractor shall be responsible for the prompt and courteous attention to, and prompt and reasonable resolution of, all applicable Customer complaints.

3.41 Provision for Recovered Organic Waste Product. Contractor agrees to coordinate and cooperate with the City to meet its Organic Waste produce procurement target, as required by

SB 1383 Regulations. Contractor and City may enter into a separate agreement to meet the City's Organic Waste produce procurement target, including, but not limited to, an agreement that the City may procure compost from Contractor and that Contractor would market the compost material to the agricultural community on City's behalf.

3.42 Container Requirements. Contractor shall use the Contractor-provided Collection Containers that are currently located at Customers' Premises or provide Customers with Collection Containers from Contractor's current inventory. No later than January 1, 2036, Contractor shall provide all Customers with Collection Containers that comply with the Container color requirements specified in this Agreement or as otherwise specified in the SB 1383 Regulations. Notwithstanding this Section, the Contractor is not required to replace functional Containers, including Containers purchased prior to January 1, 2022, that do not comply with the color requirements of this Agreement prior to the end of the useful life of those Containers, or prior to January 1, 2036, whichever comes first.

3.43 Labeling Requirements. Beginning January 1, 2022 (or if using Performance-based Compliance Approach, then until color compliant containers are provided), Contractor shall place a label on the body or lid of each Container that has been provided to a Customer that includes language or graphic images, or both, that indicate the primary materials accepted and the primary materials prohibited in that Container. Labels shall clearly indicate items that are Prohibited Container Contaminants for each Container.

3.44 Recordkeeping and Reporting. Contractor shall maintain all applicable records and assist the City in meeting all applicable reporting, as required by the SB 1383 Regulations. Contractor shall allow City to have full access to view and/or edit data as necessary.

3.45 Identification of Facilities. If using a Standard Compliance Approach, Contractor shall identify the facilities to which they will transport organic waste as required by the SB 1383 Regulations. City and Contractor recognize the disposal and processing fees, which are a component of City refuse rate, are set by the entity owning and operating the landfill, compost, or processing facility. Rate adjustments for processing, disposal, and associated transportation costs incurred by the contractor due to changes at a Designated Facility shall be made on the same date of the same year or no later than 12 months from the date of change. Contractor shall submit a request for such rate adjustment 90 days following notification to the City of said change and shall include all charges incurred prior to the new rate being established.

3.46 Request for Documents. Documents requested by the City shall be fulfilled within 45 calendar days of the written request. Failure to provide the requested documents after the expiration of the 45 calendar days will result in a fine of \$50 per day per document request.

ARTICLE IV RATES, BILLING AND PAYMENT

4.1 Sale of Accessories. Except as expressly provided herein, Collector shall not require customers to buy bags, bins, or other containers from Collector as a pre-condition for collection of Solid Waste or Recyclable Materials under the terms of this Agreement.

4.2 Rates. As of the date of this Agreement, Collector may not charge rates in excess of those set forth in Exhibit "A". The maximum rates set forth in Exhibit "A" shall be in effect. Collector has also offered, and hereby agrees, to provide an economically disadvantaged discount on Solid Waste collection to each household in which the head of household has presented acceptance into a CARE Program offered by any utility service. The status of each household will be verified at least annually.

4.3 Rate Adjustment.

a. Adjustment Procedure. Collector may submit an application for rate review not more often than annually. A completed rate review application in the format prescribed by the City Manager or designated representative shall be submitted not later than April 15 for the period starting the following July 1. City will take action on the request as soon as possible and will complete the process by June 30, provided all required information has been submitted. In addition to adjustments provided in Section 4.3.b, Collector's rates may also be subject to adjustments for inordinate cost increases as provided in 4.3.c.

b. Annual C.P.I. Adjustment. The City Council may approve a gross rate adjustment of 100% of the percentage increase in the Consumer Price Index (C.P.I.) for All Urban Consumers in the Los Angeles-Anaheim-Riverside area, for the previous 12-month period for which information is received by City from the U.S. Department of Labor. Such adjustment shall not exceed five percent (5%) per year for any fiscal year.

c. Inordinate Cost Increase Adjustment. Collector may apply for an increase in excess of the cap set forth in Section 4.3.b, for inordinate cost increases for certain component costs of collection. If a collection cost component of Collector's cost is ten percent (10%) or more of the total cost of collection and Collector shows the need for the requested inordinate cost rate increase by providing documentation that a component of Collector's collection costs have increased by one hundred fifty percent (150%) or more than the percentage increase in the C.P.I. for the previous year, then that portion of Collector's rate which that cost component represents may increase by the percentage increase of the inordinate cost component. For example, as to this Section 4.3.c. if the fuel component is fifteen percent (15%) of Collector's cost of collection and the cost of fuel increases in a particular year by nine percent (9%), and the C.P.I. for that year increases by six percent (6%), then the fuel cost component of Collector's rate may increase by nine percent (9%) and the remaining components of Collector's rate may increase by the five percent (5%) maximum C.P.I. for that year.

Collector shall submit any and all data requested by and in the format prescribed by the City Manager or designated representative for any requested inordinate cost increase request. The City Council shall consider the factors set forth above in determining whether to approve or

deny the request. The decision of the City Council shall be final. The remedy of Collector in the event of adverse decision is to terminate its obligations after thirty (30) days written notice to City.

d. Rate Adjustment from Changes in Service Requirements. Changes in Collector's rates which result from changes in service requirements may be adjusted at the time that the service changes are implemented. Any rate adjustments resulting from changes in service requirements shall be submitted in the format prescribed by the City Manager or designated representative and shall be approved concurrently with the approval of the implementation of any such service changes by the City Council.

4.4 Billing.

a. In consideration of the services and promises of Collector, City hereby accepts the right and authority to collect from the persons served by Collector the fees for such service as are provided by this Agreement. The City agrees that it shall neither charge nor collect any sum or sums in excess of, or in addition to, the amounts specified in this Agreement for any Solid Waste or Recyclable Materials collection services made pursuant to this Agreement.

b. City shall bill residential owners up to 4 dwelling units on a bi-monthly, and residential units of 5 or more, commercial and industrial premises on a monthly basis.

c. City shall have the right to bill and collect for the services provided by Collector in advance of the rendition of services hereunder, but shall refund any unused portion equal to ½ of one month or more of the amount collected in the event of disruption, revision, or termination of the services, or when residential premises are vacant for at least a one month period and prior written notice of such vacancy has been given to City.

d. City shall maintain copies of the billings and receipts, each in chronological order, for a period of (3) three years after the date of service. City may, at its option, maintain those records in computer form, or in any other manner, provided that the records can be preserved and retrieved for inspection and verification in a timely manner. Upon demand, Collector may request a review of the accounting records maintained by the City to the extent such records are available through the City Manager or designated representative.

e. Contractor shall be entitled to charge each industrial customer/owner penalties and interest as per the fee schedule adopted by the City for the non-payment of any bill for temporary/permanent roll-off bin services which is unpaid for a period of thirty (30) days from the beginning of any month for which services were rendered.

f. Any contamination Processing fees to be assessed for a Customer shall be included and itemized on the Customer's invoice for the billing period in which the Contractor notified the Customer of the assessment of the contamination Processing fee.

g. City requires that Generators subscribe to Collection services. Contractor shall assist the City in ensuring that the subscription of Generators occurs in a timely and efficient manner. Contractor shall maintain records and provide reports necessary for the City to verify the subscription of Generators.

The City Manager or designated representative shall have the right to request changes to the billing format to itemize certain appropriate charges or to otherwise reasonably clarify the billing.

The City may choose to assign the billing process to the Collector with mutual consent. However, the City shall continue to pay, on a net 30 basis, to the Collector, the Hauler portion of the rate for each service billed by Collector for that month as set forth in Exhibit D – Hauler Service Fee Schedule, in addition to a billing fee per account.

4.5 Delinquent Accounts.

a. Collection of Delinquent Accounts. Notwithstanding Sections 4.5.b and 4.5.c, City shall diligently pursue collection of delinquent accounts by every means reasonably available to City, including delinquency letters, telephone calls, employment of collection agencies, and applying a lien against the property and litigation.

b. Delinquent Accounts – Residential and Multi-Family Premises. Collector shall have no right to terminate service to residential premises, in the event of delinquency or otherwise. If the account of a commercial/industrial premises is delinquent as set forth in the Barstow Municipal Code , City shall provide written notice to the property owner, of the delinquent amount, and of City’s intent to lien the property.

c. Delinquent Accounts – Commercial/industrial Premises. If the account of a commercial/industrial premises is deemed delinquent as set forth in the Barstow Municipal Code ,, City shall provide written notice to the business owner and, if different, the property owner, of the delinquent amount, and of City’s intent to lien the property. Collector shall not terminate service to the commercial/industrial premises in the event of delinquency or otherwise.

ARTICLE V

ADMINISTRATIVE REMEDIES, TERMINATION IMPOSITION OF DAMAGES

5.1 Default; Notice.

a. All terms and specifications of this Agreement are material and binding, and failure to perform any portion of the work described herein shall be considered a breach of this Agreement. Subject to the extensions of time set forth in Section 7.7, and to the notice provisions of Section 5.1.b, failure or delay by either party to perform any term or provision of this Agreement constitutes a default under this Agreement. The party who so fails or delays must

immediately commence to cure, correct, or remedy with reasonable diligence and during any period of curing shall not be in default.

b. Except as set forth in Section 5.4(h) and (i), neither party may exercise any rights or remedies upon a default by the other party, unless and until such default continues for a period of thirty (30) days after written notice thereof from the non-defaulting party. Provided, however, that if the nature of the default is such that more than thirty (30) days are reasonably required for its cure, then the defaulting party shall not be deemed to be in default if it has commenced a cure within the 30-day period and thereafter diligently prosecutes such cure to completion within ninety (90) days after receipt of written notice thereof. The notice of default shall specify the default complained of by the injured party. [See Section 5.3.a.]

c. Delay in giving a notice of default shall not constitute a waiver of any default nor shall it change the time of default. Any failures or delays by either party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies, nor deprive either party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

5.2 Institution of Legal Actions. In addition to any other rights or remedies, either party may institute legal action to cure, correct, or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Agreement, including but not limited to injunctive relief, except that there shall be no right to terminate this Agreement except as set forth as specifically provided for in this Agreement. Both parties recognize and agree that in the event of a breach under the terms of this Agreement by Collector, City may suffer irreparable injury and incalculable damages sufficient to support injunctive relief to enforce the provisions of this Agreement and to enjoin the breach thereof.

5.3 Notice; Response; Resolution; Appeal.

a. Notice; Response. If the City Manager or designated representative determines that Collector's performance pursuant to this Agreement may not be in conformity with the provisions of this Agreement, the Act (including, but not limited to requirements for diversion, source reduction and recycling as to the waste stream subject to this Agreement), or any other Applicable Federal, State or Local Law, the City Manager or designated representative may advise Collector in writing of such suspected deficiencies, specifying the deficiency in reasonable detail (the "Notification of Deficiencies"). The City Manager or designated representative, in any Notification of Deficiencies, shall set a reasonable time within which Collector is to correct the deficiencies and respond. Unless the circumstances necessitate correction and response within a shorter period of time, Collector shall correct the deficiencies to the satisfaction of the City Manager or designated representative and respond to the Notification of Deficiencies within thirty (30) days from the effective date of the Notice pursuant to Section 1.2.3. Collector may request additional time to correct deficiencies; City shall not unreasonably deny any such

request. The parties understand and agree that the Notification of Deficiencies described in this Section 5.3.1 constitutes the “notice of default” required of City by Section 5.1.b.

b. Review by City Manager; Notice of Appeal. The City Manager or designated representative shall review any written response from Collector and decide the matter or refer the matter to the City Council for consideration pursuant to 5.2.d. If the City Manager’s or designated representative’s decision is adverse to Collector, the City Manager or designated representative may order remedial actions to cure any deficiencies, or invoke any other remedy in accordance with this Agreement and, in the event the City Manager or designated representative determines that there has been a material breach and that termination is the appropriate remedy, terminate this Agreement. The City Manager or designated representative or his designee shall promptly inform Collector of the decision. In the event the decision is adverse to Collector, the City Manager or designated representative shall inform Collector, in writing, of the specific facts found and evidence relied on and legal basis in provisions of this Agreement or other laws for the City Manager’s or designated representative’s decision and any remedial action taken or ordered. An adverse decision by the City Manager or designated representative shall be final and binding on Collector unless Collector files a “Notice of Appeal” with the City Clerk (with copies to the City Manager or designated representative and City Attorney) within 30 days of receipt of the notification of the adverse decision by the City Manager or designated representative.

c. In any “Notice of Appeal” to the City Council, Collector shall state all its actual contentions and include any relevant affidavits, documents, photographs and videotapes which Collector may choose to submit. In addition, Collector shall include all its legal contentions, citing provisions of this Agreement or other laws to support its contentions.

d. City Council Hearing. If a matter is referred by the City Manager or designated representative to the City Council, or an adverse decision of the City Manager or designated representative is appealed to the City Council by Collector, the City Council will set the matter for a hearing and act on the matter. If the City Council elects to hear the matter, the City Clerk shall give Collector Thirty (30) days written notice of the time and place of the hearing. At the hearing, the City Council shall consider the administrative record, including the following:

- (1) A Staff Report by the City Manager or designated representative, summarizing the proceedings to date and outlining the City Council’s options;
- (2) The City Manager’s or designated representative’s written Notification of Deficiencies;
- (3) Collector’s response to the Notification of Deficiencies;
- (4) The City Manager’s or designated representative’s written notification to Collector of adverse decision;
- (5) Collector’s Notice of Appeal to the City Clerk.

No new legal issues may be raised or new evidence submitted by Collector at this or at any further point in the proceedings, absent a showing of good cause. Collector's representatives and other interested persons shall have a reasonable opportunity to be heard.

5.4 City Council Determination. Based on the administrative record, the Council shall determine by resolution whether the decision or order of the City Manager or designated representative should be upheld. A tie vote of the City Council shall be regarded as upholding the decision of the City Manager or designated representative. If, based upon the administrative record, the City Council determines that the performance of Collector is in breach of any term of this Agreement or any provision of any applicable federal, state or local statute or regulation, the City Council, in the exercise of its discretion, may order Collector to take remedial actions to cure the breach or impose any other remedy in accordance with this Agreement. The decision or order of the City Council shall be final and binding.

5.5 Continued Performance by Collector. Collector's performance under this Agreement is not excused during the period of time prior to a final determination as to whether or not Collector's performance is in material breach of this Agreement, or the time set by City for Collector to discontinue a portion or all of its services pursuant to this Agreement.

5.6 Termination for Cause. City reserves the right to terminate this Agreement in the event of any material breach of the Agreement, including but not limited to the following:

If Collector practices, or attempts to practice, any fraud or deceit upon City, or practiced any fraud or deceit or made any intentional misrepresentations in the negotiations which preceded the execution of this Agreement;

a. If Collector becomes insolvent, unable or unwilling to pay its debts or upon listing of an order for relief in favor of Collection in a bankruptcy proceeding;

b. If Collector fails to provide or maintain in full force and effect, the worker's compensation, liability and indemnification coverages, and cash and Performance Bonds required by the Agreement.;

c. If Collector violates any orders or rulings of any regulatory body having jurisdiction relative to this Agreement, in any material manner provided that Collector may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no breach of this Agreement shall be deemed to have occurred until a final decision adverse to Collector is entered;

d. If Collector violates any material provision of any Applicable Law;

e. If Collector ceases to provide collection service as required under this Agreement over all or a substantial portion of the area within the City, for a period of seven (7) days or more, for any reason within the control of Collector;

f. Any other act or omission by Collector which materially violates the terms, conditions or requirements of this Agreement and which is not corrected or remedied within the time set forth in the written notice of deficiencies or if Collector cannot reasonably correct or remedy the breach within the time set forth in such notice and diligently effect such correction or remedy thereafter;

g. If Collector fails to maintain the insurance required by Section 3.20.

5.7 Liquidated Damages.

a. All time limits and acts required to be done by this Agreement are essential elements of the Agreement. Should Collector fail to perform or complete the work required to be done at the time set forth in this Agreement, except in the event of a Force Majeure event pursuant to Section 7.7 below, it is mutually understood and agreed that the public will necessarily suffer damages and that such damages, from the nature of the default in performance will be extremely difficult and impractical to fix. City finds, and Collector 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 will be incurred by City as a result of a material breach by Collector 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 this 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) 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. Accordingly, the City Manager or designated representative may, in its discretion, assess liquidated damages not to exceed the sum of One Thousand Dollars (\$1,000.00) per day, for each calendar day that service is not provided by Collector in accordance with this Agreement.

c. City finds, and Collector acknowledges and agrees, that the above-described liquidated damages provisions represent a reasonable sum in light of all of the circumstances. These liquidated damages sums shall be applicable to each calendar day of delay during which Collector has been found by the City Manager or designated representative to be in breach of this Agreement. If the City Manager or designated representative, assess such liquidated damages, the City Manager or designated representative shall so notify Collector in writing and send a copy of the notice to the City Finance Director. The City Finance Director shall thereupon deduct the amount of such liquidated damages from any payment which is due to Collector or which thereafter becomes due. Collector shall have the right to appeal the City Manager's or

designated representative's determination pursuant to the procedures set forth in Section 5.3 for appeal of a decision of the City Manager or designated representative regarding a notice of default. Any such appeal must be made within ten (10) days after the City Manager or designated representative has notified Collector of his/her determination to levy liquidated damages.

5.8 Cumulative Rights. City's rights to terminate this Agreement or to impose liquidated damages are in addition to any other rights of City upon a failure of Collector to perform its obligations under this Agreement.

5.9 City's Additional Remedies. In addition to the remedies set forth above, if Collector refuses or is unable (including but not limited to for the reasons set forth in Section 7.7) for a period of more than seventy-two (72) hours, to collect, transport and dispose of any or all of the Solid Waste and Recyclable Materials which it is obligated under this Agreement to collect, transport and dispose of and if, as a result thereof, Solid Waste and Recyclable Materials accumulate in City to such an extent, in such a manner, or for such a time that the City Manager or designated representative finds that such accumulation endangers or menaces the public health, safety or welfare, then City shall have the following rights:

The right to license or contract with others to perform the services otherwise to be performed by Collector hereunder, or to perform such services itself, and to charge Collector for all costs incurred by City as a result thereof; and

City agrees that, in such event, it assumes complete responsibility for the proper and normal use of such equipment and facilities and that it shall immediately relinquish possession to Collector upon receipt of written notice from Collector to the effect that it is able to resume its normal responsibilities under this Agreement.

Collector agrees that in such event it will fully cooperate with City to effect such a transfer of possession for City's use, and that City may take temporary possession of and use of the equipment and facilities, including but not limited to Collector's route books and other information or documents needed to provide services pursuant to this Section 5.7, without paying Collector any rental or other charge. In the case of equipment not owned by Collector, Collector shall assign to City, to the extent Collector is permitted to do so under the instruments pursuant to which Collector possesses such equipment, the right to possess the equipment. Consistent with this provision, Collector agrees to use its best efforts to obtain in the instruments pursuant to which Collector possesses such equipment, provisions which authorize City to possess such equipment pursuant to this provision.

ARTICLE VI ASSIGNMENT

6.1 Assignment of Agreement. Collector shall not assign, sell, subcontract or otherwise delegate authority to perform any such portion of this Agreement without the prior express

written approval of City. In the event of any assignment duly authorized by City, the assignee shall assume the liability of Collector.

6.2 Transfer of Franchise; City Consent. The franchise granted by the Agreement shall not be transferred, sold hypothecated, sublet or assigned nor shall any rights or privileges herein be hypothecated, leased, assigned, sold or transferred, either in whole or in part, nor shall title, thereto either legal or equitable or any right interest or property therein pass to or vest in any person, either by act of Collector or by operations of laws, without prior written consent of the City. For purpose of this Agreement, any dissolution merger, consolidation or other reorganization of Burrtec Waste Industries, Inc. or the sale or other transfer of an accumulative 25% or more of the voting stock of Collector shall be deemed an assignment of this agreement. Any attempt by collector to assign this franchise without the consent of City shall be void

6.3 Eligibility for Assignment or Transfer. The firm must have an excellent record of performance within its service areas. The firm shall be large enough and have sufficient resources and up-to-date equipment to handle the work and meet the requirements of City.

ARTICLE VII MISCELLANEOUS

7.1 Construction. As used in this Agreement, and as the context may require, the singular includes the plural and vice versa and the masculine gender includes the feminine and neuter and vice versa.

7.2 Calendar Days; Working Days. All references in this Agreement to a number of days in which either party shall have to consent, approve or perform shall mean calendar days unless specifically stated to be "working" days. All references in this Agreement to "working" days shall mean days on which Barstow City Hall is open for business.

7.3 Severability. If any part of this Agreement is invalid, the remaining terms and conditions shall not be affected unless their enforcement under the circumstances would be unreasonable, inequitable or otherwise frustrate the purposes of this Agreement.

7.4 Captions and References. The captions of the sections and subsections of this Agreement are solely for convenience of reference, and shall be disregarded in the construction and the interpretation of this Agreement. References herein to a section or subsection are to the sections and subsections of this Agreement.

7.5 Time of the Essence. Time is of the essence with respect to this Agreement and each and every term and condition hereof.

7.6 No Oral Modifications. This Agreement supersedes all prior proposals, agreements and understandings between the parties and may not be changed or terminated orally, and no

change or termination of, or attempt to waive, any of the provisions hereof shall be binding unless in writing and signed by the parties against whom the same is sought to be enforced.

7.7 Force Majeure. Collector shall not be in default under this Agreement in the event that the collection, transportation and/or disposal services are temporarily interrupted for any of the following reasons: riots; war or national emergency declared by the President or Congress and affecting the City of Barstow; civil disturbance; explosion; natural disasters such as floods, earthquakes, landslides and fires; or other catastrophic events which are beyond the reasonable control of Collector; provided, however, that Collector notify City in writing of the nature of the matter constituting the enforced delay within ten (10) days after the occurrence of the enforced delay. "Other catastrophic events" does not include the financial inability of Collector to perform or failure of Collector to obtain any necessary permits or licenses from other governmental agencies or the right to use the facilities of any public agency, even where such failure occurs despite the exercise of reasonable diligence by Collector.

7.8 Law to Govern; Venue. The law of the State of California shall govern this Agreement. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of San Bernardino. In the event of litigation in a U.S. District Court exclusive venue shall lie in the Central District of California.

7.9 Fees and Gratuities. Neither Collector nor any of its officers, agents or employees, shall request, solicit, demand or accept, either directly or indirectly, any compensation or gratuity other than as set forth in this Agreement for the collection of Solid Waste and Recyclable Materials otherwise required to be collected under this Agreement.

7.10 Amendments. This Agreement is part of City's efforts to comply with the provisions of the Act, as it from time to time may be amended; the regulations of the CalRecycle ("Regulations"), as they from time to time may be amended; and City's SRRE and HHWE, as they from time to time may be amended. In the event that the Act or other state or federal laws or regulations or court decisions enacted or issued after the execution of this Agreement prevent or preclude compliance with one or more provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations. Except as otherwise provided in this Agreement, no other amendment of this Agreement shall be valid unless in writing duly executed by the parties.

7.11 Joint Drafting. Each party has cooperated in the drafting and preparation of this Agreement.

7.12 Execution in Counterparts. This Agreement may be executed in counterparts and, when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original and all counterparts taken together shall constitute one and the agreement.

Executed the date and year first above written.

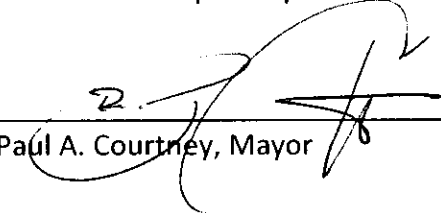
BURRTEC WASTE INDUSTRIES, INC.,
a California corporation

Date: 7/25/2022

By: 
Cole Burr, President

City of Barstow,
A California municipal corporation

Date: 06/22/2022

By: 
Dr. Paul A. Courtney, Mayor

ATTEST:


Andrea "Andi" Flores, City Clerk



APPROVED AS TO FORM:



Matthew Summers, City Attorney

EXHIBIT A
CITY OF BARSTOW
Collection Rates

Service Type		Total Rate
<u>Residential / Multi Family 3-Barrel Service</u>		
Standard		\$ 27.09
Residential 35g Barrel		\$ 24.20
Econ Disadvantaged		\$ 24.90
Econ Disadvantaged - 35g		\$ 22.33
Extra barrel		\$ 7.66
Extra Residential Pick-Up		\$ 12.60
Additional Bulky Item - (per item)		\$ 16.56
Additional Trip Change Bulky Item		\$ 41.41
<u>Commercial Barrel - Trash</u>		
Size	Freq	
95	1	\$ 31.59
95	2	\$ 62.31
95	3	\$ 92.09
95	4	\$ 120.98
95	5	\$ 149.01
Extra Barrel (limit 1)		\$ 16.53
Extra Commercial Barrel Pick-Up		\$ 15.16
<u>Multi-Family Trash Bins Service</u>		
Size	Freq	
1.5	1	\$ 171.52
1.5	2	\$ 314.60
1.5	3	\$ 449.07
1.5	4	\$ 573.13
1.5	5	\$ 694.70
1.5	6	\$ 815.30
3	1	\$ 233.49
3	2	\$ 437.66
3	3	\$ 634.29
3	4	\$ 821.79
3	5	\$ 1,007.16
3	6	\$ 1,192.14
6	1	\$ 406.19
6	2	\$ 764.33
6	3	\$ 1,108.57
6	4	\$ 1,435.86
6	5	\$ 1,759.55
6	6	\$ 2,082.49
<u>Commercial Trash Bins Service</u>		
Size	Freq	
1.5	1	\$ 151.75
1.5	2	\$ 279.54
1.5	3	\$ 400.48
1.5	4	\$ 512.84
1.5	5	\$ 623.59
1.5	6	\$ 733.37
3	1	\$ 205.90
3	2	\$ 386.04
3	3	\$ 558.65
3	4	\$ 722.10
3	5	\$ 883.44
3	6	\$ 1,044.38

Service Type		Total Rate
<u>Food Waste Service - Commercial/Multi Family Service</u>		
Bin Size	Freq	
2	1	\$ 170.65
2	2	\$ 316.41
Barrel Size	Freq	
35Gal	1	\$ 24.65
35Gal	2	\$ 48.51
35Gal	3	\$ 71.44
35Gal	4	\$ 93.46
35Gal	5	\$ 114.65
65Gal	1	\$ 31.59
65Gal	2	\$ 62.31
65Gal	3	\$ 92.09
65Gal	4	\$ 120.98
65Gal	5	\$ 149.01
<u>Green Waste - Commercial/Multi Family Service</u>		
Bin Size	Freq	
2	1	\$ 214.57
2	2	\$ 377.12
Barrel Size	Freq	
35Gal	1	\$ 58.10
35Gal	2	\$ 103.16
65Gal	1	\$ 82.20
65Gal	2	\$ 151.26
<u>Roll-Off</u>		
Roll-Off Box		\$ 274.85
Compactor Box		\$ 310.62
End Dump		\$ 257.03
Dry Run		\$ 57.52
Tilthopper		\$ 40.27
Delivery Charge (tilthopper)		\$ 40.27
Rental fee (per day)		\$ 25.31
<u>Miscellaneous Rates</u>		
Extra bin pick-up		\$ 47.22
Overflow Charge - Bins Only		\$ 90.70
Return Check Charge		\$ 25.00
Lien Administrative Fee		\$ 45.00
Locking Bin		\$ 11.50
Locking Bin Set Up - One Time		\$ 36.94
Clean-Out service		\$ 99.25
Recycling Contamination Fee - Barrel		\$ 13.04
Recycling Contamination Fee - Bin		\$ 45.82
FW Contamination Fee - Commercial Barrel		\$ 57.11
FW Contamination Fee - Commercial Bin		\$ 57.11
Barrel Exchange (first exchange free)		\$ 18.14
charge does not apply to graffiti or damaged barrels		
Barrel Replacement		\$ 78.15
resdl-customer damaged, comml-lost or stolen		
Bin Exchange (first exchange fee)		\$ 90.70
charge does not apply to graffiti or damaged bins		
Bin Replacement + actual cost of bin		\$ 100.49
comml-lost or stolen		

Service Type		Total Rate
6	1	\$ 365.53
6	2	\$ 691.24
6	3	\$ 1,006.40
6	4	\$ 1,307.88
6	5	\$ 1,607.48
6	6	\$ 1,906.31
Temporary Bin	3 yard bin	\$ 116.84
Commercial Trash Compactor Bins		
Size	Freq	
3	1	\$ 301.06
3	2	\$ 576.36
3	3	\$ 844.13
3	4	\$ 1,102.74
3	5	\$ 1,359.24
3	6	\$ 1,615.34
4	1	\$ 390.38
4	2	\$ 749.28
4	3	\$ 1,098.98
4	4	\$ 1,437.93
4	5	\$ 1,773.98
4	6	\$ 2,109.62

Service Type		Total Rate
Special Services (min 1/2 hour)		172.58/hr
Shopping Cart Retrieval		\$ 19.86
Certificate of Destruction		\$ 121.34
Late Charge		10.0%
Interest		1.5%
Push-Out (bins)		
0-50 feet		N/C
51-75 feet	1	\$ 26.19
51-75 feet	2	\$ 52.38
51-75 feet	3	\$ 78.57
51-75 feet	4	\$ 104.76
51-75 feet	5	\$ 130.95
76+ feet	1	\$ 78.56
76+ feet	2	\$ 157.12
76+ feet	3	\$ 235.68
76+ feet	4	\$ 314.24
76+ feet	5	\$ 392.80
Account Maintenance Fee		
Residential		N/A
Commercial		N/A

EXHIBIT B RECYCLABLE MATERIALS

Aluminum cans (do not crush)
Aerosol cans (must be completely empty)
Brochures
Cardboard
Cartons
Cereal boxes (remove wax paper lining)
Clothes hangers
Computer paper
Coupons
Envelopes (includes plastic windows)
Glass bottles & jars
Glass cosmetic bottles
Junk mail
Laundry bottles
Ledger paper
Magazines/catalogs
Newspaper
Paper
Paper tubes
Phone books
Plastic containers #1-#7
Plastic milk jugs
Tin cans
Tissue boxes
Wrapping paper

**EXHIBIT C
PARKING LOTS TO BE SWEEP**

Area No.	Parking Lot	Address / Location
P-1	City Hall	220 E Mountain View St
P-2	Sportspark	2800 Mayor Katy Parkway
P-3	Community Center	841 Barstow Rd
P-3	Police Annex	500 Melissa Avenue
P-4	Downtown Shopping Center	222 E Main St – Parking Lot on Williams St
P-5	Second Street Public Parking Lot	209 N Second Avenue
P-6	Second Street Public Parking Lot	Parking Lot between Second Avenue and Third Avenue
P-7	Fogelson Park – Parking Lot	Avenue G – Two parking lots / Avenue H – One parking lot
P-8	Dana Park Parking Lot	850 Barstow Rd – Upper and Lower Parking Lots
P-9	Lillian Park – Parking Lot	Lillian Drive and Vilafona Drive
P-10	Third Street Public Parking	Third Avenue Parking Lot – North of E Main St

**EXHIBIT D
CITY OF BARSTOW
Hauler Service Fee**

Service Type		Service Rate
<u>Residential / Multi Family 3-Barrel Service</u>		
Standard		\$ 17.79
Residential 35g Barrel		\$ 17.79
Econ Disadvantaged		\$ 16.51
Econ Disadvantaged - 35g		\$ 16.51
Extra barrel		\$ 1.16
Extra Residential Pick-Up		\$ 7.68
Additional Bulky Item - (per item)		\$ 14.40
Additional Trip Change Bulky Item		\$ 36.01
<u>Commercial Barrel - Trash</u>		
Size	Freq	
95	1	\$ 18.26
95	2	\$ 35.76
95	3	\$ 52.45
95	4	\$ 68.36
95	5	\$ 83.53
Extra Barrel (limit 1)		\$ 7.75
Extra Commercial Barrel Pick-Up		\$ 8.79
<u>Multi-Family Trash Bins Service</u>		
Size	Freq	
1.5	1	\$ 116.95
1.5	2	\$ 211.48
1.5	3	\$ 298.30
1.5	4	\$ 377.31
1.5	5	\$ 452.46
1.5	6	\$ 527.57
3	1	\$ 148.85
3	2	\$ 274.41
3	3	\$ 393.19
3	4	\$ 505.16
3	5	\$ 613.72
3	6	\$ 722.26
6	1	\$ 244.84
6	2	\$ 452.29
6	3	\$ 647.22
6	4	\$ 829.68
6	5	\$ 1,005.87
6	6	\$ 1,182.05
<u>Commercial Trash Bins Service</u>		
Size	Freq	
1.5	1	\$ 99.76
1.5	2	\$ 180.99
1.5	3	\$ 256.05
1.5	4	\$ 324.89
1.5	5	\$ 390.63
1.5	6	\$ 456.33
3	1	\$ 124.86
3	2	\$ 229.52
3	3	\$ 327.42
3	4	\$ 418.48
3	5	\$ 506.14
3	6	\$ 593.77
6	1	\$ 209.48
6	2	\$ 388.73
6	3	\$ 558.37

Service Type		Service Rate
<u>Food Waste Service - Commercial/Multi Family Service</u>		
Bin Size	Freq	
2	1	\$ 109.31
2	2	\$ 199.26
Barrel Size	Freq	
35Gal	1	\$ 16.83
35Gal	2	\$ 32.97
35Gal	3	\$ 48.30
35Gal	4	\$ 62.85
35Gal	5	\$ 76.67
65Gal	1	\$ 18.26
65Gal	2	\$ 35.76
65Gal	3	\$ 52.45
65Gal	4	\$ 68.36
65Gal	5	\$ 83.53
<u>Green Waste - Commercial/Multi Family Service</u>		
Bin Size	Freq	
2	1	\$ 173.77
2	2	\$ 304.51
Barrel Size	Freq	
35Gal	1	\$ 49.78
35Gal	2	\$ 88.27
65Gal	1	\$ 70.01
65Gal	2	\$ 128.66
<u>Roll-Off</u>		
Roll-Off Box		\$ 207.05
Compactor Box		\$ 238.15
End Dump		\$ 191.55
Dry Run		\$ 50.02
Tilthopper		\$ 35.02
Delivery Charge (tilthopper)		\$ 35.02
Rental fee (per day)		\$ 22.01
<u>Miscellaneous Rates</u>		
Extra bin pick-up		\$ 32.38
Overflow Charge - Bins Only		\$ 78.87
Return Check Charge		\$ 25.00
Lien Administrative Fee		\$ 45.00
Locking Bin		\$ 10.00
Locking Bin Set Up - One Time		\$ 32.12
Clean-Out service		\$ 86.30
Recycling Contamination Fee - Barrel		\$ 11.34
Recycling Contamination Fee - Bin		\$ 39.84
FW Contamination Fee - Commercial Barrel		\$ 49.66
FW Contamination Fee - Commercial Bin		\$ 49.66
Barrel Exchange (first exchange free)		\$ 15.77
charge does not apply to graffiti or damaged barrels		
Barrel Replacement		\$ 67.96
resdl-customer damaged, comml-lost or stolen		
Bin Exchange (first exchange fee)		\$ 78.87
charge does not apply to graffiti or damaged bins		
Bin Replacement + actual cost of bin		\$ 87.38
comml-lost or stolen		
Special Services		150.08/hr
(min 1/2 hour)		
Shopping Cart Retrieval		\$ 17.27

Service Type		Service Rate
6	4	\$ 718.39
6	5	\$ 873.64
6	6	\$ 1,028.85
Temporary Bin	3 yard bin	\$ 71.05
Commercial Trash Compactor Bins		
Size	Freq	
3	1	\$ 124.86
3	2	\$ 229.52
3	3	\$ 327.42
3	4	\$ 418.48
3	5	\$ 506.14
3	6	\$ 593.77
4	1	\$ 161.15
4	2	\$ 297.14
4	3	\$ 424.90
4	4	\$ 544.45
4	5	\$ 659.91
4	6	\$ 775.34

Service Type	Service Rate
Certificate of Destruction	\$ 105.51
Late Charge	10.0%
Interest	1.5%
Push-Out (bins)	
0-50 feet	N/C
51-75 feet	1 \$ 23.64
51-75 feet	2 \$ 47.28
51-75 feet	3 \$ 70.92
51-75 feet	4 \$ 94.56
51-75 feet	5 \$ 118.20
76+ feet	1 \$ 70.93
76+ feet	2 \$ 141.86
76+ feet	3 \$ 212.79
76+ feet	4 \$ 283.72
76+ feet	5 \$ 354.65
Account Maintenance Fee	
Residential	N/A
Commercial	N/A

NOTICE OF PUBLIC HEARING REGARDING CITY OF BARSTOW TRASH COLLECTION SERVICE CHARGES

The Barstow City Council will be considering an \$8.02 per month increase in residential curbside trash service due in part to the mandatory organics recycling program required by Senate Bill 1383. Commercial rate increase will also be considered based upon level of service.

Article XIID of the California Constitution requires the City of Barstow to send notification of a proposed rate increase to all owners of real property within its service area who would be directly liable to pay for trash collection services to the property at least 45 days prior to a public hearing at which adoption of the proposed rate increases will be considered. In accordance with those requirements, please be advised that the City of Barstow is proposing an increase in its trash collection service charges. This Notice identifies the amount of the proposed rate increases; the basis upon which the proposed increases were calculated; the reason for the proposed rate increases; the date, time, and location of a public hearing on the proposed rate increases; and the manner in which all persons opposed to the proposed increases may object and/or file a written protest thereto. Consequently, please be advised that this document shall serve as formal notification to you that the City Council of the City of Barstow will conduct a Public Hearing on **June 20, 2022** on the proposed rate increases described herein, at 7:00 p.m. in the City Council Chambers located at 220 East Mountain View Street Barstow, California.

INFORMATION ABOUT THE CHARGES

- A. Basis upon which the charges were calculated.** The City Council of the City of Barstow has previously determined that the collection and disposal of trash in its service area shall be performed by Burrtec Waste Industries, Inc. ("Burrtec"), under the terms of an exclusive franchise agreement. The monthly **residential** curbside collection charge is comprised of the following components: (1) An amount for the administration and operation of automated curbside trash collection service, which includes the provision of collection barrels (a 95 gallon trash barrel, 95-gallon recycling barrel, and 35-gallon organics barrel) with weekly pick-up service; (2) The cost of recyclable processing; (3) The cost of organics processing; (4) An amount to compensate the City of Barstow for its administrative costs in connection with billing, customer service and noticing requirements; (5) An amount to compensate the City of Barstow for the franchise service provision; (6) The cost of disposal at the landfill; and (7) An amount to assist in providing programs for compliance with local, state and/or federal regulations such as AB 939 and SB 1383. The **commercial** charges are comprised of the following components: (1) An amount for the administration and operation of commercial bin trash, recycling and organics collection service; (2) the landfill disposal fee; (3) The cost of organics processing; (4) an amount to compensate the City of Barstow for its administrative costs in connection with billing, customer service and noticing requirements; (5) an amount to compensate the City of Barstow for the franchise service provision; and (6) an amount to assist in providing programs for compliance with local, state and/or federal regulations such as AB 939, AB 341, AB 1826 & SB 1383.
- B. Reason for the proposed increases.** The total proposed increase of \$8.02 per month is based on the following factors: A \$0.57 per month increase for collection service based on the Los Angeles - Anaheim - Riverside 2021 average Consumer Price Index (CPI) for All Urban Consumers; A \$5.41 per month increase for SB 1383 implementation, which covers costs for additional collection, vehicle(s), equipment, containers, labor, and regulatory compliance activities; A \$0.60 per month increase in the franchise fee to reflect the CPI increase; A \$0.30 per month increase in the administrative fee to reflect the CPI increase; A \$0.08 per month increase to the landfill disposal fee pursuant to the Waste Disposal Agreement approved by Council on June 7, 2021 and; A \$1.06 per month increase for the processing of the organic material into compost. See Exhibit A for full rate schedule.
- C. Charge per parcel.** The City of Barstow proposes to adopt rate increases for residential and commercial trash collection service charges as described in Exhibit A on the reverse side of this Notice. If you need assistance determining the charge for your property or parcel for residential or commercial service, you may contact the City by calling (760) 255-5162, by mail or in person to City Hall at 220 East Mountain View Street, Suite A, Barstow, California. For questions about residential or commercial trash service, you may contact Burrtec by calling (760) 256-2730.
- D. Written report.** A written report has been prepared and filed with the City regarding the proposed new commercial and residential trash collection service charges. As required by California Government Code Section 66016, the written report also provides data indicating the amount of cost, or estimated cost, to provide trash collection service and the revenue sources anticipated to provide the service. A copy of the written report is available in the City Clerk's Office at City Hall located at 220 East Mountain View Street, Suite A, Barstow, California.

HOW TO PARTICIPATE

If you have any questions or comments about the proposed rates or wish to protest you may:

Write – Formal written protests may be mailed to the City of Barstow, Attention: City Clerk's Office, City Hall at 220 East Mountain View Street, Suite A, Barstow, California. Written protests must specify the rate or charge being protested and must include: Your name, parcel number and/or service address, and your signature. **E-mailed protests will not be accepted.**

Attend the Public Hearing – Written protests may also be submitted at the Public Hearing on **Monday, June 20th, 2022** at 7:00 p.m. in the City Council Chambers located at 220 East Mountain View Street Barstow, California. All written protests must be received before the Public Hearing is opened. You may address the Council verbally; however, oral comments do not qualify as a formal protest unless accompanied by a written protest. **Information available to you** – Copies of the written report, the proposed Resolution, the City of Barstow's exclusive franchise agreement with Burrtec, and further details concerning the proposed rate increases, are available for review at the City Clerk's Office at City Hall located at 220 East Mountain View Street, Suite A, Barstow, California.

Public Hearing process – At the time of the Public Hearing, the City Council will hear and consider all protests and objections. After the Public Hearing, if a majority of the property owners of real property directly liable for paying trash collection service bills for the affected parcels file written protests in opposition to the proposed rate increases, the increases will not be imposed. However, if a majority protest is not received, the City Council may adopt the increase in the trash collection service rates after public input and deliberation in the manner described in this Notice. If adopted, the proposed rates would become effective **July 1, 2022**.