



Agenda Item #: _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Ward and Members of the City Council

THROUGH: Richard Thompson, Interim City Manager

FROM: Jim Arndt, Public Works Director
Anna Luke, Management Analyst

DATE: April 6, 2010

SUBJECT: Consideration of Seven-Year Waste Management Solid Waste Contract and Franchise Agreement of an Estimated Value of \$25,000,000 or Initiate a Request for Proposal Process

RECOMMENDATION:

Staff recommends that the City Council discuss and provide direction to either:

1. Approve the negotiated franchise agreement with Waste Management.
And if Recommendation #1 is chosen,
2. Direct Staff as to “basic” or “enhanced basic” franchise agreement, and optional programs.

Or

3. Seek a Request for Proposal (RFP) for waste hauling services to begin after April 30, 2011, when the current Waste Management contract expires.
And if Recommendation #3 is chosen,
4. Authorize the City Manager to approve a Professional Services Agreement with HF&H Consultants, LLC in the amount of \$105,000 to complete the RFP process.

FISCAL IMPLICATION:

1. Renegotiation Process: The new contract requires an increase to user fees dependent upon options selected by City Council.
2. RFP Process: The RFP process requires competitive proposals from interested haulers. Costs cannot be determined until RFP bids are opened and pricing received from haulers is made public, and Council selects a solid waste hauler. The cost for Professional Services from HF&H Consultants, LLC to complete the RFP process would be \$105,000.00 (see Attachment B for work plan).

BACKGROUND:

The City's current solid waste contract with Waste Management will expire on April 30, 2011.

At their July 7th, 2009 meeting, Council opted for the following:

1. Renegotiate the City's current solid waste contract with Waste Management
2. Include all contract recommendations made at the May 5, 2009 City Council meeting by the Environmental Task Force's Solid Waste and Recycling Subcommittee (ETF SWRS) for Council consideration
3. Contracted Professional Services with HF&H Consultants, LLC to facilitate the renegotiation process between Waste Management and the City.
 - a. As part of their scope of work, HF&H Consultants, LLC was directed to return to Council to provide periodic updates on how the negotiation process was proceeding (those updates occurred on 12/01/09 and 02/16/10).

City Council directed Staff at their February 16, 2010 meeting to continue negotiations with Waste Management, solidify all negotiated costs, ETF SWRS recommendations, and return to City Council with the following:

1. Information regarding the City's Administrative Fee.
2. Complete negotiation package including costs and franchise agreement.
 - a. "Basic" – *does not include 12 ETF SWRS recommendations*
3. Complete negotiation package including costs and franchise agreement.
 - a. "Enhanced Basic" – includes 12 ETF SWRS recommendations
4. Negotiated costs and program descriptions for Optional Services
5. Cost for Professional Services from HF&H Consultants, LLC to assist the City with the Request for Proposal process.

Key Legislation

During the February 16th City Council meeting, a question was posed as to any relevant legislation which would encourage the inclusion of any suggested programs. The following laws serve as the City and ETF's direct response to or inspiration for the suggested programs.

1976

Resource Conservation and Recovery Act (RCRA): Principal Federal law in the United States governing the proper disposal of solid waste and hazardous waste.

1989

AB 939: Integrated Waste Management Act – Established hierarchy of waste: waste prevention and source reduction recycling, composting, transformation and land disposal. AB 939 requires 50% diversion of base year waste (half of our city's waste must be recycled). Under this bill, each year the City is required to report on its landfill tonnage and recycling tonnage as well as programs which support the reduction of waste.

2003

SB 20: Electronic Waste Recycling Act – Landmark legislation requiring the collection of an electronic waste recycling fee at the retail point of sale of covered products, and retailers transfer

the fee to the Board of Equalization. The fees are used in offsetting the cost of recycling certain e-wastes. Also, manufacturers of electronic wastes must notify retailers the scope of all covered products.

2006

AB 32: California Global Warming Solutions Act – Requires local government agencies to establish a mandatory commercial recycling ordinance. Adoption is estimated at 2012.

February 9, 2006: Universal Waste (“U-Waste”) added to list of items banned from California landfills (includes batteries, cell phones, fluorescent lamps)

2007

SB 966: Pharmaceutical Take Back and Disposal Program - Requires the California Integrated Waste Management Board (CIWMB) to develop, in consultation with appropriate government agencies, criteria and procedures for model programs for the collection and proper disposal of pharmaceutical waste. Provisions of SB 966 remain in effect until January 1, 2013. The City’s drop off container assists with all medicines except for Sharps.

2008

Section 118286 of the California Health and Safety Code: Sharps Illegal in Trash & Recycling - Beginning September 1, 2008, State law makes it illegal to dispose of sharps waste in the trash or recycling containers, and requires that all sharps waste be transported to a hazardous waste collection center in an approved sharps container.

DISCUSSION:

Administrative Fee

The City’s Administrative Fee (used to capture City costs necessary to support Refuse collection) is currently under review and is being evaluated as part of the City’s Cost Allocation Study. This study should conclude in late May. Staff requests that City Council allow Staff to return on the June 15, 2010 City Council meeting with the requested updated Administrative Fee information. The Administrative fee would be added to the selected Waste Hauler fees to establish user rates. For the purpose of comparison in this report, the current Administrative fee of 17.24% has been used.

Solid Waste Contract Options

City Council must decide whether to accept the Waste Management Negotiation Package or begin the Request for Proposal process. There are several items to consider. For this reason, the following section is divided into two parts, “Waste Management Renegotiation” and “Request for Proposal.”

Waste Management Renegotiation

The Negotiated Waste Management Franchise Agreement (see Attachment A), if approved and

accepted by City Council, would begin on October 1, 2010. HF&H Consultants, LLC, believes that the negotiations have resulted in a reasonable cost contract.

The following three sections represent contract options. If Council chooses to award Waste Management the City's next refuse contract, one of two service levels, BASIC or ENHANCED BASIC will need to be chosen. In addition, City Council will need to choose whether or not to add any of the OPTIONAL SERVICES.

BASIC negotiation package (Table 1): Franchise Agreement comprised of current services with no service enhancements resulting in a rate increase of approximately 16% over three years. Table 1 below shows the percentage increase for each contract year.

Table 1:

Contract Year	Percentage Increase
Year 1 (10-01-10)	5%
Year 2 (07-01-11)	5.95%
Year 3 (07-01-12)	4%
Year 4 (07-01-13)	Formula listed in Exhibit3
Year 5 (07-01-14)	Formula listed in Exhibit3
Year 6 (07-01-15)	Formula listed in Exhibit3
Year 7 (07-01-16)	Formula listed in Exhibit3

ENHANCED BASIC negotiation package (Table 2): Franchise Agreement comprised of services resulting in a 19% rate increase over three years, of which 3% of the increase in the first year is devoted to twelve service enhancements recommended by the City's ETF. Of the 3% enhancement increase, approximately 2% is directly associated with the automation of the City's Sand Section and 1% is directly associated with the remaining enhancements. Table 2 below shows the percentage increase for each contract year.

Table 2:

Contract Year	Percentage Increase
Year 1 (10-01-10)	8%
Year 2 (07-01-11)	5.95%
Year 3 (07-01-12)	4%
Year 4 (07-01-13)	Formula listed in Exhibit3
Year 5 (07-01-14)	Formula listed in Exhibit3
Year 6 (07-01-15)	Formula listed in Exhibit3
Year 7 (07-01-16)	Formula listed in Exhibit3

In brief, the ENHANCED BASIC proposed rate increase is 19% over three years. Three percent

of the increase is for ENHANCED BASIC services recommended by the City's ETF. Without the enhancements, the BASIC proposed rate increase would be 3% less, or 16% over the three years.

Tables 3 and 4 show the user rates for both BASIC and ENHANCED BASIC negotiation packages. Rates are shown for the first three years of the contract. Beginning July 1, 2013 rates will be adjusted based on the formula in Exhibit 3 of the contract (Attachment A). Optional Services will be discussed later in the report.

Table 3:
BASIC SERVICES*:
(Includes 17.24% administrative fee)

Date	Current	January 1, 2011	July 1, 2011	July 1, 2012
Rate Increase	n/a	5.00%	5.95%	4.00%
Residential Rate Based on Current Flat Rate Structure (NOT RECOMMENDED—shown for comparison only)	\$13.74	\$14.43	\$15.29	\$15.90
Residential Volume-Based Rates**:				
35-gallon	n/a	\$12.81	\$13.57	\$14.11
65-gallon	n/a	\$14.64	\$15.51	\$16.13
95-gallon	n/a	\$16.61	\$17.60	\$18.30
Commercial Rate Category				
Commercial Can – 1x/week	\$14.98	\$15.73	\$16.67	\$17.34
2 yard bin – 1x/week	\$76.01	\$79.81	\$84.56	\$87.94

*Beginning July 1, 2013, annual rate adjustments based on contract formula using published price indices

**Contractor rates would begin October 1, 2010. City rate adjustment would go into effect January 1, 2011.

The City would pay the difference to the contractor from October 1, 2010 – December 31, 2010 from reserves in the Refuse Fund.

ENHANCED BASIC (19% Increase):
INCLUDES 12 ETF RECOMMENDATIONS

1. Automation of Sand Section
 - *This comprises 2% of the 3% increase*
2. Multi-family Recycling Outreach
3. Free Abandoned Item Collection

4. Commercial Outreach Recognition Program
5. Sharps Program – Eliminate Co-Pay
6. Free Hazardous Waste Collection for City Facilities’ HHW
7. Natural Gas-Powered Collection Vehicles
8. Increased School Recycling Outreach
9. Increased School Recycling Containers and Collection
10. Multi-family and Commercial Mixed Waste Processing
11. Commercial Trash Overflow Program
12. Collection of Styrofoam/polystyrene (WM launched formal collection in 02/10)

Table 4:
ENHANCED BASIC SERVICES*:
 (Includes 17.24% administrative fee)

Date	Current	January 1, 2011	July 1, 2011	July 1, 2012
Rate Increase	n/a	8.00%	5.95%	4.00%
Residential Rate Based on Current Flat Rate Structure (NOT RECOMMENDED – shown for comparison only)	\$13.74	\$14.84	\$15.72	\$16.35
<u>Residential Volume-Based Rates**:</u>				
35-gallon	n/a	\$13.18	\$13.96	\$14.52
65-gallon	n/a	\$15.06	\$15.96	\$16.60
95-gallon	n/a	\$17.08	\$18.10	\$18.82
<u>Commercial Rate Category</u>				
Commercial Can – 1x/week	\$14.98	\$16.18	\$17.14	\$17.83
2 yard bin – 1x/week	\$76.01	\$82.09	\$86.97	\$90.45

*Beginning July 1, 2013, annual rate adjustments based on contract formula using published price indices
 **Contractor rates would begin October 1, 2010. City rate adjustment would go into effect January 1, 2011. The City would pay the difference to the contractor from October 1, 2010 – December 31, 2010 from reserves in the Refuse Fund.

OPTIONAL SERVICES

OPTIONAL SERVICES: Three additional programs were recommended by the ETF which the

City Council must adopt or reject. In addition, two programs previously presented as Optional Services are now pilot programs included in the franchise agreement. Table 5 shows the matrix of programs in the Optional Services category, including the sector it will impact (residential and/or commercial). Program descriptions and costs follow Table 5. These optional services are considered operationally feasible by Waste Management and would require an additional cost to the overall contract rates.

Table 5:
OPTIONAL SERVICES MATRIX

SECTOR	Door-to-Door HHW Pick-up	City-Wide Commercial and Multi-Family Mixed Waste Processing	Recycle Ranger	Residential Food Waste Collection*	Commercial Food Waste Collection*
Residential	YES		50% Yes	JULY 2012 PILOT	
Commercial		YES	50% Yes		

*No longer considered as separate options; now listed in contract as a 90 day pilot program starting July 1, 2012

1. Door-to-Door Household Hazardous Waste (HHW) Pick Up

<u>Program Start Date</u>	<u>Who Benefits</u>	<u>Who Pays</u>	<u>Annual Program Cost</u>	<u>Monthly Cost Per Home</u>
October 1, 2010	All Residential and Multi-Family customers	Residential cart customers	\$85,000	\$0.51

Wastes may be hazardous wastes if they exhibit any of the four characteristics of a hazardous waste (ignitability, corrosivity, reactivity, and toxicity). Improper disposal of household hazardous wastes can include pouring them down the drain, on the ground, into storm drain or sewers, or in some cases putting them out with the trash and recycling cans. The dangers of such disposal methods might not be immediately obvious, but improper disposal of these wastes can pollute the environment and pose a threat to human health.

Examples of Household Hazardous Wastes and what makes them Hazardous:

- Batteries--Includes all batteries, AAA, AA, C, D, button cell, 9-volt, and all others, both rechargeable and single use --Cadmium, Copper and (in older batteries) Mercury
- Cell Phones-- Antimony , Arsenic, Beryllium, Cadmium, Copper, Lead, Nickel, Zinc
- Computers and Computer Monitors-- Arsenic, Cadmium, Lead, PCBs
- Electronic Devices-- Lead
- Fluorescent Lamps-- Mercury
- Thermometers-- Mercury
- Non-empty Aerosol Cans-- Propane, Butane, Pesticides
- Televisions-- Arsenic, Cadmium, Lead, PCBs

According to the Environmental Protection Agency (EPA), Americans generate 1.6 million tons of HHW per year and the average home can accumulate as much as 100 pounds of HHW in the basement and garage and in storage closets.

The Door-to-Door HHW Program is a convenient appointment based, unlimited at-home pick-up of household hazardous chemicals and materials for all Manhattan Beach single and multi-family residents. Similar to the current Bulky-Item Pick-up program, both single and multi-family residents may contact Waste Management to schedule an appointment for collection. The difference is that the HHW collection program has unlimited pick-ups.

This program stems from consistent requests to the Public Works Department for a more convenient, weekday-friendly way to dispose of HHW. Residents have shared over and over again that the hassle of loading hazardous materials into their personal vehicles and driving them to another city only on weekends is not helpful. Also, residents have shared that they would participate in disposing of HHW properly if there was a more convenient program available.

The current options for residents are the SAFE Collection Center drop off program at the Hyperion Treatment Plant in Playa Del Rey on Saturdays and Sundays or the LA County Round-Up drop-off programs at various cities around LA County on Saturdays. There are no facilities available to Manhattan Beach residents on weekdays (with the exception of the pharmaceutical drop-off box at the Civic Center) and no general programs for at-home collection. The cities of Inglewood and Orange utilize this program to provide a convenient, reliable way for residents and multi-family customers to correctly dispose of hazardous waste.

For \$0.51 per cart customer per month, residents may dispose of an unlimited amount of HHW from their garages, cabinets, and storage units through the appointment-based program. On the appointment day, residents would place their HHW in the designated area for their residence (area to be determined at time appointment is made, though *not at the curb*).

HHW included in the program is as follows:

- Chemicals (i.e.: household cleaners, paint, small propane tanks, automotive oils, aerosol sprays, pesticides, pool chemicals, etc.)
- Electronic waste (i.e.: TVs, computers, cell phones, gaming machines, printers, DVD players, etc.)
- Universal waste (i.e.: batteries, fluorescent lamps and bulbs, thermometers, etc.)
- Non-controlled Medical waste (i.e.: non-controlled unwanted and expired medication)

2. City-Wide Commercial and Multi-Family Mixed Waste Processing

<u>Program Start Date</u>	<u>Who Benefits</u>	<u>Who Pays</u>	<u>Annual Program Cost</u>	<u>Monthly Increase per Bin Customer</u>
January 1, 2011	All Multi-Family & Commercial Bins	All Multi-Family & Commercial Bins	\$155,000	12% Ex: 2yd bin 1x/week: \$9.85

The City-Wide Mixed Waste Processing Program removes recyclable material from the trash at a Material Recovery Facility (MRF) in order to increase diversion rates and reduce landfill tonnage. While residential recycling rates exceed 50-60% diversion, commercial (which includes Multi-Family) recycling rates are estimated at 20-30%. These low diversion rates inspired the Environmental Task Force to recommend the Mixed Waste Processing Program. Many factors contribute to the low diversion rates including employee training, space and design for recycling inside businesses and multi-family complexes, and employee and multi-family resident turnover. *This program is recommended to be implemented only in addition to the recycling program that is in place. It will not replace recycling cans, carts or bins.* It is a joint effort to capture all unnecessary waste from entering the landfill; this program provides the assistance to remove recyclables from the trash so that they can be made into new products instead of filling up the landfill.

The mixed waste processing requirement included in the Enhanced Basic program will recover 1,365 tons per year of recyclables from the commercial waste stream. With the optional program for additional mixed waste processing in place, an additional 2,184 tons of recyclables will be captured from trash, preventing its disposal in a landfill. These additional 2,194 recovered tons represent approximately 5% of the total waste collected by WM in the City. The cities of Redondo Beach and West Hollywood utilize similar programs to increase diversion rates and reduce landfill tonnage from their business community.

If approved by City Council, the program will increase Multi-Family and Commercial bins customers by 12% beginning January 1, 2011.

3. Recycle Ranger

<u>Program Start Date</u>	<u>Who Benefits</u>	<u>Who Pays</u>	<u>Annual Program Cost</u>	<u>Monthly Increase Per Customer</u>
January 1, 2011	All customers	All customers	\$75,000	2.1% increase Residential: 35- \$0.28 65- \$0.32 95- \$0.36 Commercial: Can- \$0.34 2Yd bin- \$1.72

The Recycle Ranger is a person who does *not* work for the solid waste contractor, but would assist the city (and compliment the hauler’s efforts) with in-person customer education and outreach, resident and business training to reduce landfill tonnage and increase recycling, identifying areas with contamination, program expansion, and audits. This person would canvass the neighborhoods and businesses providing education and identifying areas for improvement. The City of Redondo Beach enlists a Recycle Ranger to assist with anti-scavenging enforcement and monitoring routes to ensure hauler has not missed pickups, is properly returning containers after collection, and is not commingling waste streams. The Recycle Ranger is the in-field City liaison to the hauler, and also helps distribute flyers and assists at City events such as Earth Day. This position is not written into the Waste Management Franchise Agreement as the person will not be employed by the hauler. However, the city would be responsible for making sure the assignments of the Recycle Ranger complimented the efforts made by the hauler so that all three entities working together can reduce landfill tonnage, increase recycling and education.

The reason the Environmental Task Force recommended the Recycle Ranger is to allow the City control of the Recycle Ranger’s tasks and goals.

4. Residential Food Waste Collection

<u>PILOT Start Date</u>	<u>Who Benefits</u>	<u>Who Pays</u>	<u>Annual Program Cost</u>	<u>Monthly Cost Per Home</u>
July 1, 2012	All residential green waste customers	Pilot included in base rate	To be negotiated after pilot at Council direction	n/a

5. Commercial Food Waste Collection

<u>PILOT Start Date</u>	<u>Who Benefits</u>	<u>Who Pays</u>	<u>Annual Program Cost</u>	<u>Monthly Cost Per Home</u>
July 1, 2012	Commercial food waste generating customers	Pilot included in base rate	To be negotiated after pilot at Council direction	n/a

Once common recyclables and green waste are diverted from the trash, most of what remains is putrescibles, otherwise known as “food waste.” Landfills accept millions of pounds of food waste each year.

According to the US Department of Agriculture, Americans throw away more than 25 percent of the food prepared, about 96 billion pounds of food waste each year. Food waste includes uneaten food and food preparation scraps from residences or households, and commercial establishments like restaurants, grocery stores, and cafeterias. The food service industry estimates that 4% to 10% of food purchases become waste before ever reaching a guest.

Food waste diversion programs are quite common in Northern California; however few are found in Southern California due to the unavailability of food waste recycling centers. Issues such as permitting, space and costs have held back this important sector in recycling. According to Waste Management, food waste diversion will be a feasible option for their company in summer 2012. Right now it is simply too expensive and far to transport and process the food waste.

As part of the new solid waste agreement, Waste Management will perform a Residential and Commercial Food Waste Diversion Pilot Program for a minimum of ninety (90) days beginning July 1, 2012. Residential participants shall include one full residential route for one day each week and commercial participants shall include 10% of food waste generators in the City (restaurants, grocery, etc.). Upon conclusion of the pilot, Staff and Waste Management will return to City Council with baseline tonnage data and a summary of the program successes and challenges. Council may direct Staff at that time to negotiate a cost to continue the program with Waste Management.

Rates with Optional Services

ENHANCED BASIC rates with OPTIONAL SERVICES costs are summarized in Tables 6 and 7. The tables list the monthly impact of optional services on the rates and show the total monthly costs and percentage increase for each of the rate increases in January 2011, July 2011, and July 2012, as well as the total monthly increase and overall cost increases for three years. Because of their similarity, the BASIC rates with options are not included in this report.

Council is asked to give direction as to what options they wish to include in the final contract with Waste Management and to prepare proposed final rates in advance of the 218 process for rate adjustment.

Table 6:
Residential ENHANCED BASIC Rates PLUS Optional Services
 (\$Cost/Month)

Date	Current Flat Rate	January 1, 2011	July 1, 2011	July 1, 2012	Total Increase from Current
Residential Cart Size	n/a	\$Cost/%Inc	\$Cost/%Inc	\$Cost/%Inc	\$Cost/%Inc
35 gallon Cart	\$13.74	\$13.18	\$13.96	\$14.52	
HHW Door-to-Door	-----	\$0.51	\$0.54	\$0.56	
Recycle Ranger	-----	\$0.28	\$0.30	\$0.31	
Total	\$13.74	\$13.97 (1.7%)	\$14.80 (5.94%)	\$15.39 (4.0%)	\$1.65 (12.0%)
64 gallon Cart	\$13.74	\$15.06	\$15.96	\$16.60	
HHW Door-to-Door	-----	\$0.51	\$0.54	\$0.56	
Recycle Ranger	-----	\$0.32	\$0.34	\$0.35	
Total	\$13.74	\$15.89 (15.6%)	\$16.84 (5.98%)	\$17.51 (4.0%)	\$3.77 (27.4%)
96 gallon Cart	\$13.74	\$17.08	\$18.10	\$18.82	
HHW Door-to-Door	-----	\$0.51	\$0.54	\$0.56	
Recycle Ranger	-----	\$0.36	\$0.38	\$0.40	
Total	\$13.74	\$17.95 (30.6%)	\$19.02 (5.96%)	\$19.78 (4.0%)	\$6.04 (44.0%)

Table 7:
Commercial and Multi-Family ENHANCED BASIC Rates PLUS Optional Services
 (\$Cost/Month)

Date	Current Rate	January 1, 2011	July 1, 2011	July 1, 2012	Total Increase from Current
Commercial/Multi-Family	n/a	\$Cost/%Inc	\$Cost/%Inc	\$Cost/%Inc	
<u>1-32 gallon Cart/Can, 1x per week</u>	\$14.98	\$16.18	\$17.14	\$17.83	
Recycle Ranger	-----	\$0.34	\$0.36	\$0.37	
Total	\$14.98	\$16.55 (10.5%)	\$17.53 (5.92%)	\$18.24 (4.1%)	\$3.26 (21.8%)
<u>1-2 yard bin, 1x per week</u>	\$76.01	\$82.09	\$86.97	\$90.45	
Mixed Waste Processing	-----	\$9.85	\$10.44	\$10.86	
Recycle Ranger	-----	\$1.72	\$1.82	\$1.89	
Total	\$76.018	\$93.66 (23.2%)	\$99.23 (5.95%)	\$103.20 (4.0%)	\$27.19 (35.8%)

Rate Comparisons

Rate comparisons with other agencies are shown in Table 8. The comparison is based on rates from Fiscal Year 2009-2010 which began on July 1, 2009. Current Manhattan Beach residential rates rank tenth (10) lowest in Los Angeles County (highlighted in yellow).

Table 5 also includes placeholders with the proposed new tiered-rate costs for Manhattan Beach (highlighted in orange). *Although rates for other cities represent FY2009-10, Council may see generally where the new ranking(s) may fall.* For example, using a 65-gallon container rate, Manhattan Beach would rank thirteenth (13) against FY2009-10 rates.

Although rates may be compared, the array of services offered by each agency is more difficult to compare. On the basis of rate only, the proposed rates would be relatively competitive.

Table 8:
Comparison of Los Angeles County Cities with the (FY 2009-10) Lowest Residential Rates
 (Provided by HF&H)

	Current MB rank in “flat-rate structure”
	Proposed MB rank for each can size in “tiered-rate” structure

	CITY	SIZE OF REFUSE (gallons) IF FEE BASED ON SIZE	TOTAL MONTHLY RATE (as of July 2009)
1	Bell Gardens	Flat Rate	\$ 9.58
2	El Segundo	Flat Rate	\$ 10.41
3	Hermosa Beach	Flat Rate	\$ 11.47
4	Bradbury	65	\$ 12.38
5	Vernon	85	\$ 12.55
6	Downey	67	\$ 12.71
7	Irwindale	96	\$ 12.92
8	Inglewood	Flat Rate	\$ 13.17
	Manhattan Beach	35	\$ 13.18
9	West Hollywood	Flat Rate	\$ 13.61
	Manhattan Beach	Flat Rate	\$ 13.74
10	Signal Hill	Flat Rate	\$ 13.77
11	Redondo Beach	Flat Rate	\$ 14.06
12	La Puente	Flat Rate	\$ 14.84
13	Manhattan Beach	65	\$15.06
14	Hawaiian Gardens	96	\$ 15.11
15	Cerritos	Flat Rate	\$ 15.39
16	Gardena	64	\$ 15.39
17	South Gate	96	\$ 15.44
18	Lakewood	Flat Rate	\$ 15.77
19	Lawndale	Flat Rate	\$ 15.81
20	Monrovia	90	\$ 16.06
21	Lynwood	95	\$16.18
22	Paramount	Flat Rate	\$ 16.28
23	Compton	Flat Rate	\$ 16.48
24	Duarte	90	\$ 16.73
	Manhattan Beach	95	\$ 17.08
25	La Verne	64	\$ 17.32
26	Santa Clarita	96	\$ 17.33
27	Carson	Flat Rate	\$ 17.42
28	Whittier	Flat Rate	\$ 17.46
29	Bellflower	90	\$ 17.79
30	Glendale	100	\$ 17.81
31	Cudahy	Flat Rate	\$ 17.98
32	La Mirada	96	\$ 18.04
33	Long Beach	100	\$ 18.29
34	Rosemead	100	\$ 18.42
35	Arcadia	96	\$ 18.43
36	Maywood	Flat Rate	\$ 18.44
37	Commerce	Flat Rate	\$ 19.34
38	Norwalk	95	\$ 19.56
39	Santa Fe Springs	Flat Rate	\$ 19.56
40	Montebello	Flat Rate	\$ 19.82
41	Alhambra	96	\$ 19.97
42	Walnut	96	\$ 20.04
43	Palmdale	96	\$ 20.05
44	Pico Rivera	Flat Rate	\$ 20.30
45	Artesia	96	\$ 20.77
46	Lomita	96	\$ 21.00
47	Baldwin Park	64	\$ 21.67
48	Hawthorne	96	\$ 21.75
49	Huntington Park	Flat Rate	\$ 21.86
50	Torrance	Flat Rate	\$ 22.29

51	Azusa	Flat Rate	\$ 22.38
52	Monterey Park	Flat Rate	\$ 22.68
53	Calabasas	64	\$ 23.11
54	Lancaster	Flat Rate	\$ 23.55
55	El Monte	Flat Rate	\$ 23.93
56	Agoura Hills	64	\$ 24.01
57	Covina	90	\$ 24.22
58	Diamond Bar	96	\$ 25.23
59	Glendora	Flat Rate	\$ 25.23
60	Burbank	64	\$ 25.37
61	West Covina	90	\$ 25.75
62	Pomona	96	\$ 26.22
63	Bell	Flat Rate	\$ 26.48
64	Rancho Palos Verdes	Flat Rate	\$ 27.73
65	Temple City	90	\$ 27.74
66	San Gabriel	90	\$ 27.84
67	San Dimas	96	\$ 28.67
68	Claremont	90	\$ 29.63
69	Sierra Madre	90	\$ 29.95
70	Palos Verdes Estates	Flat Rate	\$ 33.01
71	South Pasadena	Flat Rate	\$ 34.80
72	Rolling Hills Estates	96	\$ 36.20
73	Los Angeles	Flat Rate	\$ 36.32
74	Pasadena	100	\$ 36.43
75	Malibu	96	\$ 36.50
76	San Marino	Flat Rate	\$ 37.26
77	Santa Monica	96	\$ 39.90
78	Avalon	Flat Rate	\$ 45.25
79	Hidden Hills	96	\$ 60.99
80	Rolling Hills	Flat Rate	\$ 87.00
81	Beverly Hills	Charge based on lot size	
82	Culver City		
83	Industry	City did not provide information	
84	San Fernando		
85	South El Monte		
86	Westlake Village	City does not regulate rates with exclusive hauler	
87	La Canada Flintridge		
88	La Habra Heights	City does not regulate rates with multiple permitted haulers	

Request for Proposal Process

Because the refuse contract is the largest contract the City of Manhattan Beach holds, and without a competitive bid process there is no guarantee the Waste Management proposal represents the lowest cost, an RFP process remains a valid option for Council consideration. In addition to cost, quality of service is also important and Staff recommends that the proposal be evaluated on both cost and quality of service.

If City Council chooses to reject the Waste Management negotiation package and pursue the Request for Proposal Process, it is necessary to start the RFP process to ensure the completion of the process by the current contract expiration date of April 30, 2011. If Council selects the RFP process, Staff recommends that Council direct the City Manager to enter into a Professional Services Contract with HF&H Consultants, LLC to carry out the RFP Process. The contract for HF&H Consultants, LLC RFP services is \$105,000. Attachment B shows the HF&H RFP Work Plan and break down of costs for Professional Services.

Next Steps

Timelines for continuation of the process are shown in Tables 9 and 10 for either option the Council selects, Renegotiation Process or Request for Proposal (RFP) Process.

RENEGOTIATION PROCESS

Table 9:
Renegotiation Process Timeline

Activity	Date
1. Council consideration/approval of renegotiated agreement & optional services, adopt proposed rates	<ul style="list-style-type: none"> • April 6, 2010
2. 218 Process Public Hearing/Consideration of Rate Adoption	<ul style="list-style-type: none"> • June 15 - August 3, 2010
3. Cart size selection	<ul style="list-style-type: none"> • By November 1, 2010
4. Cart distribution to Sand Section and for existing cart customers requesting exchanges	<ul style="list-style-type: none"> • By December 31, 2010
5. New customer rates implemented	<ul style="list-style-type: none"> • January 1, 2011

Implications of Schedule

Because of the time needed to complete the review of the Administrative Fee, establish rates, and begin the 218 process, implementation of the new customer rates cannot be completed by October 1, 2010. Therefore, the City will adjust fees in accordance with the new contract with Waste Management without a corresponding rate adjustment to the customer for the time period between October 1, 2010 and December 31, 2010. The deficit (approximately \$70,000) will be covered by funds from the City’s Refuse Fund reserves. If the 218 protest succeeds (i.e. no rate adjustment), then Contract language allows the City to terminate the new Waste Management Franchise Agreement upon 30 days notice. The City may choose to keep the contract in place, paying the rate increase from the City’s Refuse Fund until the City has made alternative arrangements to provide service.

REQUEST FOR PROPOSAL (RFP) PROCESS

Table 10:
RFP Timeline

Activity	Date
1. City Council to direct City Manager to hire a consultant for RFP services	<ul style="list-style-type: none"> April 6, 2010
2. RFP created and call for proposals	<ul style="list-style-type: none"> July 2010
3. Proposals due	<ul style="list-style-type: none"> September 2010
4. Proposal evaluation	<ul style="list-style-type: none"> September/October 2010
5. Contract negotiations	<ul style="list-style-type: none"> November 2010
3. Award contract and begin transition	<ul style="list-style-type: none"> December 7, 2010
4. New waste hauler contract & service begins	<ul style="list-style-type: none"> May 1, 2011

An abbreviated pro's/con's summary of the two options is offered for consideration in Table 11.

Table 11:
Pro's & Con's of RFP and Renegotiation Processes

Request for Proposal (RFP)		Renegotiation of Current Contract	
Pro	Guaranteed competitive pricing.	Pro	Allows City to work with hauler who has successfully provided services.
Pro	Best method if introducing programs new to the City or industry.	Pro	Existing contractor knows City's customers' needs and demands.
Pro	Different haulers may have ideas and improvements for current operations	Pro	Transition to provide additional services would be minimal.
		Pro	Through negotiations it is known what additional services may be added.
Con	New haulers abilities are based on references; not current City experience.	Con	It is difficult to establish lowest rates or conduct rate comparisons with neighboring agencies because of different service levels.
Con	Selection process includes subjective components of quality of service in addition to service costs.	Con	Cost basis for new programs established in non-competitive basis.
Con	Transition challenges if new contractor is selected.	Con	Does not allow potentially interested parties to bid on contract.

Staff recommends that the City Council discuss and provide direction to either:

1. Approve the negotiated franchise agreement with Waste Management.
And if Recommendation #1 is chosen,
2. Direct Staff as to “basic” or “enhanced basic” franchise agreement, and optional programs.

Or

3. Seek a Request for Proposal (RFP) for waste hauling services to begin after April 30, 2011, when the current Waste Management contract expires.
And if Recommendation #3 is chosen,
4. Authorize the City Manager to negotiate a Professional Services Agreement with HF&H Consultants, LLC to assist the City with completing the RFP process.

Attachments:

- (A) City of Manhattan Beach Franchise Agreement with Waste Management
- (B) HF&H Consultants, LLC Request for Proposal Work Plan

cc: Laith Ezzet, HF&H Consultants, LLC
Susan Moulton, Waste Management
Bruce Moe, City of Manhattan Beach Finance Director

FINAL

FRANCHISE

AGREEMENT

BETWEEN

CITY OF MANHATTAN BEACH

AND

USA Waste of California, Inc.

FOR

INTEGRATED SOLID WASTE

MANAGEMENT SERVICES

* * *

April 2, 2010

DRAFT

FRANCHISE
AGREEMENT
BETWEEN
CITY OF MANHATTAN BEACH
AND
USA WASTE OF CALIFORNIA, INC.
FOR
INTEGRATED SOLID WASTE
MANAGEMENT SERVICES

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RECITALS

This Franchise Agreement (Agreement) is entered into this ___ day of _____, 2010, by and between the City of Manhattan Beach (City) and USA Waste of California, Inc. (Company).

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 to meet the goals and requirements of AB 939; and,

WHEREAS, the City is required pursuant to the AB 939 and SB 1016 to meet minimum diversion goals; and,

WHEREAS, pursuant to California Public Resources Code Section 40059(a)(2), the City has determined that the public health, safety, and well-being require that an exclusive Franchise be awarded to a qualified company for the Collection, transportation, Recycling, processing, and Disposal of Solid Waste and other services to meet the goals and requirements of AB 939; and,

WHEREAS, the current Solid Waste Franchise agreement between City and Company was to expire on April 30, 2011; and,

WHEREAS, the City and Company have agreed to implement programs in advance of expiration of the current Agreement and for this Agreement to supersede the prior Agreement as of October 1, 2010; and, WHEREAS, the Company agrees to and acknowledges that it shall properly dispose of all Solid Waste Collected in the City pursuant to this Agreement; and,

WHEREAS, the City and the Company (Parties) hereto desire to enter into this Agreement,

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

ARTICLE 1

DEFINITIONS

Whenever any term used in this Agreement has been defined by the provisions of Chapter 5.24 of the Manhattan Beach City Code or by Division 30, Part 1, Chapter 2 of the California Public Resources Code, the definitions in the Municipal Code or the Public Resources Code shall apply unless the term is otherwise defined in this Agreement, in which case this Agreement shall control.

Except as provided in Article 1, words beginning with lower case letters are being used with their common ordinary meanings, not as defined terms. Otherwise, the following capitalized words and terms shall have the following meanings:

1.1 AB 939

"AB 939" means the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000 et seq.), as it may be amended from time to time.

1.1A Abandoned Items

"Abandoned Items" means items abandoned in the public right-of-way, including but not limited to Bulky Waste items and Green Waste, to be Collected by Company pursuant to Section 3.6.3.

1.2 Affiliate

"Affiliate" means all businesses (including corporations, limited and general partnerships and sole proprietorships) that are directly or indirectly related to the Company by virtue of direct or indirect ownership interest or common management shall be deemed to be "Affiliated with" the Company and included within the term "Affiliates" as used herein. An Affiliate shall include a business in which the Company owns a direct or indirect ownership interest, a business that has a direct or indirect ownership interest in the Company and/or a business that is also owned, controlled or managed by any business or individual that has a direct or indirect ownership interest in the Company. For purposes of determining whether an indirect ownership interest exists, the constructive ownership provisions of Section 318(a) of the Internal Revenue

Code of 1986, as in effect on the date of this Agreement, shall apply; provided, however, that (i) "ten percent (10%)" shall be substituted for "fifty percent (50%)" in Section 318(a)(2)(C) and in Section 318(a)(3)(C) thereof; and (ii) Section 318(a)(5)(C) shall be disregarded. For purposes of determining ownership under this paragraph and constructive or indirect ownership under Section 318(a), ownership interest of less than ten percent (10%) shall be disregarded and percentage interests shall be determined on the basis of the percentage of voting interest or value which the ownership interest represents, whichever is greater.

1.3 Agreement

"Agreement" means this Franchise Agreement between the City and the Company for the Collection, transportation, Recycling, processing and Disposal of Solid Waste, and other services related to meeting the goals and requirements of AB 939, including all exhibits and attachments, and any amendments thereto.

1.3A Bagster® Bag

"Bagster® Bag" means a soft-sided polypropylene Container that can hold up to 3,000 pounds of Solid Waste, is purchased by the Customer at a local hardware or home supply store, and is Collected by Company using a special vehicle with an overhead crane.

1.3B Bagster® Service

"Bagster® Service" means a method for Residential or Commercial and Industrial Customers to arrange for Collection of Solid Waste as an alternative to temporary Bin or temporary Rolloff Box service, using a Bagster® bag. Company will provide for Collection/processing of the Bagster® bag. Bagster® Service is a Temporary Service. The rate for Bagster® Service shall be a reasonable rate negotiated between the Customer and Company.

1.4 Billings

"Billings" means any and all statements of charges for services rendered, howsoever made, described or designated by the City or the Company, or made by others for the City or the Company, to Persons responsible for arranging for Solid Waste removal.

1.5 Bin

“Bin” means a metal Container with hinged lids and wheels serviced by a front-end loading truck with a capacity of 2 to 6 cubic yards, including Bins with compactors attached to increase the capacity of the Bin.

1.6 Bulky Waste

“Bulky Waste” means discarded furniture (including chairs, sofas, mattresses, and area rugs, but not carpeting); appliances (including refrigerators, ranges, washers, dryers, water heaters, dishwashers, plumbing, small household appliances and other similar items, commonly known as “white goods”); Electronic Waste (including stereos, televisions, computers, VCRs and other similar items commonly known as “brown goods”, see Section 1.19A); Residential wastes (including wood waste, tree trunks and large branches if no longer than two (2) feet in diameter, four (4) feet in length and fifty (50) lbs. in weight per bundle, scrap wood, in the aggregate not exceeding one cubic yard per Collection); clothing; and tires. Bulky Waste items do not include such things as car bodies or Construction and Demolition Waste, or any other items that cannot be handled by two persons.

1.7 Can

“Can” means a Solid Waste receptacle provided to Commercial Customers by the Company, approximately 30- to-35-gallons, serviced by manual Collection.

1.8 Cart

“Cart” means a plastic Container with a hinged lid and wheels serviced by an automated or semi-automated truck with a capacity of no less than 30 and no greater than 101-gallons.

1.9 City

"City" means the City of Manhattan Beach, a municipal corporation, and all the territory lying within the municipal boundaries of the City as presently existing or as such boundaries may be modified during the term of this Agreement.

1.10 Collect/Collection

"Collect" or "Collection" means to take physical possession, transport, and remove Solid Waste within and from the City.

1.11 Commercial and Industrial

"Commercial and Industrial" refers to property, or Owners of property, upon which business activity is conducted, including but not limited to retail sales, services, wholesale operations, manufacturing and industrial operations, but excluding businesses conducted upon Residential Property which are permitted under applicable zoning regulations and are not the primary use of the property.

1.12 Company

"Company" means USA Waste of California, Inc., a Delaware corporation and its officers, directors, employees, agents, companies and subcontractors.

1.13 Section Deleted

1.14 Company Compensation

"Company Compensation" means the revenue received by the Company from Billings in return for providing services in accordance with this Agreement and any amendments to this Agreement.

1.14A Complaint

"Complaint" means a communication received by Company from a Customer or City indicating services have not been performed in accordance with this Agreement, or otherwise expressing dissatisfaction with service.

1.14B Composting

"Composting" means the separation of organic matter from the waste stream for controlled decomposition into a material that may be used as a soil amendment, such as through the use of composting bins provided under Section 3.3.5.

1.15 Construction and Demolition Waste

"Construction and Demolition Waste" means used or discarded construction materials removed from a Premise during the construction or demolition of a structure.

1.16 Containers

"Containers" means any and all types of Solid Waste receptacles, including Carts, Compactors, Bins, Cans and Rolloff Boxes.

1.17 Customer

"Customer" means the Person having the care and control of any Premises in the City receiving Solid Waste Collection service from the Company.

1.18 Disposal

"Disposal" means the ultimate disposition of Solid Waste Collected by the Company at a landfill in full regulatory compliance.

1.19 Disposal Site(s)

"Disposal Site(s)" mean the Solid Waste handling Facility or Facilities utilized for the ultimate Disposal of Solid Waste Collected by the Company.

1.19A Electronic Waste or E-Waste

"Electronic Waste" or "E-Waste" means electronic equipment and includes, but is not limited to, stereos, televisions, computers and computer monitors, VCRs, cellular phones, fax machines, household copiers, computer printers, other items with electric plugs that are banned from landfilling, and other similar items commonly known as "brown goods."

1.20 Environmental Laws

"Environmental Laws" means all federal and State statutes, county, local and the City ordinances concerning public health, safety and the environment including, by way of example and not limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC §9601 et seq.; the Resource

Conservation and Recovery Act, 42 USC §6902 et seq.; the Federal Clean Water Act, 33 USC §1251 et seq.; the Toxic Substances Control Act, 15 USC §1601 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the California Toxic Substances Control Act, California Health and Safety Code §25300 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

1.21 Facility

"Facility" means any plant or site, owned or leased and maintained, operated or used by the Company for purposes of performing under this Agreement.

1.22 Franchise

"Franchise" means the exclusive right granted by the City to provide Solid Waste services within the City.

1.22A Food Waste

"Food Waste" means Solid Waste that may be Collected as part of the Food Waste pilot programs included in Sections 3.2.7 and 3.2.8, which includes:

- All food (including fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese and eggshells);
- Food-soiled paper (including napkins, paper towels, paper plates); and,
- Tea bags, coffee grounds and filters.

1.23 Green Waste

"Green Waste" means leaves, grass, weeds, and wood materials from trees and shrubs (including holiday trees, but otherwise not more than four (4) inches in diameter or four (4) feet in length) and similar materials generated at the Premises.

1.24 Hazardous Substance

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

1.25 Hazardous Waste

"Hazardous Waste" means all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115, and §25117 or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to the Federal Resource Conservation and Recovery Act (42 USC §6901 et seq.), all future amendments thereto, and all rules and regulations promulgated thereunder.

1.26 Household Hazardous Waste (HHW)

"Household Hazardous Waste" means Hazardous Waste generated at Residential Property.

1.27 Materials Recovery Facility

“Materials Recovery Facility” means a Facility licensed or permitted in accordance with AB 939 which separates secondary materials, such as paper and other fibers, plastic, mixed glass and metal containers and processes them for sale to end users or use by Company.

1.28 Mixed Waste Processing

“Mixed Waste Processing” means the separation and sorting of recyclables and other recoverable materials from Refuse at a MRF where commingled loads of Solid Waste are processed.

1.29 Multi-Family

"Multi-Family" means pertaining to any Residential Property with two or more units, irrespective of whether residence therein is transient, temporary or permanent.

1.29A Non-City Sponsored Events

“Non-City Sponsored Events” means periodic events (one-time, annual or occasional, but not year-round) not covered by Section 3.6.5.

1.30 Owner

"Owner" means the Person holding the legal title to the real property constituting the Premises to which Solid Waste Collection service is to be provided under this Agreement or the Person holding legal title to the Disposal Site, depending upon the context used in this Agreement.

1.31 Permanent Rolloff Box Service

“Permanent Rolloff Box Service” means the Collection of Solid Waste generated from ongoing operations at a Customer’s place of business using Rolloff Boxes or large Compactors. This includes, for example, the Collection of Solid Waste from a Commercial Premise that would otherwise be Collected using Bin service if the volume of Solid Waste generated were less. This does not include Rolloff Box service used for occasional higher volumes of waste due to special clean-up or other projects, or on construction or demolition sites.

1.32 Person

"Person" means any individual, firm, association, organization, partnership, corporation, business trust, joint venture, the United States, the State of California, the County of Los Angeles, town, city, or special purpose district.

1.33 Premises

"Premises" means any land, or building in the City where Solid Waste is generated or accumulated.

1.34 Putrescible Waste

"Putrescible Waste" means wastes that are capable of being decomposed by micro-organisms with sufficient rapidity as to cause nuisances because of odors, gases, or other offensive conditions.

1.35 Rate Year

"Rate Year" means the twelve-month period from July 1st to June 30th, each year of the Agreement.

1.36 Recycling

"Recycling" means any process by which materials which would otherwise become Solid Waste are Collected (source-separated, co-mingled, or as mixed waste), separated and/or processed and returned to the economic mainstream in the form of raw materials or products or materials which are otherwise salvaged or recovered for reuse.

1.37 Recyclable Materials

"Recyclable Materials" means Residential, Commercial or Industrial source separated by-products of some potential economic value, set aside, handled, packaged, or offered for Collection in a manner different from Refuse.

1.38 Refuse

"Refuse" means Putrescible and non-Putrescible Solid Waste or debris, except sewage, whether combustible or non-combustible.

1.39 Residential

"Residential" refers to property, or Owners of property, which is used for Residential purposes including Single-Family and Multi-Family Dwelling Units, irrespective of whether such dwelling units are rental units or are Owner-occupied.

1.40 Rolloff Box

"Rolloff Box" means an open-top metal Container or closed compactor boxes serviced by a rolloff truck with a capacity of 10 to 50 cubic yards.

1.40A Sand Section

"Sand Section" means approximately one third of the City which runs along the coast and received Residential Collection services manually prior to this Agreement. The Sand Section is to receive automated Collection at the start of service under this Agreement.

1.41 Single-Family

"Single-Family" means pertaining to any Residential Property with only one dwelling unit.

1.42 Solid Waste

"Solid Waste" means all Putrescible and non-Putrescible Refuse, Recyclable Material, and Green Waste, and as otherwise defined in Public Resources Code §40191. Any material that a Customer pays to be hauled away shall be defined to be Solid Waste and not a Recyclable Material.

1.43 State

"State" means the State of California.

1.44 Temporary Service

"Temporary Service" means Solid Waste Collection services provided on a project basis, such as Construction and Demolition projects and occasional clean-up projects using a

Rolloff Box or Bin. Regular Collection of Solid Waste generated by a business' ongoing operations is not included.

1.45 Transformation

"Transformation" means incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. "Transformation" does not include composting.

1.46 Universal Waste

"Universal Waste" means any of the following waste that are conditionally exempt from classification as hazardous wastes pursuant to Title 22 of the California Code of Regulations (22 CCR), section 66261.9: (i) batteries as described in 22 CCR section 66273.2; (ii) thermostats as described in 22 CCR section 66273.4; (iii) lamps as described in 22 ccr section 66273.5; and (iv) cathode ray tube materials as described in 22 CCR section 66273.6.

ARTICLE 2

GRANT AND ACCEPTANCE OF FRANCHISE

2.1 Grant and Acceptance of Franchise

Subject to the terms and conditions of this Agreement, the City hereby grants to the Company a Franchise to Collect, transfer, transport, recycle, process, and dispose of Solid Waste accumulating in the City that is required to be accumulated and offered for Collection to the Company in accordance with this Agreement.

The Company hereby accepts the Franchise on the terms and conditions set forth in this Agreement.

2.2 Administrative Fee

The Company shall pay to the City an Administrative Fee in a one-time lump sum payment equal to One Hundred Ten Thousand dollars (\$110,000) within seven days of execution of this Agreement to reimburse the City for its staff time and out-of-pocket costs of awarding this Franchise.

2.3 Exclusive Nature of Franchise

During the term of this Agreement, except as otherwise provided in Section 2.9, or as may otherwise be provided by federal or State law, the rights granted to the Company under this Agreement shall be exclusive to the Company. The City will not let any contract to, or enter into any agreement with, any other Person for the performance of the services herein required to be performed by the Company.

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

2.4 Effective Date

The effective date of this Agreement shall be _____ ("effective date").

2.5 Term of Agreement

The term of this Agreement shall commence on October 1st, 2010, and expire on June 30th, 2017, with a 12-month extension permitted at the City's option. The City may, upon 90-day advance written notice to Company prior to Agreement expiration, exercise the extension option. The Agreement will automatically renew monthly, up to 12-months unless City gives Company a 30-day written notice of termination.

2.6 Conditions to Effectiveness of Agreement

The obligation of the City to permit this Agreement to become effective and to perform its undertakings provided for in this Agreement is subject to the satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by the City.

- a) Accuracy of Representations. Representations and warranties made by the Company throughout this Agreement are accurate, true and correct on and as of the effective date of this Agreement.
- b) Absence of Litigation. There is no litigation pending in any court challenging the award of this Franchise to the Company or the execution of this Agreement or seeking to restrain or enjoin its performance.
- c) Furnishing of Insurance and Bonds. The Company has furnished evidence of the insurance and bonds required by Article 8.
- d) Effectiveness of the City Council Action. The City's Resolution approving this Agreement shall have become effective pursuant to California law prior to the effective date of this Agreement.

2.7 Proposition 218

This Agreement is contingent upon approval of any refuse pick-up rate increase imposed herein by the Manhattan Beach City Council pursuant to the provisions of Article XIID of the California Constitution. City agrees to undertake the notice and

protest process as provided in Article XIID with respect to any proposed rate increase, to the extent required by applicable law. Should a majority protest, as provided for under Article XIID, invalidate approval of any rate increases provided for herein, City shall have the option to terminate this Agreement with thirty days advance written notice at any time during the remainder of the term.

In addition, if at any time a voter initiative, as provided for in Article XIIC, Section 3, shall invalidate any portion of the fees imposed by the City in furtherance of this Agreement City shall have the option to terminate this agreement with thirty days advance written notice at any time during the remainder of the term. While the Agreement is in effect, Company shall be compensated in accordance with the Agreement terms.

2.8 Delegation of Authority

The administration of this Agreement by the City shall be under the supervision and direction of the Public Works Department, and the actions specified in this Agreement, unless otherwise stated, shall be taken by Public Works Director or the Director's designee.

2.9 Limitations on Scope of Franchise

The Franchise granted to the Company shall be exclusive except as to the categories of Solid Waste listed in this Section 2.9. The granting of this Franchise shall not preclude the categories of Solid Waste listed below from being delivered to and Collected and transported by others provided that nothing in this Agreement is intended to or shall be construed to excuse any Person from obtaining any authorization from the City that is otherwise required by law:

- a) Recyclable Materials source separated from Solid Waste by the Customer and for which Customer sells or is otherwise compensated by other Persons in a manner resulting in a net payment to the Customer;
- b) All Temporary Rolloff Box service;
- c) Temporary Bin service for the Collection of Construction and Demolition Waste;
- d) Roll-Off Box and Bin service provided at Non-City sponsored Special Events;

- e) Construction and Demolition Waste that is incidentally removed by a duly licensed construction or demolition company or as part of a total service offered by said licensed company or by the City, where the licensed company utilizes its own equipment and employees;
- f) Solid Waste, including Recyclable Materials and Green Waste, which is removed from any Premises by the Customer, and which is transported personally by the Customer off such Premises (or by his or her full-time employees) to a processing or Disposal Facility;
- g) Recyclable Materials and Green Waste which are source separated at any Premises by the Customer and donated to youth, civic, or charitable organizations;
- h) Containers delivered for Recycling under the California Beverage Container Recycling Litter Reduction Act, Section 14500, et. seq., California Public Resources Code;
- i) Green Waste removed from a Premises by a gardening, landscaping, or tree trimming company utilizing its own equipment and employees as an incidental part of a total service offered by the company rather than as a hauling service;
- j) Animal waste and remains from slaughterhouse or butcher shops for use as tallow;
- k) By-products of sewage treatment, including sludge, sludge ash, grit and screenings;
- l) Collection using Customer-provided Containers for one-time accumulation of material, and removal of Container for Disposal/processing. This exclusion is intended to include programs providing alternative methods of temporary Collection service that exclude the use of Bins, such as Company's Bagster® program as defined in Sections 1.3A and 1.3B. This exclusion is not intended to permit an alternative to permanent Refuse Collection service;
- m) Hazardous Waste, medical waste, and radioactive waste, regardless of its source; and,
- n) The casual or emergency Collection, removal, Disposal or diversion of Solid Waste by the City through the City officers or employees.

The Company acknowledges and agrees that the City may permit other Persons besides the Company to Collect any or all types of the Solid Waste listed in this Section 2.9, including Recyclable Materials, without seeking or obtaining approval of the Company under this Agreement. City may enter into agreements with other entities for the solid waste and Recycling services not provided for in this Agreement, including but not limited to, Disposal of street sweeping debris and Green Waste from City landscaping maintenance operations, contract services, “niche” Recycling services, and Hazardous Household Waste pickups.

This grant to the Company of an exclusive Franchise, right and privilege to Collect, transport, or process and Dispose of Solid Waste shall be interpreted to be consistent with State and federal laws, now and during the term of the Franchise, and the scope of this exclusive Franchise shall be limited by current and developing State and federal laws with regard to Solid Waste handling, exclusive Franchise, control of Recyclable Materials, Solid Waste flow control, and related doctrines. In the event that future interpretations of current law, enactment or developing legal trends limit the ability of the City to lawfully provide for the scope of Franchise services as specifically set forth herein, the Company agrees that the scope of the Franchise will be limited to those services and materials which may be lawfully provided for under this Agreement, and that the City shall not be responsible for any lost profits claimed by the Company to arise out of further limitations of the scope of the Agreement set forth herein. In such an event, it shall be the responsibility of the Company to minimize the financial impact to other services being provided as much as possible.

2.10 City's Right to Direct Changes

2.10.1 General

The City may direct the Company to perform additional services (including new diversion programs, etc.) or modify the manner in which it performs existing services or bills for services. Pilot programs and innovative services that may entail new Collection methods, different kinds of services and/or new requirements for Customers, and alternative rate structures are included among the kinds of changes that the City may direct. The Company shall be entitled to an adjustment in its Company Compensation for providing such additional or modified services, if Company demonstrates that its cost of service would increase.

2.10.2 New Diversion Programs

The Company shall present, within 30 days of a request to do so by the City, a proposal to provide additional or expanded diversion services. The proposal shall contain a complete description of the following:

- Collection methodology to be employed (equipment, manpower, etc.);
- Equipment to be utilized (vehicle number, types, capacity, age, etc.);
- Labor requirements (number of employees by classification);
- Type of materials Containers to be utilized;
- Provision for program publicity/education/marketing; and,
- Three-year projection of the financial results of the program's operations in an operating statement format including documentation of the key assumptions underlying the projections and the support for those assumptions.

2.10.3 City's Right to Acquire Services

The Company acknowledges and agrees that the City may permit other Persons besides the Company to provide additional Solid Waste services not otherwise contemplated under this Agreement. If pursuant to Section 2.10.2, the Company and the City cannot agree on terms and conditions of such additional or expanded diversion services within ninety (90) days from the date when the City first requests a proposal from the Company to perform such services, the Company acknowledges and agrees that the City may permit Persons other than the Company to provide such services. In the event that City exercises its right to permit third party Persons to provide such services, and if such a decision reduces or eliminates Company's Collection services as contemplated under Article 3 of this Agreement, Company agrees that rates paid to Company will be reduced proportionately.

2.11 Ownership of Solid Waste

Once Solid Waste is collected, ownership and the right to possession shall transfer directly from the Customer to the Company by operation of this Agreement. Subject to the Company's objective to meet the source reduction and Recycling goals which apply

to the City and the City's right to direct the Company to process and dispose of Solid Waste at a particular licensed Solid Waste Facility or to dispose of Solid Waste at a particular licensed Disposal Site, if and only if the City exercises such right by providing specific written direction to the Company, the Company is hereby granted the right to retain, Recycle, process, Dispose of, and otherwise use such Solid Waste, or any part thereof, in any lawful fashion or for any lawful purpose desired by the Company. Subject to the provisions of this Agreement, the Company shall have the right to retain any benefit resulting from its right to retain, Recycle, process, Dispose of, or reuse the Solid Waste, Green Waste, and Recyclable Materials which it Collects. Solid Waste, Green Waste, and Recyclable Materials, or any part thereof, which is disposed of at a Disposal Site or Sites (whether landfill, Transformation Facility, transfer station, processing Facility or Material Recovery Facility) shall become the property of the Owner or operator of the Disposal Site(s) once deposited there by the Company. The City may obtain ownership or possession of Solid Waste placed for Collection upon written notice of its intent to do so, however, nothing in this Agreement shall be construed as giving rise to any inference that the City has such ownership or possession unless such written notice has been given to the Company.

2.12 Company Status

The Company represents and warrants that it is duly organized, validly existing and in good standing under all applicable laws. It is duly licensed and qualified to transact business in the State of California and has the power to provide services as required by this Agreement.

2.13 Company Authorization

The Company has the authority to enter into and perform its obligations under this Agreement. The Board of Directors or partners of the Company (or the shareholders, if necessary) have taken all actions required by law, its articles of incorporation, its bylaws or otherwise to authorize the execution of this Agreement. The Persons signing this Agreement on behalf of the Company have authority to do so. Company shall authorize one employee for the City as a single point of contact for issues arising under this Agreement. City may accept that this employee's actions are taken on behalf of and with the full approval of the Company.

2.14 Annexations

This Agreement extends to any territory annexed to the City during the term of this Agreement which is not within the service area for another solid waste enterprise which qualifies under Public Resources Code Section 49521 to continue to provide solid waste services shall be added to the Franchise area covered by this Agreement. In such event, this Agreement shall become effective as to such area at the earliest possible date permitted by law, and the City agrees that it shall cooperate with the Company to fulfill any requirement necessary for the Company to serve the annexed area consistent with this paragraph.

2.15 Business License

The company and any subcontractors shall annually obtain a City of Manhattan Beach Business License. No contracts for services provided in the City shall be awarded to any vendor until such business license has been obtained, and all fees paid therefore, by the vendor and the subcontractors.

ARTICLE 3

DIRECT SERVICES

3.1 Refuse Collection Services

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

The work to be done by the Company pursuant to this Agreement shall be accomplished in a thorough and professional manner so that the residents within the City are provided reliable, courteous and high-quality Solid Waste Collection at all times.

3.1.1 Residential Refuse Cart Service

Company shall Collect Refuse delivered for Collection by Single-Family Customers and Multi-Family Customers not receiving Bin service not less than once per week. The designated Collection location of Containers, if disputed by the Customer or the Company, shall be determined by the City. Additionally, if in the City's opinion the existing Collection location is inappropriate, the City may require the Customer and/or the Company to relocate the Collection location. City-wide automated Cart service must be implemented by the start of service under this Agreement.

By January 1, 2011, Company will supply each Customer with Refuse Carts of 96- 64- or 32-gallons, as requested by Customer. Beginning January 1, 2011, Single Family Customers shall be charged based upon the size and number of Refuse Carts requested. Multi-Family Cart Customers (two or more units) shall continue to be charged a flat rate for unlimited service. Company may continue providing manual service to Customers in the Sand District prior to January 1, 2011.

3.1.2 Refuse Cart Overage

Residential Cart Customers may periodically generate more Refuse than will fit in the Refuse Cart(s). Residential Customers are therefore entitled to two annual pickups, taking place on the regular Collection day, per calendar year of material that does not fit in the Refuse Cart(s) at no additional cost. One pickup shall consist of up to the equivalent of three (3) large bags, boxes or barrels of Refuse. Contractor shall Collect all Refuse placed for Collection in addition to the foregoing two (2) pickups to be provided at no charge. Residential Customers may be charged per pickup in accordance with the approved rate schedule in Exhibit 2 for overage pickups above two (2) per year. In addition to the two (2) free pickups, Contractor shall Collect all additional Refuse placed out for Collection in the Residential Customer's own Containers (bags, barrels, etc.) at no additional charge for two weeks beginning each December 26. This service is limited to Refuse that could otherwise be placed in the Refuse Cart, and not Bulky Items which are Collected in accordance with Section 1.6 and 3.1.5. Commercial Customers may request Cart overage Collections in accordance with the approved rate, but are not entitled to free overage collections.

3.1.3 Commercial and Multi-Family Service

3.1.3.1 Bin Services

Company shall provide Bin service to Commercial and Industrial Customers and to Multi-Family Customers that use Bins. Company shall Collect and remove all Refuse that is placed in Bins from Multi-Family, Commercial and Industrial Properties receiving Bin service, at least once every week or more frequently if required to handle the waste stream of the Premises where the Bins are located.

Company shall provide exclusive Temporary Bin Service to all Customers requesting such service. However, if Company does not provide the requested Container within 48 hours of request, Customer can call and receive Temporary Service from another company.

Special consideration shall be given when determining the pickup area to ensure that the flow of traffic is not impeded.

3.1.3.2 Commercial Cart or Can Service

Company shall Collect Commercial Refuse placed at the curb in Company-provided 32, 64 or 96-gallon Carts or 30-gallon Cans labeled with the Customer's address and days of the week to be Collected. Company shall provide such service at the frequency requested by the Customer, but not less than once per week.

3.1.4 Rolloff Box Service

Company must provide permanent Rolloff Box service to all Customers requesting service at a rate not to exceed the approved maximum rate contained in Exhibit 2.

3.1.5 On-Call Bulky Waste Pickup

Company shall provide Bulky Waste pickup service to all Customers. Customers will be instructed in educational materials to provide the Company with forty-eight (48) hours notice, and the items will be Collected on the Customer's regular Collection day. However, the Company will Collect Bulky Items set out for Collection on Collection day at Residential Premises, even if the Customer has not notified the Company in advance.

Bulky Waste Collected by Company may not be landfilled or disposed of until the following hierarchy has been followed by Company:

- a) Reuse as is (if energy efficient)
- b) Disassemble for reuse or Recycling
- c) Recycle
- d) Disposal

This hierarchy precludes the use of front- or rear loading packer vehicles for bulky goods unless the compaction mechanism is not used to compact the Bulky Goods, unless they have been designated for Disposal.

3.1.5.1 Single and Multi-Family Customers

Single and Multi-Family Customers, whether Bin, or Cart Customers, are entitled to three Bulky Waste pickups per dwelling unit per year at no additional charge, with

additional pickups Billed in accordance with the approved rate schedule in Exhibit 2. Customers may place up to three (3) items out for Collection per pick-up.

3.1.5.2 Commercial Customers

Company may charge Commercial Bin, Cart, and Can Customers for pickups in accordance with the rate schedule contained in Exhibit 2, based on the number and type of items. Timing and place of pickup shall be arranged so traffic and sidewalks are not obstructed prior to or during pickup.

3.1.6 Commercial Container Overflow Procedures

Bin and Commercial Cart and Can Customers that regularly produce more Solid Waste than their current level of service can accommodate may have their service level increased in accordance with the following procedure:

First Incident in Three Month Period - If more material is placed for Collection than fits in a Container, Company shall photograph the overflowing Container, Collect the Solid Waste, and send to the Customer (at both the service and billing addresses) the picture and a letter instructing that the next instance of an overflowing Container may result in a charge, and possibly in an increase in the level of service.

Second Incident in Three Month Period - Upon the second event of an overfilled Container in a three-month period, Contractor shall photograph the overflowing Container, Collect the Solid Waste, and send to the Customer the picture and a letter instructing that a third incident in that same three month period will result in an increase in the level of service, and that a Container overage fee may be charged in the future to clean up spilled waste or waste left beside Container for Collection.

Third Incident in Three Month Period - Upon the third event of an overfilled Container in a three-month period, Contractor shall photograph the overflowing Container, Collect the Solid Waste, and send to the Customer the picture and a letter documenting the third incident. Thereafter, Company is authorized to deliver the next larger-sized Container, or an additional Container, or increase frequency of Collection, as best addresses Collection needs, to the Premises, and to adjust the service rate to the rate then in effect for service using the delivered Containers.

Container Overage Fee - If Solid Waste was left beside the Container for Collection or Company cleaned up spilled waste from an overflowing container, Company may charge the Container Overage Fee in the approved rate schedule after the third incident in one calendar year, provided Company has sent written warnings for the first two incidents.

3.2 Recycling Services

3.2.1 Residential Recycling Service

Company shall provide weekly Recycling Collection to all Residential Cart Customers on the same day as Refuse Collection. Company will provide each Residential Customer with a Recycling Cart. Company will make available one or more additional Recycling Carts to Customers who regularly recycle more than will fit into their existing Recycling Cart(s). No extra fee will be charged for Recycling service or additional Recycling Carts. By January 1, 2011, Company shall offer 96-, 64- and 32-gallon Recycling Carts to all Customers. Prior to January 1, 2011, Company may continue to provide manual service to Customers in the Sand Section. Company shall Collect and remove all Recyclable Materials placed in Recycling Carts for Collection. Automated service must be implemented City-wide by the start of service under this Agreement.

At a minimum, Recyclable Material Collected shall include, but not be limited to: aluminum cans; glass jars and bottles; steel, bi-metal, and tin cans; empty aerosol containers; PET plastic; HDPE plastic; plastics types 3 - 7 (including polystyrene); plastic bags, shrink wrap, plastic toys and tools, and other plastic materials (if readily identifiable as being recyclable); juice boxes and milk cartons (aseptic packaging, Tetra Pak® and waxed cardboard); Scrap metal, coat hangers and metal foil; newspaper; mixed paper (e.g., ledger, computer, junk mail, magazines, paperback books cereal boxes, envelopes, paper shopping bags and non-metallic wrapping paper); corrugated cardboard; and telephone books.

3.2.2 Commercial Recycling

The Company agrees to provide, at no additional charge, Recycling Collection service to all Refuse Bin service and Commercial Cart and Can Customers requesting it from the Company. Company may purchase Recyclable Materials from its Customers as well. The Company agrees to provide Recycling Bins or Carts to Bin Refuse Customers

in sufficient quantities to meet the Recycling needs of each Customer. Recycling Collection programs shall be made available at a minimum for: aluminum cans; glass jars and bottles; steel, bi-metal, and tin cans; empty aerosol containers; PET plastic; HDPE plastic; plastics types 3 – 7 (including polystyrene); plastic bags, shrink wrap, plastic toys and tools, and other plastic materials (if readily identifiable as being recyclable); juice boxes and milk cartons (aseptic packaging, Tetra Pak® and waxed cardboard); Scrap metal, coat hangers and metal foil; newspaper; mixed paper (e.g., ledger, computer, junk mail, magazines, paperback books cereal boxes, envelopes, paper shopping bags and non-metallic wrapping paper); corrugated cardboard; and telephone books.

The Company also agrees to use commercially reasonable efforts to make programs available for all other Recyclable Materials for which it has established markets. The Company shall notify all Customers via a mailed flyer each year of the availability of Recycling Collection programs.

3.2.3 Funding of City Recycling Needs

Company shall provide the City with \$27,000 on July 1, 2010 as required under the previous agreement for the City to conduct annual Commercial waste reduction and Recycling audits, fund Recycling programs or otherwise support the City’s Solid Waste goals. This amount shall be increased by \$1,000 annually and remitted to the City on each subsequent July 1st as follows:

<u>Payment Date</u>	<u>Payment Amount</u>	<u>Payment Date</u>	<u>Payment Amount</u>
July 1 st , 2011	\$28,000	July 1 st , 2015	\$32,000
July 1 st , 2012	\$29,000	July 1 st , 2016	\$33,000
July 1 st , 2013	\$30,000	July 1 st , 2017*	\$34,000
July 1 st , 2014	\$31,000		

* If City exercises option to extend Agreement to or through July 1st 2017, payment will be prorated based upon the proportion of the 12-month extension granted, up to \$34,000 if extended to June 30, 2018.

3.2.4 Construction and Demolition Waste Recycling

The Company shall make reasonable efforts to prevent Construction and Demolition Waste that is suitable for Recycling from being taken to the landfill by:

- Following the City's Construction and Demolition Debris Diversion requirements of the Municipal Code, to the extent applicable to Company;
- Transporting all Construction and Demolition Waste loads to a Materials Recovery Facility where it will be processed for reuse;
- Inquiring of all Rolloff Box Customers as to the type of Solid Waste to be generated, instructing all potential Construction and Demolition Waste generators regarding how to divert such materials, and providing a how-to brochure with alternative processing Facility contact information; and,
- Contacting contractors on a list provided by the City on a regular basis to educate them on Construction and Demolition Waste diversion.

3.2.5 Marketing and Sale of Recyclable Materials

The Company shall be responsible for marketing and sale of all Recyclable Materials Collected pursuant to this Agreement. Company shall retain proceeds from sales of Recyclable Materials.

3.2.6 Universal Waste

Company shall instruct Customers not to set out universal waste for Collection except through programs included in this Agreement specifically tailored for the Collection of such items, including SHARPS Collection programs, Bulky Waste Collection, or the optional door-to-door HHW Collection program. The Company will utilize facilities to process Universal Waste at its cost and in compliance with all existing regulations regarding Universal Waste. The Company will issue warnings to Customers who inappropriately place Universal Waste in Containers for collection of waste, recyclables, or green waste, and shall tag and not Collect Universal Waste improperly placed for Collection if identified prior to Collection. In the event that Company Collects improperly set-out Universal Waste, Company is responsible for disposing of it at a properly permitted facility.

3.2.7 Residential Food Waste Diversion Pilot Program

Company shall submit a proposal to the City by July 1, 2011 detailing a pilot program to Collect Food Waste from Residential Cart Customers. Program shall be subject to City approval. Company shall conduct the approved Residential food waste pilot program at no additional cost to City or ratepayers, beginning July 1, 2012 (unless start date is extended by City).

Pilot program shall be conducted for a minimum of ninety (90) days. Participants shall include one full Residential route for one day each week.

Company shall collect baseline tonnage data from this route for a 90-day period prior to the start of the pilot program in order to assist in determining the effectiveness of the program. Company shall, at a minimum, report the quantity of Food Waste recovered by the pilot program. Other information to be collected shall be agreed to between City and Company based upon specifics of the program to be implemented. Company shall provide this data to City on a monthly basis within 30 days of the end of each month.

If City instructs Company to implement a Residential food waste program City-wide at any time during the Agreement term (after completion of the pilot program), Company shall receive an adjustment to Company Compensation in accordance with Section 2.10 of the Agreement.

3.2.8 Commercial Food Waste Diversion Pilot Program

Company shall submit a proposal to the City by July 1, 2011 detailing a pilot program to Collect Food Waste from Commercial Food Waste generating Customers. Program shall be subject to City approval. Company shall implement a Commercial Food Waste pilot program for a minimum of ninety days beginning July 1, 2012 (unless start date is extended by City) for 10% of Food Waste generating Commercial Customers in the City at no additional cost to either City, participants or rate payers.

Prior to the start of the pilot program, Company shall meet with all participants to provide management and employee training, the start and end dates, materials to be collected and required Refuse capacity prior to the start of the pilot. . Company collect baseline tonnage data from pilot Customers for a 90-day period prior to the start of the pilot program in order to assist in determining the effectiveness of the program.

Company shall, at a minimum, report the quantity of food waste recovered by the pilot program. Other information to be collected shall be agreed to between City and Company based upon specifics of the program to be implemented. Company shall provide this data to City on a monthly basis within 30 days of the end of each month.

If City instructs Company to implement a Commercial food waste program City-wide at any time during the Agreement term (after completion of the pilot program), Company shall receive an adjustment to Company Compensation in accordance with Section 2.10 of the Agreement.

3.3 Green Waste Program

3.3.1 Residential Green Waste Collection

Company shall provide weekly Collection of Green Waste on the same day as Refuse and Recycling Collection to all Refuse Cart Customers. By January 1, 2011, Company shall issue each Green Waste Customer one 96-, 64- or 32-gallon Green Waste Cart. Company shall make available one or more additional Green Waste Carts to Customers that regularly separate more Green Waste than will fit in their current Cart(s). Green Waste Services and additional Green Waste Carts shall be provided at no additional charge. Prior to January 1, 2011, Company may continue to provide manual service to Customers in the Sand Section. Company shall Collect an unlimited amount of tied bundles of Green Waste. Green Waste bundles are limited to the Manhattan Beach City Code 5.24.010(E) size restrictions of bundles a maximum of forty-eight (48) inches long and twenty-four (24) inches in diameter, and bundled weight limit of fifty (50) lbs.

Florists and nurseries will be entitled to Residential-style Green Waste Cart service at a rate equal to 50% of the comparable Refuse rate for the same size Container and frequency of service.

3.3.2 Rolloff Box Service

Company shall make permanent Rolloff Box Green Waste Collection available to all Customers at a rate not to exceed the Rolloff Box Refuse rate for Collection and Disposal.

3.3.3 Holiday Tree Collection Program

Company shall operate and notify Customers about an annual Holiday Tree Collection and Recycling program. The program shall include both Collection from Single Family and Multi-Family Customers. Collection period shall be from the first Collection day after December 25 and ending on the second Saturday in January. The Company shall reasonably cooperate with the City in the scheduling and operation of the Holiday Tree Collection program. Trees must be cut into lengths no longer than seven (7) feet, be free of ornaments, garlands, and tinsel, and stands must be removed. Trees shall be diverted from Disposal.

3.3.4 End Uses for Green Waste

Company shall divert Green Waste materials from Disposal. The Company must provide end uses for Green Waste that maximize diversion credits for the City according to regulations established by the California Integrated Waste Management Board.

3.3.5 Compost Bin Distribution

Company shall purchase composting bins approved by the City and deliver one to each Residential Customer that requests one. Company will bill Customer a co-pay amount to be determined by City. The difference between the amount billed to the Customer and the actual cost of the bin to the Company (excluding delivery or other associated costs) shall be reimbursed to Contractor by the City. City may inform Contractor as to an annual cap or overall cap on the number of compost bins to be distributed.

Company shall develop a public education flyer for this program and provide it to City for distribution. Company shall conduct three annual, one-hour composting classes, in May, July and October of each year.

3.4 Warning Notice

The Company shall warn Customers who have non-Recyclable Materials in their Recycling Container or contaminated Green Waste in their Green Waste Container. If, after two sequential written warnings, the Container continues to be contaminated, the Company may remove the Recycling or Green Waste Container from Customers who

fail to sort properly and segregate Recyclable Materials or Green Waste. The Company shall report monthly to the City any warning notices issued.

3.5 Commercial Mixed Waste Processing

Company shall send a minimum of 2,730 tons of Bin and Commercial Cart or Can Refuse it Collects on an annual, calendar basis for processing to recover Recyclables. The annual tonnage requirement shall be pro-rated for October 1 through December 31, 2010. Company shall ensure at least a 50% recovery (at least 1,365 tons) of Recyclables from this processing or will process a sufficient number of additional tons to recover 1,365 tons. This program shall be conducted at no additional cost to City or rate payers.

3.6 City Services

3.6.1 City Facilities Collection

Company shall Collect and dispose of all Solid Waste generated and Recyclable Materials and Green Waste accumulated at Premises owned and/or operated by the City at no additional charge, including Bulky Waste items placed for Collection by City. Such Premises include, but are not limited to, offices, parks, street maintenance operations, and Street Litter Containers (see Section 3.6.4 below). Collections shall be scheduled at a time mutually agreed upon by the Company and the City. Company will provide all Containers required.

3.6.2 City Facilities Hazardous Waste Collection

Company shall Collect as needed and properly dispose of hazardous waste that is generated by City Staff or at City facilities at no additional charge. Quantities of materials to be Collected at no additional charge each year shall be reasonably consistent with (defined as no more than 20% higher than) quantities of materials included in Exhibit 9. City shall contact Company when a pickup is needed, indicating the type of material in need of Collection, and arrange for a Collection.

3.6.3 Abandoned Item Collection

Company shall Collect items abandoned in the public right-of-way within 24 hours of notification by City at no additional charge.

3.6.4 Street Litter Containers

Company shall Collect and dispose of all Solid Waste deposited in City's Street Litter Containers as necessary to prevent overflow at no additional cost at all existing locations to be identified and documented by City and Company within sixty (60) days of the execution of this Agreement. Additional Recycling Containers may be added by City for Company Collection at no additional charge. The number of street litter Refuse Containers to be Collected at no additional charge may be increased during the term at an amount proportional to the growth in real overall Customer rate revenues.

3.6.5 City Sponsored Events

The Company shall provide Solid Waste and Recycling Collection service at City designated events each year. This shall include providing Containers to Collect and Dispose of all Solid Waste, using both waste boxes and Bins, and providing Containers to Collect source-separated Recyclables. City shall also direct Company to provide Roll-Off Boxes and service sixty-three (63) Rolloff Boxes pulls per calendar year for select City events. City shall instruct Company at which events these Rolloff Box pulls will be used. The Company shall provide these services at no additional cost to the City, the ratepayers, or the event sponsors. Such events include, but are not limited to, those listed in Exhibit 7.

3.6.6 Emergency Collection and Disposal Service

Company will assist City at the City's request for emergency Collection and Disposal service (in the event of major disaster, such as an earthquake, storm, tidal wave [tsunami], riot or civil disturbance), or as otherwise determined necessary by the City), by providing Collection vehicles and drivers normally assigned to the City, at the rates provided in Exhibit 2. The rate for this service is to remain fixed for the term of the Agreement.

3.6.7 Sharps Collection Program

Company shall arrange for Sharps containers to be delivered directly to requesting Residential Customers, both Single and Multi-Family. Each individual resident may receive up to three containers per year. Sharps containers shall either be pre-paid mail back containers, or, if the City implements the door-to-door HHW collection program

in Exhibit 9, Company may alternatively arrange for door-to-door Collection of such containers through this program. "Sharps waste" includes, but is not limited to, hypodermic needles, pen needles, intravenous needles, lancets, and other devices that are used to penetrate the skin for the delivery of medications or medical testing. Company will develop and distribute public education materials to promote this program. This program will be provided at no additional charge to City or Customers and shall be operational within 30 days of the execution of this Agreement. This mail-back Sharps program may be supplemented by a community-based program that includes free drop-off locations in the City.

3.7 Containers

3.7.1 Carts

3.7.1.1 Initial Residential Cart Distribution

Company shall mail a return postage paid postcard and information describing the new rate structure and Cart options to all Residential Cart Customers, including Customers with existing Carts and Customers in the Sand Section that will receive Carts and begin automated Collection under this Agreement. Company must obtain City approval of post card and information to be sent prior to distribution. Postcard will provide Customers with an opportunity to select the size and number of Refuse, Recycling and Green Waste Carts to be delivered or retained. Company shall deliver or adjust the Carts received or retained by each Customer. If a selection is not made, Sand Section Customers will receive one Refuse Cart and one Recycling Cart, each 64-gallons. If existing automated Customers do not respond, Company may make no change and charge Customer based upon Carts currently in distribution. Carts will be fully distributed to the Sand Section prior to January 1, 2011.

Customers with existing automated service may request one Cart exchange at no charge within 90 days after the initial distribution/exchanges based upon mailed Customer responses. Sand Section Customers, and other Customers after one exchange, may request Cart exchanges in accordance with the approved rate schedule. One Cart exchange includes all Cart adjustments requested at one time, and multiple Carts and Cart types may be exchanged.

Company may continue to use Carts distributed to Residential Customers prior to the start of service under this Agreement, provided the Carts meet all Agreement requirements. Company may distribute new or refurbished Carts, subject to City's approval of Carts and provided the Carts meet all requirements of this Agreement, including quality and uniformity of color.

3.7.1.2 Removal of Existing Cans from Sand Section

Upon and after distributing Carts to the newly automated Sand Section, Company shall remove, and Recycle to the extent possible before Disposing, Company-provided and Customer-provided Cans, if Customer does not intend to retain the Cans. Company shall establish and advertise a system whereby Customers can indicate what Cans should and should not be Collected.

3.7.1.3 Cart Design Requirements

The Carts shall be manufactured by injection or rotational molding and meet the Cart design and performance requirements as specified below. All Carts selected shall be subject to City approval.

3.7.1.4 Capacity

The Company shall provide Carts in three sizes for Residential Refuse, Recycling and Green Waste Collection. Sections 3.1, 3.2 and 3.3's references to Cart sizes of 35, 64, and 96-gallons are approximate. Acknowledging the different sizes provided by the various Cart manufacturers, the Carts shall be uniform in appearance and must conform to the following ranges in size:

- 30 to 40-gallons,
- 60 to 70-gallons, and
- 90 to 101-gallons.

3.7.1.5 Cart Handles

The Cart handles and handle mounts may be an integrally molded part of the Cart body or molded as part of the lid. The Cart handles will provide comfortable gripping area for pulling or pushing the Cart or lifting the lid. Pinch points are unacceptable.

3.7.1.6 Cart Lid

Each Container shall be provided with a lid that continuously overlaps and comes in contact with the Container body or otherwise causes an interface with the Container body that simultaneously:

- Prevents the intrusion of rainwater, rodents, birds, and flies;
- Prevents the emission of odors;
- Enables the free and complete flow of material from the Container during the dump cycle without interference with the material already deposited in the truck body or the truck body itself and its lifting mechanism;
- Permits users of the Container to conveniently and easily open and shut the lid throughout the serviceable life of the Container;
- The lid handle shall be an integrally molded part of the lid;
- The lid (and body) must be of such design and weight that would prevent an empty Container from tilting backward when flipping the lid open; and,
- The lid shall be hinged to the Cart body in such a manner so as to enable the lid to be fully opened, free of tension, to a position whereby it may rest against the backside of the Container body.

3.7.1.7 Cart Colors

The Refuse, Recycling and Green Waste Carts will be differentiated by color. The colors shall be colorfast and resistant to fading as a result of weathering or ultraviolet degradation. Color must be uniform within each Container. Refuse Carts will be black, brown or gray. Recycling Carts will be blue. Green Waste Carts will be green.

3.7.1.8 Identification Markings

All markings on the Containers shall be approved by the City in advance of ordering Carts. An arrow (at least 3 inches by 5 inches) hot stamped in white color shall be placed on the lid, indicating the direction of Cart placement.

In character size of no less than 3/16 inch, the phrase:

PLACE CONTAINER WITH ARROW FACING

STREET FOR COLLECTION

COLOQUE EL RECIPIENTE CON LAS FLECHAS

HACIA LA CALLE

Additionally, the **REFUSE, RECYCLING** or **GREENWASTE** must be hot stamped in white color on the front or sides of the Cart in characters no less than one inch.

Company shall develop labels identifying materials that are and are not permitted in each Cart type, in English and Spanish, with graphics, and shall place labels on all Carts delivered to Customers, including newly delivered Carts in the Sand Section, Carts delivered to new Customers, extra Cart requests, and replacements of damaged or stolen Carts. Existing Carts in service at Customer locations shall only be provided with new labels upon Customer request.

3.7.2 Cart Performance Requirements

All Carts shall be designed and manufactured to meet the minimum performance requirements described below.

3.7.2.1 Cart Load Capacity

Depending on the capacity, the Carts shall have a minimum load capacity as noted below without Container distortion, damage, or reduction in maneuverability or any other functions as required herein.

Cart Size (Gallons)	Minimum Load Capacity (LBS)
90-101	200
60-70	130
30-40	70

3.7.2.2 Cart Durability

Carts shall remain durable, and at a minimum, shall meet the following durability requirements to satisfy its intended use and performance, for the term of this Contract:

- Maintain its original shape and appearance;
- Be resistant to kicks and blows;
- Require no routine maintenance and essentially be maintenance free;
- Not warp, crack, rust, discolor, or otherwise deteriorate over time in a manner that will interfere with its intended use;
- Resist degradation from ultraviolet radiation;
- Be incapable of penetration by biting or clawing of household pets (i.e., dogs and cats);
- The bottoms of Cart bodies must remain impervious to any damage, that would interfere with the Cart's intended use after repeated contact with gravel, concrete, asphalt or any other rough and abrasive surface;
- All wheel and axle assemblies are to provide continuous maneuverability and mobility as originally designed and intended; and,
- Resist degradation by other airborne gases or particulate matter currently present in the ambient air of the City.

3.7.2.3 Chemical Resistant

Carts shall resist damage from common household or Residential products and chemicals. Carts, also, shall resist damage from human and animal urine and feces.

3.7.2.4 Stability and Maneuverability

The Carts shall be stable and self-balancing in the upright position, when either empty or loaded to its maximum design capacity with an evenly distributed load, and with the lid in either a closed or open position.

The Carts shall be capable of maintaining its upright position in sustained or gusting winds of up to 25 miles per hour as applied from any direction.

The Carts shall be capable of being easily moved and maneuvered, with an evenly distributed load equal in weight to its maximum design capacity on a level, sloped or stepped surface.

3.7.2.5 Lid Performance

Cart lid assemblies shall meet the following minimum requirements:

- Prevent damage to the Cart body, the lid itself or any component parts through repeated opening and closing of the lid by residents or in the dumping process as intended;
- Remain closed in winds up to 25 miles per hour from any direction. All lid hinges must remain fully functional and continually hold the lid in the original designed and intended positions when either opened or closed or any position between the two extremes; and,
- Lid shall be designed and constructed such that it prevents physical injury to the user while opening and closing the Container.

3.7.2.6 Reparability

Minor cracks, holes, and other damages to hinges, wheels, axle, hardware, and other component parts shall be readily repairable by the contractor personnel. All repairs must restore the Container to its full functionality to meet the design and performance requirements as set for herein.

3.7.3 Can Design and Performance Requirements

The Cans shall be manufactured by injection or rotational molding and meet the Can design and performance requirements as specified below. All Cans selected shall be subject to City approval.

3.7.3.1 Capacity

The Company shall provide Cans for Commercial Refuse when Commercial Customers cannot accommodate a Cart or Bin. References in this Agreement to a Can size of 30-

gallons is approximate. Acknowledging the different sizes provided by the various Can manufacturers, the Cans shall be uniform in appearance and must be 30 to 35-gallons in size.

3.7.3.2 Can Handles

The Can handles will provide comfortable gripping area for carrying the Can.

3.7.3.3 Can Lid

Each Container shall be provided with a lid that continuously overlaps and comes in contact with the Container body or otherwise causes an interface with the Container body that simultaneously:

- Prevents the intrusion of rainwater, rodents, birds, and flies;
- Prevents the emission of odors;
- Is easily removed by driver for Collection;
- Permits users of the Container to conveniently and easily open and shut the lid throughout the serviceable life of the Container; and,
- The lid handle shall be an integrally molded part of the lid.

3.7.3.4 Can Colors

The Commercial Refuse Cans and the Residential and Commercial Recycling and Residential Green Waste (if applicable) Cans will be differentiated by color. The colors shall be colorfast and resistant to fading as a result of weathering or ultraviolet degradation. Color must be uniform within each Container. Commercial Refuse Cans will be black, brown or gray. Recycling Cans will be blue. Green Waste Cans will be green.

3.7.3.5 Identification Markings

All markings on the Containers shall be approved by the City in advance of ordering Cans. For Residential Containers, **RECYCLING** or **GREENWASTE** must be hot stamped in white color on the side of the Can in character size of no less than one inch.

Commercial Refuse Cans shall be labeled to identify the Customer's address and days of the week that the Can is to be Collected. Markings may be made by hot stamping, applying stickers, or another method, provided the method is approved by the City in advance and the character size is no less than one inch and clearly distinguishable.

3.7.3.6 Can Load Capacity

Cans shall have a sufficient load capacity so that the Container will not experience distortion, or damage or loss of any other functions as required herein when fully loaded.

3.7.3.7 Can Durability

Cans shall remain durable, and at a minimum, shall meet the following durability requirements to satisfy its intended use and performance, for the term of this Contract:

- Maintain its original shape and appearance;
- Be resistant to kicks and blows;
- Require no routine maintenance and essentially be maintenance free;
- Not warp, crack, rust, discolor, or otherwise deteriorate over time in a manner that will interfere with its intended use;
- Resist degradation from ultraviolet radiation;
- Be incapable of penetration by biting or clawing of household pets (i.e., dogs and cats);
- The bottoms of Can bodies must remain impervious to any damage, that would interfere with the Can's intended use after repeated contact with gravel, concrete, asphalt or any other rough and abrasive surface; and,
- Resist degradation by other airborne gases or particulate matter currently present in the ambient air of the City.

3.7.3.8 Chemical Resistant

Cans shall resist damage from common household or Residential products and chemicals. Cans, also, shall resist damage from human and animal urine and feces.

3.7.3.9 Reparability or Replacement

Minor cracks, holes, and other damages shall be readily repairable by the contractor personnel or else the Can shall be replaced. All repairs must restore the Container to its full functionality to meet the design and performance requirements as set for herein

3.7.4 Cart and Can Ownership and Maintenance Responsibilities

The Company shall be responsible for Cart and Can repair and maintenance, and replacing lost, stolen or damaged Carts and Cans within three business days at no additional charge to the Customer or to the City. Graffiti shall be removed or the Container replaced within one business day. However, the Company may charge the Customer for repairing or replacing a Cart or Can if the damage was due to the Customer's willful negligence or abuse. In no event shall this charge be greater than the Company's actual cost for replacement parts or the new Cart or Can. All Carts and Cans previously distributed to Customers or provided under this Contract shall remain the property of Company.

3.7.5 Bins and Compactors

The Company shall provide Customers with Bins, or Compactors upon request, for Collection of Solid Waste. Customers may obtain Bin Compactors and Roll-Off Compactors from either Company or a third party; the leasing of such equipment is outside the scope of this Agreement. The Company shall maintain its Containers in a clean, sound condition free from Putrescible residue. Containers shall be constructed of heavy metal, or other suitable, durable material, and shall be watertight and well painted. Wheels, forklift slots, and other appurtenances, which were designed for movement, loading, or unloading of the Container, shall be maintained in good repair. Company shall inspect, and if necessary or requested by the Customer, clean or replace all Containers once per year at no charge. Company shall perform cleaning or replacement of Containers more frequently if necessary, for an additional fee, to prevent a nuisance caused by odors or vector harborage. Customer may request additional cleanings at \$35 per cleaning. Company shall remove graffiti at no

additional charge from any Container within twenty-four (24) hours of request by City or Customers. All Bins and Compactors provided by Company shall remain the property of Company.

Each Container placed in the City by the Company shall have the name and phone number of the Company in letters not less than three inches high on the exterior of the Container so as to be visible when the Container is placed for use. The Company shall identify the Containers that are assigned to each Commercial and Industrial Customer, and each Multi-Family Customer with Bin service, using a method that is acceptable to the City. Company shall repaint Bins upon the City's request.

3.7.6 Rolloff Boxes

The Company shall provide clean Rolloff Boxes, free from graffiti, equipped with reflectors, and shall have the name and phone number of the Company in letters not less than three inches high on the exterior of the Container so as to be visible when the Container is placed for use. The Company shall properly cover all open Rolloff Boxes during transport as required by the State Vehicle Code.

3.8 Diversion Requirements

The minimum amount that shall be diverted through Recycling, Green Waste Collection, Mixed Waste Processing, and Transformation is 50% of the waste Collected during each year of this Agreement. Diversion achieved by Transformation shall consist of a maximum of 10% of the waste Collected. Should the City not reach the AB 939 50% diversion goal for its entire waste stream, and if the City determines that the Company has not maximized diversion from the services and programs contemplated under this Agreement, the Company agrees to undertake reasonable efforts to implement programs and provide equipment necessary in order for the City to meet the 50% diversion goal.

3.9 Operations

3.9.1 Schedules

To preserve peace and quiet, no Solid Waste shall be Collected between the hours of 6:00 P.M and 7:30 A.M. Site and route-specific exemptions may be made to this limitation by City's Director of Public Works. Company shall adjust the early morning

start point of Collection routes to address and minimize service complaints when warranted and as practicable. If the regularly scheduled Collection day falls on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, or Christmas Day, alternate Collection shall be performed on the following day. All other Collection days falling on a legal holiday shall remain as scheduled. Residential Collection shall only take place Monday through Friday, except when Saturday Collection is necessary due to a holiday.

The Company shall be prepared to review its operations plan outlining the Collection routes, intervals of Collection and Collection times for all materials Collected under this Agreement with the City once annually upon 30-day written notice requesting said review. More frequent reviews may be required if operations are not satisfactory based on documented observations or reports of complaints. If the plan is determined to be inadequate by the City, the Company shall revise its plan incorporating any changes into a revised plan and review said revised plan with the City within thirty (30) calendar days.

3.9.2 Vehicles

A. General. The Company shall provide Collection vehicles sufficient in number and capacity to efficiently perform the work required by this Agreement in strict accordance with its terms as described in this Agreement. Any additional vehicles/routes that may be required to meet the service standards during the term of this Agreement shall be done so at the Company's sole expense. The Company shall have available on Collection days sufficient back-up vehicles for each type of Collection vehicle used to respond to complaints and emergencies.

B. Specifications. At no time during the Agreement term shall Company use vehicles for the Collection of Solid Waste in the City that are more than ten (10) years old. Company may submit a written request to City, subject to approval at the City Manager's unfettered discretion, to retain a vehicle in use in the City beyond 10 years. All route vehicles shall use liquefied natural gas (LNG) or compressed natural gas (CNG). Company shall be in compliance with all rules and regulations currently in force or passed during the contract term, including SCAQMD Rule 1193, and the Air Resource Board's proposed new emission standards for Refuse removal vehicles, as well as rules or regulations not yet proposed. No rate adjustments shall be made for

such changes in law. All vehicles used by the Company in providing Solid Waste Collection services shall be registered with the California Department of Motor Vehicles. All such vehicles shall have watertight bodies designed to prevent leakage, spillage or overflow.

C. Vehicle Identification. The Company's name, local telephone number, and a unique vehicle identification number designed by the Company for each vehicle shall be prominently displayed on all vehicles, in letters and numbers no less than (3) three inches high. The Company shall not place the City's name and/or any City logos on the Company vehicles. Vehicles shall all be painted in a standard color.

D. Cleaning and Maintenance

- 1) The Company shall maintain all of its properties, vehicles, Facilities, and equipment used in providing service under this Agreement in a good, safe, neat, clean and operable condition at all times.
- 2) Vehicles used in the Collection of Solid Waste shall be painted, thoroughly washed, and thoroughly steam cleaned on a regular basis so as to present a clean appearance. The City may inspect vehicles at any time to determine compliance with this Agreement. The Company shall also make vehicles available to the Los Angeles County Health Department for inspection, at any frequency it requests. The Company agrees to replace or repair to the City's satisfaction, any vehicle that the City determines to be of unsightly appearance, leaking, or in unsatisfactory operating condition.
- 3) The Company shall repaint all vehicles used in the Collection of Solid Waste within sixty (60) days' notice from the City, if the City determines that their appearance warrants painting. City shall not request that vehicles be painted more than once every two years.
- 4) The Company shall inspect each vehicle daily to ensure that all equipment is operating properly. Vehicles that are not operating properly, or vehicles in such a condition as to be unsafe or excessively noisy, shall be removed from service until repaired and operating properly. The Company shall reasonably perform all scheduled maintenance functions in accordance with the manufacturer's specifications and schedule. The Company shall keep accurate records of all

vehicle maintenance, recorded according to date and mileage (or hours of operation) and shall make such records available to the City upon request.

- 5) The Company shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition. The Company shall maintain accurate records of repair, which shall include the date and mileage (or hours of operation), nature of repair and the verification by signature of a maintenance supervisor that the repair has been properly performed.
- 6) Upon request by the City, the Company shall furnish the City a written inventory of all equipment, including Collection vehicles, used in providing service, and shall update the inventory annually. The inventory shall list all equipment by manufacturer, ID number, date of acquisition, type, and capacity.

E. Operation.

- 1) Vehicles shall be operated in compliance with the California Vehicle Code, and all applicable safety and local ordinances. The Company shall not load vehicles in excess of the manufacturer's recommendations or limitations imposed by State or local weight restrictions on vehicles.
- 2) Equipment shall comply with US EPA noise emission regulations, currently codified at 40 CFR Part 205 and other applicable noise control regulations, and shall incorporate noise control features throughout the entire vehicle. In no event shall the noise level of equipment used for Collection exceed 75 dB when measured at a distance of twenty-five (25) feet from the vehicle, five (5) feet from the ground. Company shall submit to the City, upon City's request, a certificate of vehicle noise level testing of all vehicles by an independent testing entity. The Company shall store all equipment in safe and secure locations in accordance with the City's applicable zoning regulations.
- 3) Subject to Section 8.1, the Company shall be responsible for any damage resulting from or directly attributable to any of its operations, and which it causes to: the City's driving surfaces (excluding normal wear and tear), whether

or not paved; associated curbs, gutters and traffic control devices; other public improvements; and private roads and alleys.

- 4) Company shall consider implementing evolving technology, such as GPS for vehicle tracking.

F. City Inspection Per Code. The City may cause any vehicle used in performance of this Agreement to be inspected and tested at any commercially reasonable time and in such manner as may be appropriate to determine that the vehicle is being maintained in compliance with the applicable provisions of the State Vehicle Code, including all Vehicle Code sections regarding smog equipment requirements. The City may direct the removal of any vehicle from service if that vehicle is found to be in nonconformance with applicable codes. No vehicle directed to be removed from service by the City shall be returned to service until it conforms with, and its return to service has been approved by, the City.

G. Brake Inspections. The brake system of each vehicle used in performance of this Agreement shall be inspected and certified according to State law by the California Highway Patrol or by a brake inspection station licensed by the California Highway Patrol. Notice of certification shall be made available to the City within thirty (30) days of request. Failure to submit the required certification if requested shall be grounds for terminating this Agreement.

H. Correction of Defects. Following any inspection, the Public Works Director shall have the right to cause the Company, at its sole cost and expense, to recondition or replace any vehicle or equipment found to be unsafe, unsanitary or unsightly. The Public Works Director's determination may be appealed to the City Council, which decision shall be final.

3.9.3 Litter Abatement

A. Minimization of Spills. The Company shall use due care to prevent Solid Waste or fluids from leaking, being spilled and/or scattered during the Collection or transportation process. If any Solid Waste or fluids leak or are spilled during Collection, the Company shall promptly clean up all such materials. Company shall notify City within 30 minutes of spill of any material with the potential to reach the

storm drains, including all liquids. Each Collection vehicle shall carry a broom and shovel at all times for this purpose.

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

B. Clean Up. During the Collection or transportation process, the Company shall clean up litter in the immediate vicinity of any Solid Waste storage or Collection area whether or not the Company has caused the litter. The Company shall identify instances of repeated spillage not caused by it directly with the Customer responsible and will report such instances to the City. The City will attempt to rectify such situations with the Customer if the Company has already attempted to do so without success.

3.9.4 Personnel

The Company shall furnish such qualified drivers, mechanical, supervisory, clerical, management and other personnel as may be necessary to provide the services required by this Agreement in a satisfactory, safe, economical and efficient manner. All drivers shall be trained and qualified in the operation of vehicles they operate and must possess a valid license, of the appropriate class, issued by the California Department of Motor Vehicles.

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

The Company shall train its employees in Customer courtesy, shall prohibit the use of loud or profane language, and shall instruct Collection crews to perform the work quietly. The Company shall use its best efforts to assure that all employees present a neat appearance and conduct themselves in a courteous manner. If any employee is found to be discourteous or not to be performing services in the manner required by this Agreement, the Company shall take all necessary corrective measures including,

but not limited to, transfer, discipline or termination. If the City has notified the Company of a complaint related to discourteous or improper behavior, the Company will consider reassigning the employee to duties not entailing contact with the public while the Company is pursuing its investigation and corrective action process.

The Company shall provide suitable operations, health, and safety training for all of its employees who use or operate equipment or who are otherwise directly involved in Collection or other related operations.

3.9.5 Identification Required

The Company shall provide its employees, companies and subcontractors with identification for all individuals who may make personal contact with residents or businesses in the City. The City may require the Company to notify Customers yearly of the form of said identification. The Company shall provide a list of current employees, companies, and subcontractors to the City upon request.

The City reserves the right to perform a security and identification check through law enforcement agencies upon the Company and all its present and future employees, in accordance with accepted procedures established by the City, or for probable cause.

3.9.6 Fees and Gratuities

The Company shall not, nor shall it permit any agent, employee, or subcontractors employed by it, to request, solicit, demand, or accept, either directly or indirectly, any compensation or gratuity for the Collection, transportation, Recycling, processing, and Disposal of Solid Waste other than required under this Agreement.

3.9.7 Non-Discrimination

The Company shall not discriminate in the provision of service or the employment of Persons engaged in performance of this Agreement on account of race, color, religion, sex, age, physical handicap or medical condition in violation of any applicable federal or State law.

3.9.8 Change in Collection Schedule

The Company shall notify the City forty-five (45) days prior to, and Residential Customers not later than fourteen (14) days prior to, any change in Collection operations which results in a change in the day on which Residential Solid Waste Collection occurs. The Company will not permit any Customer to go more than seven (7) days without service in connection with a Collection schedule change. The City's approval of any change in Residential Collection is required prior to such change, and such approval will not be withheld unreasonably.

Any changes in the route map or Collection schedule shall require the prior approval of the City. The City may require changes in the route map or Collection schedule, to improve service, to resolve complaints or for other reasons.

3.9.9 Report of Accumulation of Solid Waste; Unauthorized Dumping

The Company shall direct its drivers to note the addresses of any private Premises at which they observe that Solid Waste is accumulating and is not being delivered for Collection; and the address, or other location description, at which Solid Waste has been dumped in an apparently unauthorized manner. The Company shall deliver the address or description to the City within five (5) working days of such observation. Company shall cooperate with City in the investigation and prosecution of any violations of the Manhattan Beach City Code, health codes or other laws.

3.10 Transportation, Disposal and Processing

The Company shall transport all Refuse Collected under Section 3.1 to a transfer station, MRF, Transformation Facility or Disposal Site. Unless the City otherwise obtains ownership of the Solid Waste or Refuse stream as described in Section 2.11, the primary Disposal Site shall be the El Sobrante Landfill. The Company agrees to make all reasonable efforts to separate Recyclable Materials from Refuse for diversion from landfill Disposal.

The Company shall maintain complete, accurate and up-to-date records of the quantities of Solid Waste transported to the transfer station, MRF, Transformation Facility or Disposal Site and will cooperate with the City in any audits or investigations of such quantities.

The City reserves the right to designate the Solid Waste Facility (whether landfill, Transformation Facility, transfer station, processing Facility or Material Recovery Facility) at a later date. City and Company will use their best efforts to obtain indemnification against CERCLA, State Environmental Laws, and related claims from the operator of the landfill or other destination the City designates. In the event that City selects a Disposal Site or other Facility, the City or Company is entitled to a rate adjustment to offset an increase or decrease in rates due to a significant change in tip fee or transportation costs.

3.11 Status of Disposal Site

Any Disposal Site utilized by the Company shall be designed and constructed in accordance with 23 California Code of Regulations Section 2510 *et seq.* ("Subchapter 15"). Any such landfill must have been issued all permits from federal, State, regional, county and the City agencies necessary for it to operate as a Class III Sanitary Landfill and is in full regulatory compliance with all such permits.

3.12 Annual Route Audit

Once during the first year and every other year thereafter, the Company shall conduct an audit of its Collection routes in the City. The annual route audit, at minimum, shall consist of an independent physical observation by person(s) other than the route driver or route supervisor of each Residential and Commercial Customer in the City. The annual route audit information shall include, at a minimum, the following information for each account:

For Residential Cart Customers:

- Route Number;
- Truck Number;
- Number and size of Carts by waste stream (Refuse, Recycling, Green Waste);
- Service Address; and,
- Cart condition.

For Commercial and Multi-Family Bin Customers:

- Route Number;
- Truck Number;
- Account Name;

- Account Number;
- Account Service Address;
- Whether each individual address is Commercial or Multi-Family;
- Number of Residential Dwelling units at each Multi-Family account;
- Service Level per Billing System (Quantity, Size, Frequency);
- Service Level per Routing System;
- Observed Containers (Quantity and Size).
- Bin condition;
- Proper signage; and,
- Graffiti.

Within 30 days after the completion of the route audit, the Company shall submit to the City a report summarizing the results of the annual audit. One copy shall be submitted to the Public Works Director and one to the City's billing manager. This summary shall include:

- Identification of the routes;
- Truck numbers;
- Number of accounts, by route and in total (Residential Cart, Multi-Family Bin, and Commercial);
- Types of billing and service exceptions observed;
- Number of billing and service exceptions by type;
- Total monthly billing, pre-audit;
- Total monthly billing, post-audit (subsequent to corrections of identified exceptions; and,
- Percentage of billing and service exceptions:
 - Percentage of the number of accounts with errors to the total number of accounts served;
 - Percentage of the "net" change in monthly billing as a result of the audit to the total pre-audit monthly billing; and,
 - Percentage of the "absolute" change in net monthly billing as a result of the audit to the total "pre-audit" monthly billing.

The report shall include a description of the procedures followed to complete the annual route audit. This description shall include the names and titles of those supervising the route audits and the name and titles of those performing the observations. Additionally, the report shall include a description of the pre-audit training of the route auditors, particularly if temporary personnel are used.

The report shall also include a description of the changes and the Company's plans to resolve the exceptions. The results of the annual audit shall be available for review by the City or its representative.

3.13 Service Exceptions; Hazardous Waste Notifications

A. Failure to Collect. When Solid Waste is not Collected from any Customer, the Company shall notify the Customer in writing, at the time Collection is not made, through the use of a "tag" or otherwise, of the reasons why the Collection was not made.

B. Hazardous Waste Inspection and Reporting. The Company reserves the right and has the duty under law to inspect Solid Waste put out for Collection and to reject Solid Waste observed to be contaminated with Hazardous Waste and the right not to Collect Hazardous Waste put out with Solid Waste. The Company shall notify all agencies with jurisdiction, if appropriate, including the California Department of Toxic Substances Control and Local Emergency Response Providers and the National Response Center of reportable quantities of Hazardous Waste, found or observed in Solid Waste anywhere within the City. In addition to other required notifications, if the Company observes any substances that it or its employees reasonably believe or suspect to contain Hazardous Wastes unlawfully disposed of or released on any City property, including storm drains, streets or other public rights of way, the Company will immediately notify the Public Works Director or the Public Works Director's designee.

C. Hazardous Waste Diversion Records. The Company shall maintain records showing the types and quantities, if any, of Hazardous Waste found in Solid Waste and which was inadvertently Collected from Customers within the City, but diverted from landfilling.

3.14 Hazardous Waste Management Component

The Company shall maintain a Hazardous Waste Management Plan and make it available to the City upon request.

ARTICLE 4
OTHER SERVICES

4.1 Services and Customer Billing

4.1.1 Company Billing

Company shall bill for the services in subsections A and B below.

A. Compost Bin Co-Pay. The Residential Customers' co-pay for compost bins shall be billed by the Company.

B. Rolloff Box and Temporary Bin Services. In regard to the billing of Rolloff Box Customers and the collection of those bills:

For Customers requesting temporary Bin service, the Company shall accept major credit cards for payment. Such Customers that do not use credit cards may be required by the Company to post a security deposit or pay on a "Cash on Delivery" (C. O. D.) basis. Any unused portion of a security deposit shall be refunded to the Customer within five (5) business days of the termination of service.

For Customers receiving Permanent Rolloff Box Service, the Company shall invoice monthly or semi-monthly in arrears with payment due within 15 days from the invoice date (i.e., the beginning of the month or the inception of service).

4.1.2 City Billing

City shall perform all billing under this contract, other than Rolloff Box service, temporary Bin service, and compost bin co-pays. City reserves the right to direct Company at any time during the Agreement Term to charge Customers for periodic charges such as Bulky Waste pickups, Cart overage pickups, and Bin Container Overage Fees.

4.1.3 Company Compensation

City shall pay Company on a monthly basis, within 30 days of the City billing Customers. Payment will be based on services rendered and will be subject to

subsequent audit and adjustment in succeeding invoices. Payment will be accompanied by Customer and service level list (see 4.1.4 below).

4.1.4 Extra Cart Revenue

City shall retain all rate revenue received from Residential Customers' subscriptions for extra Refuse Carts to offset a portion of the City administrative costs under this Agreement. City will establish and bill Customer rates to Single Family Residential Customers for extra Refuse Carts at no less than \$2.00 per Refuse Cart per month below the Company Compensation rate for the first Refuse Cart of the same size.

In the event a Customer requests multiple smaller Carts in place of one larger Cart due to space constraints at the property or Customer's physical limitations to move Carts, City may charge Customer, and pay Contractor, based upon the standard rate for service based upon the single Cart rate for equivalent Container capacity. For example, usage of two 32-gallon Carts in place of one 64-gallon Cart would result in Contractor Compensation at the 64-gallon standard rate with no extra Refuse Cart charge for such Customer.

4.1.5 Company Responsible for Service Level Accuracy

Along with the City's monthly payment to the Company (see section 4.1.3 above), the City shall send the Company a list of Customer accounts, and service levels, and billed rates on which the payment is based. The Company shall review this list and must dispute or accept the accuracy of this list within 45 days of receipt. Failure to notify the City in writing within 45 days shall confirm the Company's approval and acceptance of the payment amount.

The Company must also notify City within 72 hours of the Company being notified of any change in service.

4.1.6 Review of Billings

The Company shall review its Billings to customers under Section 4.1.2. The purpose of the review is to determine that the amount which the Company is billing each Customer is correct in terms of the level of service being provided to such Customer by the Company. The Company shall review Customer accounts annually, and submit to

the City a written report of that review annually on the anniversary of the Effective Day of this Agreement.

The Company shall maintain copies of said Billings and receipts, each in chronological order, for a period of five (5) years after the date of service for inspection by the City upon request. The Company may, at its option, maintain those records in computer form, on microfiche, or in any other manner, provided that the records can be preserved and retrieved for inspection and verification in a timely manner, are sufficient to verify accuracy of Franchise Fees owed to the City, and may be produced in a form and manner sufficient to establish the existence of Customer obligations in a court of competent jurisdiction.

4.1.7 Suspension of Service Due to Non-Payment

For Customers billed by Company, once a payment is 30 days past due, Company shall send Customers a notice that service will be suspended if payment is not made within an additional 30 days. Service may only be suspended after these minimum time periods and notice. City will not be responsible for or assist with the collection of delinquent accounts.

4.1.8 Franchise Fee

A. Amount

In consideration of the exclusive Franchise granted pursuant to this Agreement, and in the event that Company assumes Billing of permanent Bin and Commercial Cart and Can Customers, the Company shall pay to the City a Franchise Fee equal to a percentage of the Company's permanent Bin and Commercial Cart and Can rate revenue. This fee shall be determined by the City and added on to the approved rates and billed by the Company. The Company shall remit this fee to the City as set forth below.

B. Time and Method of Payment

Company shall remit the Franchise Fee payments on or before the thirtieth (30th) day following the end of each quarter, during the term of this Agreement. If the Franchise Fee is not paid on or before the thirtieth (30th) day following the end of the quarter, the Company shall pay to the City a service charge, and not as interest, in an amount equal

to ten percent (10%) of the amount owing for that quarter. The Company shall pay an additional ten percent (10%) service charge on any unpaid balance for each additional thirty (30) day period the Franchise Fee remains unpaid. Late payment service charges shall not be included in any revenue requirement. The Company agrees that the service charges contemplated by this section reasonably reflect the cost to the City to process any delinquency calculations and notices, and to monitor the Company's services, all in an effort to collect the delinquent Franchise Fees that, together with all other remedies afforded City under this Agreement (including any award of attorney's fees and costs), and in accordance with applicable laws, are intended to compensate City in any collection efforts in the event of Company's default in the payment of Franchise Fees.

4.1.9 Company Compensation Rates For Single Unit Homes From October 1, 2010 to December 31, 2010

City shall compensate Company for single unit homes based on a flat monthly rate per Customer from October 1, 2010 to December 31, 2010 as shown in Exhibit 2. Beginning January 1, 2011, City shall pay Company for single unit homes based upon the size of the Refuse Cart.

4.1.10 City Rates to Customers

Note that Company compensation rates in Exhibit 2 to be paid by City to Company beginning October 1, 2010 represent an increase over compensation paid under the previous contract. City may elect not to increase corresponding rates to Customers until January 1, 2011; however, Company shall still be compensated by City in accordance with Exhibit 2.

4.2 Customer Service

4.2.1 Office Hours

Company office hours shall be, at a minimum, from 8:00 A.M. to 5:00 P.M., Monday through Friday, excluding holidays, and from 8:00 A.M. to 12:00 P.M. on Saturday. A responsible and qualified representative of the Company shall be available during office hours for communication with the public at the office. Normal office hour telephone numbers shall be a toll free call. The Company's telephone system and number of representatives shall be adequate to handle the volume of calls typically experienced on

the busiest days. A live operator shall answer calls placed during office hours within one minute of the initial ring. The Company shall also maintain a toll free telephone number for use during other than normal business hours. The Company shall have a representative, answering or message providing/receiving (voice-mail) service available at said after-hours telephone number. After-hours calls shall be responded to on the next business day.

Company shall provide the City staff with the phone number or pager number of a live Person who may be reached 24 hours a day.

4.2.2 Missed Pick-ups

When notified of a missed pick-up, the Company shall Collect the Refuse, Recyclable Materials, and/or Green Waste the same day, if notified by 12:00 noon, otherwise by 5:00 P.M. of the following day, unless Company can provide documentation that Container was not placed for Collection in a timely manner (evidence may include a report by the driver, provided at time of normal Collection, indicating no Container had been placed out for Collection). A summary of missed pickups shall be submitted to the City monthly.

4.2.3 Complaint Documentation

All service complaints shall be directed to the Company. Daily logs of complaints concerning Collection of Solid Waste shall be retained for a minimum of twenty-four (24) months and shall be available to the City at all times upon request. A summary of complaints shall be submitted to the City monthly.

The Company shall log all complaints received by telephone and said log shall include the date and time the complaint was received, name, address and telephone number of caller, description of complaint, employee recording complaint and the action taken by the Company to respond to and remedy complaint. All written Customer complaints and inquiries shall be date-stamped when received. All complaints shall be initially responded to within one (1) business day of receipt. The Company shall log action taken by the Company to respond to and remedy all complaints.

All Customer service records and logs kept by the Company shall be available to the City upon request and at no cost to the City. The City shall, at any time during regular

Company business hours, have access to the Company's Customer service department for purposes that may include monitoring the quality of Customer service or researching Customer complaints.

4.2.4 Resolution of Customer Complaints

Disputes between the Company and its Customers regarding the services provided in accordance with this Agreement may be resolved by the City. The City's decision shall be final and binding.

Intervention by the City is not a condition precedent to any rights or remedies third parties might otherwise have in any dispute with Company. Nothing in this section is intended to affect the remedies of third parties against the Company. To the extent that remedies are warranted through this Agreement, this shall apply.

4.2.5 Government Liaison

The Company shall designate in writing a "Government Liaison" who shall be responsible for working with the City and/or the City's designated representative(s) to resolve Customer complaints. City shall have the right to approve the Company's choice for a liaison.

4.3 Education and Public Awareness

4.3.1 Manhattan Beach Recycles Solid Waste Program

Company acknowledges and agrees that education and public awareness are critical, key and essential elements of any efforts to achieve AB 939 requirements. Accordingly, the Company agrees to implement a public education plan for the Manhattan Beach Recycles Solid Waste program, with strategies and timetables, to expand public and Customer awareness concerning the need to and methods of reducing, reusing and Recycling Solid Waste. The Company will provide and distribute literature in the form of fliers, cards, stickers, magnets or other methods acceptable to the City. Company shall cooperate fully with City in this regard. Company shall submit the public education plan for approval by the City prior to the Effective Date of the Agreement. The approved public education plan shall be incorporated as Exhibit 1 into this Agreement.

Company shall maintain its own program of providing information relevant to billing and Solid Waste services, issues and needs, to all of its Customers. All public education materials shall be approved in advance by City. All printed materials shall be printed on recycled paper.

4.3.2 Implementation and On-going Education Requirements

Company will provide a minimum of the following public education items to be developed at Company's expense and distributed, after City approval, as indicated below:

- **Initial Mailing** – At least 30 days prior to October 1, 2010, Company will prepare and mail, using City-provided labels, an initial mailing to Customers explaining the transition from the existing programs to the new programs. The mailing will describe program changes, route changes, dates of program implementation, and other necessary information.
- **Web-based Program Catalogue** - Company shall be required to develop and provide updated information details for each program to City in an “e-book” or “e-magazine” format, or an alternative format only if approved in advance by City (not PDF), ready for addition to the City and Company websites. Company shall update this based on any program, service or date changes.
- **Instructional Packet Accompanying Company-Provided Containers** – An information packet shall be attached to each set of Carts or Cans distributed to a Customer. Packet should describe available services, including how to place Carts or Cans for Collection, which materials should be placed in each Cart or Can, Collection holidays, and a Customer service phone number.
- **Semi-Annual Brochures** – Four (4) pages, full color informing Customers of how to use available services, including holiday collection schedules and customer services numbers. Twice per year, two (2) separate brochures shall be developed: one for Residential Customers, and one for Commercial and Industrial Customers. Said brochures shall be prepared and distributed by the Company twice per year (total of four (4) brochures per year) for each year in which this contract is in effect, using City-provided mailing labels.

- **Quarterly Notices** – Company is responsible for preparing notices promoting and explaining programs (such as Recycling, Green Waste, Holiday Tree and Bulky Item Collections, free Commercial Recycling, and proper Household Hazardous Waste Disposal) and Collection schedules, including holiday schedules, at least quarterly to all Customers, at the City’s request and with City’s review and approval of the materials. Notices will be mailed by the City with customer’s bills, if size of the item and time permits. Otherwise, mailing using mailing labels from the City is the Company’s responsibility.
- **Annual Notifications of Free Commercial Recycling Services** – Company will provide all Bin Customers with notification and description of the free Commercial Recycling program available to them. Notification will be mailed by the City with customer’s bills, if size of the item and time permits. Otherwise, mailing using mailing labels from the City is the Company’s responsibility.
- **Corrective Action Notice** – For use in instances where the Customer sets out inappropriate materials.
- **Company Representative** - Company shall provide a representative able to visit civic groups, school assemblies, homeowners’ associations, building managers, the Chamber of Commerce, and Commercial businesses to promote and explain the Recycling programs, and participate in demonstrations, parades and civic events.

All brochures, mailings, and other educational materials are to be approved by the City in advance of distribution, and shall not bear the City seal unless otherwise approved by the City.

4.3.3 Contract Launch Campaign

In addition to Initial Mailings, Web-Based Programs Catalogue and Instructional Packets required under Section 4.3.2 above, prior to initiation of services under the new Agreement, Company will conduct a minimum of two residential public workshops, with at least one on a weekend, and present at a Chamber of Commerce meeting/event describing program changes, route changes, dates of program implementation, and other necessary information. Company will display new Carts to be distributed, and may also display Commercial Cans that are in use where Carts could not be

accommodated. Residential workshops shall be conducted at a facility to be determined by City.

4.3.4 Community Events

At the direction of the City, the Company shall participate in and promote Recycling and other diversion techniques at community events and local activities. Such participation would normally include providing, without cost to City, Collection of Solid Waste at the event and educational information promoting the goals of the City's Solid Waste diversion or Recycling program.

4.3.5 Use of "Manhattan Beach Recycles" Program Name

The program name "Manhattan Beach Recycles" refers to all Solid Waste management services available to the residents of the City. This name is the exclusive property of the City. Company may use "Manhattan Beach Recycles" to help people identify with the civic pride and environmental good of responsibly managing solid waste. The Company's use of the name does not relieve the Company of its ownership of its operations, any consequences of its actions, nor obligations under this Agreement. The Company's use of the name is not to be construed as constituting an arrangement by the City for the Disposal of Solid Waste, nor to create an agency relationship.

4.3.6 Multi-Family Recycling Outreach Program

Company shall provide in-unit Recycling Containers to each Multi-Family Customer Dwelling Unit upon request of individual Dwelling Unit, property owner or manager. Company will provide all property managers and Residents with Bin service with Recycling program guidelines, posters and other outreach materials tailored to Multi-Family Bin Customer service. Company shall contact each Multi-Family Customer building owner or property manager by September 30, 2011 in an effort to implement recycling programs, provide educational materials, and to train owner/manager in how to work with tenants to Recycle.

4.3.7 Commercial Outreach Recognition Program

Green Business Certification Recognition

Company will work with City, Chamber of Commerce, and the Downtown Manhattan Beach Business Association to certify and recognize “green” businesses in the community. Company will develop a comprehensive program to promote the following:

- Reduce solid waste disposal and promote recycling;
- Become energy and water efficient;
- Purchase products that are less harmful to human health and the environment;
- Minimize pollution contributions;
- Help improve indoor air quality and reduce smog formation; and,
- Educate businesses and their customers and employees about green business practices.

To participate, businesses must be located in the City and complete a two page application and self assessment information about waste reduction practices in place and other green policies practiced.

Awards will be presented annually at an event, Council meeting or award ceremony to be mutually agreed upon by City and Company. Company will provide selected companies with a “Green Business” certificate.

Green Works - Promoting Recycling at the Work Place

Company will provide businesses with prizes such as reusable water bottles, reusable grocery bags, and/or other incentives for managers to provide to employees who contribute to the business’ green program.

Company will provide business managers with promotional information, flyers and instructional posters to implement a comprehensive recycling program.

Company shall provide initial and on-going consultation and support to businesses who request it to ensure long term success of their business’ recycling program.

4.3.8 School Recycling Outreach Program

Company shall provide the following services to all City schools, including the Manhattan Beach Unified School District and private schools, to promote waste reduction. The following programs will be implemented by Company to the fullest extent possible, based on the individual school's willingness to participate.

- Classroom, lunch area, cafeteria, and administrative recycling containers provided or replaced as needed. New Recycling Bins were provided in 2008;
- Conduct a minimum of one assembly promoting recycling at each school in the City each year;
- Education and training on proper recycling and waste reduction techniques to students and teachers;
- A kickoff event at the beginning of each school year for schools that request it as well as end of school year recycling programs as requested;
- Provide school assemblies and classroom presentations aimed at educating and promoting recycling at school and home;
- Provide training and ongoing consultation of proper waste reduction techniques for school staff and volunteers;
- Create an annual awards and incentive programs to promote on-campus sustainability program;
- Proper signage for all school sites;
- Provide teachers with sample lesson plans and activity sheets on relevant topics on an as requested basis; and,
- Contact each school at least once per year to offer all services included in this section. Records of contact attempts shall be retained and submitted to City annually. Records shall include name and position of person contacted, date and time of contact, and, if contact declines to conduct an assembly and participate in the other services offered under this section, the reason for decline. To enhance the likelihood of conducting assemblies and providing other Recycling support at

schools, Company shall make an effort to work with other organizations promoting Recycling and environmental education in schools.

If requested, Company will work with school administration, parent volunteers, and janitorial staff to review current recycling practices and look for opportunities for program enhancement. Company will provide follow-up with school management, janitorial staff, faculty and student volunteers to ensure that improved recycling and waste reduction techniques have been implemented.

4.3.9 Recycling Facility Tours

Company shall provide City Customers and organizations tours of its Recycling facility. Company may schedule tours on a quarterly basis.

ARTICLE 5

COMPANY COMPENSATION AND RATES

5.1 General

The Company Compensation provided for in this Article shall be the full, entire and complete compensation due to the Company pursuant to this Agreement for all services, labor, equipment, materials and supplies, taxes, insurance, bonds, overhead, Disposal, transfer, profit and all other things necessary to perform all the services required and reasonably anticipated by this Agreement in the manner and at the times prescribed.

The Company will perform the responsibilities and duties described in this Agreement in consideration of the right to receive compensation for services rendered at maximum rates fixed by the City from time-to-time. The City and the Company agree that the Company shall retain any proceeds from the sale of Recyclable Materials.

5.2 Initial Rates

The Company Compensation from October 1, 2010 through June 30, 2011 shall not exceed those set forth in Exhibit 2, unless amended by a written amendment to this Agreement entered into by and between the City and the Company. Unless and until the maximum rates set forth on Exhibit 2 are adjusted, the Company will provide the services required by this Agreement, receiving no more than the Company Compensation authorized by Exhibit 2, except as provided herein and in Section 5.3.

5.3 Schedule of Future Adjustments

A July 1, 2010 rate adjustment shall not be granted under the prior Agreement.

As of July 1, 2011, all Company Compensation for all rate categories will increase by 5.95%.

As of July 1, 2012, all Company Compensation for all rate categories will increase by 4.00%.

Beginning with the Rate Year commencing on July 1, 2013, and for all subsequent Rate Years, the Company may request an annual adjustment to the Company Compensation for all rate categories shown in Exhibit 2, as adjusted in accordance with this Section 5.3. The Company shall submit its request in writing, to be received by the City in Person or via certified mail, at least ninety (90) days prior to the start of the new Rate Year based on the method of adjustment described in Section 5.4. Failure to submit a written request at least ninety (90) days prior to the start of the new Rate Year shall result in the Company waiving the right to request such an increase for the subsequent year. The City may decrease the rates in accordance with Section 5.4 in the event that the rate adjustment formula produces a decline.

The rate adjustments shall apply to the Contractor Compensation rates included in Exhibit 2. The Contractor Compensation rates exclude any amounts that may be added by the City to Customer invoices for the City to recover its administrative costs.

5.4 Method of Adjustments

5.4.1 General

Pursuant to Section 5.3, the Company is entitled to the rate adjustments specified as of July 1, 2011 and July 1, 2012. For Rate Years beginning July 1, 2013, Company may request an adjustment to Company Compensation for all rate categories included in Exhibit 2 according to the method described below and the formulas shown in Exhibit 3, subject to review and approval of City. All future adjustments are to be effective July 1 of the same year.

5.4.2 Cost Components for Rate Adjustment Indices

The approved Company Compensation consists of the following cost component categories. Each cost component may be adjusted by the change in the corresponding index below. See Section 5.4.3 for detailed Company Compensation adjustment procedures.

<u>Cost Category</u>	<u>Initial Weightings</u>		<u>Rate Adjustment Factor</u>
	Exhibit 3A Bin & Cart	Exhibit 3B Roll-off	
Labor	31.1%	48.4%	Change in the highest level rate for the "Driver A/B" Classification to be in effect as of the date the new rates go into effect (January 1st) under the Agreement between local haulers and Package and General Utility Drivers Local Union 396, International (1)
Fuel	4.5%	6.9%	Producer Price Index WPU 0531, Not seasonally adjusted, Fuels and related products and power, natural gas
Transfer Vehicle Fuel	2.3%	3.6%	Fuels and related products and power, #2 Diesel Fuel (natural gas index above to be used upon conversion of transfer vehicles to natural gas)
Equipment	12.9%	20.0%	Producer Price Index, PCU336120336120, Heavy duty truck manufacturing
Disposal	33.4%	N/A	Consumer Price Index for All Urban Consumers (CUUR0000SA0L1E), all items less food and energy index - U.S. city average
Transformation	2.3%	N/A	Actual change in the per ton gate rate at the waste-to-energy facility approved for use
All Other	13.5%	21.1%	Consumer Price Index for All Urban Consumers (CUUR0000SA0L1E), all items less food and energy index - U.S. city average
Total	100.0%	100.0%	

(1) As an example, under the agreement terminating September 30, 2012, these rates are:

Date of Wage Adjustment in Contract (last adjustment prior to each July 1)	4/01/10	4/01/11	4/01/12
Hourly Rate - Used as Old and New Indices in Columns A and B of Exhibits 3A and 3B	\$20.15	\$20.80	\$21.80
Rate Adjustment Date (for example only, as first relevant rate adjustment is 7/1/13)	n/a	7/01/11	7/01/12
Change to Labor Component - Calculated in Column C of Exhibits 3A and 3B	n/a	3.2%	4.8%

Comparable rates from subsequent labor agreements will similarly apply. If a subsequent labor contract has not been executed prior to a rate adjustment calculation, the percentage change in the labor cost component used in the prior year's adjustment

calculation will be used. In the event that the estimated labor component change is higher or lower than the actual change after a new labor contract is executed, no compensation adjustment shall be provided for prior periods.

5.4.3 Rate Adjustment Steps

Bin, Can and Cart Rates

Bin, Can and Cart rates will be adjusted using the cost component weightings identified above for Bin, Can and Cart rates as described below. See Exhibit 3A.

Step One - Calculate the percentage increase or decrease in each index listed in Section 5.4.2. The increase or decrease in the labor component is calculated as described in Section 5.4.2 above. The increase or decrease in the transformation component is based on the transformation tipping fee at the transformation facility. The increase or decrease in the published indices for fuel, equipment, disposal and all other (CPI, less food and energy) will be the change in the average annual published index between the calendar year ended the December prior to the Rate Year anniversary date and prior calendar year (See Exhibit 3C).

Step Two - The first rate adjustment cost components as a percentage of total costs are provided in Section 5.4.2 above, with subsequent components calculated in Step Four of the rate adjustment. For Step Two of each subsequent rate adjustment, use the cost components recalculated in Step Four during the previous rate adjustment.

Multiply the percentage changes for each rate adjustment component by that component's weighting and add these resulting percentages together to get the total weighted change to the rates.

Step Three - Multiply the total weighted percent change from Step Two by the existing Customer rates to calculate the increase or decrease to the maximum rates. Add the rate increase or decrease to the existing rates to derive the newly adjusted rates.

Step Four - Recalculate weightings for the following year based upon these changes.

Roll-Off Box Rates

Roll-Off Box pull rates will be adjusted using the same methodology above, with the weightings identified above for Roll-Off Pulls. The per ton Roll-Off Box Refuse Disposal rate shall adjust based upon the change in the disposal component of the rates (the average annual change in the CPI, less food and energy). See Exhibit 3B.

5.5 Extraordinary Adjustments

The Company may not request an adjustment in Company Compensation other than the adjustments permitted under Section 5.3. Company is expected to comply with SCAQMD Rule 1193, and the Air Resource Board's proposed new emission standards for Refuse removal vehicles, as well as other Federal, State and local laws and regulations that may be enacted during the term of this Agreement, with no additional compensation. No adjustments may be made for such changes as a change in the market value of Recyclables, or processing costs for Recyclables and Green Waste, from the values assumed by the Company or inaccurate estimates by the Company of its proposed cost of operations.

City will permit an adjustment to the Disposal Component of the rate based on an increase or decrease in a direct per ton surcharge assessed at the disposal site by Federal, State or local regulatory agencies after the effective date of this Agreement, to the extent these adjustments exceed the cumulative Disposal component adjustments granted under Section 5.3 (the change in the Consumer Price Index for All Urban Consumers CUUR0000SA0L1E, all items less food and energy index – U.S. city average, as applied to the Disposal cost component beginning with the July 1, 2013 rate adjustment). City may review tonnage reports and all other applicable documentation to determine the accuracy of the rate adjustment request, including the tonnage to which it applies, the impact on Customer rates, the possible reweighting of the Disposal component and any other issues City determines to be relevant to this review.

5.6 Grants

From time to time, federal, State, or local agencies including the City may provide to the Company grants to assist in financing qualified programs provided by the Company. The Company agrees that the Company Compensation, calculated as described in Sections 5.2 through 5.5, shall be reduced by the amount of any such grant, unless the grant is used exclusively to pay for new services. The Carl Moyer grant program shall be excluded from the provisions of this paragraph. The City Council shall determine

whether the reduction in the Company Compensation shall be: (1) passed through to those Customers designated by the City as a reduction to their rates; (2) as an offset to a rate increase calculated in accordance with Sections 5.2 through 5.5; (3) paid to the City for use as the City directs; or, (4) applied in any combination of (1) through (3).

ARTICLE 6

REVIEW OF SERVICES AND PERFORMANCE

6.1 Performance Hearing

The City may hold a public hearing on or about the two year anniversary of the start of this Agreement, and annually thereafter, at which time the Company shall be present and shall participate, to review the Solid Waste Collection, source reduction, processing and other diversion services and overall performance. The purpose of the hearing is to provide for a discussion and review of technological, economic, and regulatory changes in Collection, source reduction, Recycling, processing and Disposal to achieve a continuing, advanced Solid Waste Collection, source reduction and Recycling and Disposal system; and to ensure services are being provided with adequate quality, effectiveness and economy.

Forty-five (45) days after receiving notice from the City of a Solid Waste Services and Performance Review Hearing, the Company shall, at a minimum, submit a report to the City indicating the following:

- a) Recommended changes and/or new services to improve the City's ability to meet the goals of AB 939 and to contain costs and minimize impacts on rates.
- b) Any specific plans for provision of changed or new services by the Company.
- c) Results of the most recent route audit as described in Section 3.12.

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

Topics for discussion and review at the Solid Waste Services and Performance Review Hearing shall include, but shall not be limited to, services provided, route audit results, feasibility of providing new services, application of new technologies, Customer

complaints, amendments to this Agreement, developments in the law, new initiatives for meeting or exceeding AB 939's goals, regulatory constraints, and the Company's performance. The City and the Company may each select additional topics for discussion at any Solid Waste Services and Performance Review Hearing.

Not later than sixty (60) days after the conclusion of each Solid Waste Services and Performance Review Hearing, the City may issue a report. As a result of the review, the City may require the Company to provide expanded or new services within a reasonable time and for reasonable rates and compensation and the City may direct or take corrective actions for any performance inadequacies.

ARTICLE 7

RECORDS, REPORTS AND INFORMATION REQUIREMENTS

7.1 General

The Company shall maintain such accounting, statistical and other records related to its performance under this Agreement as shall be necessary to develop the financial statements and other reports required by this Agreement. Also, the Company agrees to conduct data Collection, information and record keeping, and reporting activities needed to comply with applicable laws and regulation and to meet the reporting and Solid Waste program management needs of the City, in particular, reporting obligations imposed by AB 939. To this extent, such requirements set out in this and other Articles of this Agreement shall not be considered limiting or necessarily complete. In particular, this Article is intended to only highlight the general nature of records and reports and is not meant to define exactly what the records and reports are to be and their content. Further, with the written direction or approval of the City, the records and reports to be maintained and provided by the Company in accordance with this and other Articles of the Agreement shall be adjusted in number, format, or frequency.

7.2 Records

7.2.1 General

The Company shall maintain records required to conduct its operations, to support requests it may make to the City, and to respond to requests from the City in the conduct of the City business. Adequate record security shall be maintained to preserve records from events that can be reasonably anticipated such as a fire, theft and earthquake. Electronically maintained data/records shall be protected and backed up. All records shall be maintained for five (5) years, and the last five (5) years of records shall be maintained for an additional three (3) years after the expiration of this Agreement.

The Company agrees that the records of any and all companies conducting operations addressed in the Agreement shall be provided or made available to the City and its official representatives during normal business hours. The City may review or utilize

any of the records described in this section for any purpose whatsoever. Failure to provide said records may be considered a material breach of this Agreement.

7.2.2 Financial Records

Financial records shall be maintained and expense and revenue information for the City shall be segregated from other areas served by the Company.

7.2.3 Solid Waste Service Records

Records shall be maintained by the Company for the City relating to:

- a) Customer services and billing (for limited services billed by Company);
- b) Routes;
- c) Facilities, equipment and personnel used;
- d) Complaints;
- e) Missed pick ups;
- f) Number of Refuse, Recycling, and Green Waste Containers, both Residential and Commercial;
- g) Tons Collected, processed, diverted, and disposed by type of service, waste stream and Customer; and,
- h) Weight of each Recyclable Material recovered at a MRF, if one is utilized.

7.2.4 CERCLA Defense Records

The City views the ability to defend against the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), State Hazardous Substance Law, and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for Disposal, as well as where it was not taken, to be matters of concern. The Company shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) and provide a copy of the reports required in Section 7.3 for five (5) years after the term during which Collection services are to be provided pursuant to this Agreement, or to provide copies of such records to the City. Company shall continue to retain records

required to be retained under the previous agreement in accordance with Section 7.2.4 for five (5) years after the term during which Collection services are to be provided pursuant to this Agreement. The Company agrees to notify the City's Risk Manager and the City Attorney at least 90 days before destroying such records. This provision shall survive the expiration of the period during which Collection services are to be provided under this Agreement.

7.2.5 Disposal Records

The Company shall maintain records of Disposal of all Solid Waste Collected in the City for the period of this Agreement and all extensions to this Agreement or successor Agreements. In the event the Company discontinues providing Solid Waste services to the City, the Company shall provide all records of Disposal or processing of all Solid Waste Collected in the City within thirty (30) days of discontinuing service. Records shall be in chronological and organized form and readily and easily interpreted.

7.2.6 Other Programs' Records

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

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

7.2.7 Cost of Audit

City has the option to audit the Company's operations, services, and Billings provided under this Agreement. Should such an audit disclose that two percent (2%) or more of the Customers' actual service levels based on field inspections differ from the service levels recorded at the City for the period under review due to the Company's failure to properly and promptly notify the City of service level or other Customer changes, the Company shall, in addition to any other remedy City might have, pay for the full cost of the City's audit, not-to-exceed \$58,500 in 2010 dollars, and adjusted annually for changes in the Consumer Price Index for all Urban Consumers, all items less food and energy index, U.S. city average.

7.2.8 Payments and Refunds

Should an audit by the City disclose that the Company Compensation payable to the Company was overpaid or underpaid or that Customers were overcharged or undercharged, due to the Company's failure to properly and promptly notify the City of service level or other Customer changes or for any other reason, for the period under review, in addition to any other remedies which may be available to City, the Company shall pay to the City any overpayment of Company Compensation and/or refund the Customers any overcharges directly, or the City shall pay to the Company any underpayment of Company Compensation and/or bill the Customers for any undercharges directly, as the case may be. Any refunds to shall be due and payable (30) days following the date of the audit.

7.3 Reports

7.3.1 Report Formats and Schedule

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

- a) Determine and set rates and evaluate the efficiency of operations;
- b) Evaluate past and expected progress towards achieving AB 939 goals and objectives;
- c) Determine needs for adjustment to programs; and,
- d) Evaluate Customer service and complaints.

The Company may propose report formats that are responsive to the objectives and audiences for each report. The format of each report requires approval by the City. The Company agrees to submit all reports on computer discs or by electronic means in a format compatible with the City's software/computers at no additional charge, if requested by the City. The Company will provide a certification statement, under penalty of perjury, by an authorized Company official, that the report being submitted is true and correct.

Monthly reports shall be submitted within twenty (20) calendar days after the end of each month. Quarterly reports shall be submitted within twenty (20) calendar days after the end of the calendar quarter. If requested, the Company's complaint summary, described in Section 7.3.3 (a), shall be sent to the Public Works Director within 5 days of request. Annual reports shall be submitted before January 31 following the reporting year.

All reports shall be submitted electronically to the City, as directed, and to:

Public Works Director (or designated representative)
Department of Public Works
3621 Bell Avenue
Manhattan Beach, CA 90266

7.3.2 Monthly Reports

The information listed shall be the minimum reported:

- a) Solid Waste Collected by the Company for each month, sorted by type of solid Waste (Refuse, Recycling, Green Waste, Food Waste) and type of Customer (Residential, Commercial/Industrial Bin and Cart Service, Rolloff) in tons, and the Facilities where the tons were processed or disposed. Bulky Waste items shall be separately reported.
- b) Materials Recovered. Statement showing kinds of material and quantity sold (in tons).
- c) Narrative summary of problems encountered (including scavenging) and actions taken with recommendations for the City, as appropriate.
- d) Warning notices issued for contaminated Recyclable Materials and Green Waste Containers.
- e) Number of Commercial Food Waste Diversion Program Participants, if applicable.
- f) Commercial tons processed and recovered through Commercial mixed waste processing.
- g) HHW Collected.

- h) Summary of missed pickups per Section 4.2.2.
- i) Summary of complaints per Section 4.2.3.

7.3.3 Quarterly Reports

Report should contain at a minimum the information required in the monthly report and the following:

- a) Complaint summary for the quarter summarized by nature of complaints on a compatible computer disc.
- b) Copies of promotional and public education materials sent during the quarter.
- c) Other information or reports that the City may reasonably request or require.
- d) Tons Collected from City Facilities and litter Containers.

7.3.4 Annual Report

The Annual Report is to be essentially in the form and content of the monthly and quarterly reports combined, but shall also include:

- a) A complete inventory of equipment used to provide all services (such as vehicles and Containers by size and waste stream type Container is used for).
- b) Results of route audits, including a summary of the number of Bins by size and service level, Can and Cart counts by size (32-, 64-, or 96-gallon) and type of service (Refuse, Recycling, Green Waste, and Residential versus Commercial), and Rolloff Box pulls per month by material type.
- c) Environmental Litigation Defense records required under Section 7.2.4.
- d) General information about the Company, including a list of officers and members of its board of directors, most recent annual report and other periodic public financial reports of the Company and its subsidiaries and Affiliated companies, and of other entities that may perform services under this Agreement, as the City may request.
- e) Copy of Hazardous Waste diversion records showing types and quantities, if any, of Hazardous Waste that was inadvertently Collected, but diverted from landfilling.
- f) Number of routes and route hours per day by type of service.

7.3.5 Financial Report

The City may, at the City's option, request the Company's financial reports/statements for the most recently completed fiscal year in connection with Company's performance or obligations under this Agreement, including a rate adjustment, performance audit, billing audit, or verification of other information required under this Agreement.

Financial statements shall include a supplemental combining schedule showing the Company's results of operations, including the specific revenues and expenses in connection with the operations provided for in this Agreement, separated from others included in such financial statements. The supplemental combining schedule may be audited, reviewed, or compiled, as determined by City. The financial statements and footnotes shall be prepared in accordance with Generally Accepted Accounting Principles (GAAP) and audited, in accordance with Generally Accepted Auditing Standards (GAAS) by a certified public accountant (CPA) licensed (in good standing) to practice public accounting in the State of California as determined by the State of California Department of Consumer Affairs Board of Accountancy. The cost for preparation of the financial statements and audit shall be borne by the Company as a direct cost of service. The Company may provide to the City the supplemental schedule on a compiled basis.

The Company shall, in its agreement with the CPA preparing the audit above, have its CPA make available to the City (or the City's designated representative) such CPA's working papers related to the audit. The cost, if any, incurred by the Company's CPA shall be included in the cost of the audit.

At the City's request, the Company shall provide the City with copies of working papers or other documentation deemed relevant by the City relating to information shown in the disclosure letter. The disclosure letter shall be provided to the City.

7.4 Adverse Information

A. Reporting Adverse Information. The Company shall provide the City two copies (one to the City Manager and one to the City Attorney) of all reports, pleadings, applications, notifications, Notices of Violation, communications or other material relating specifically to the Company's performance of services pursuant to this Agreement, submitted by the Company to, or received by the Company from, the

United States or California Environmental Protection Agency, the California Integrated Waste Management Board, the Securities and Exchange Commission or any other federal, State or local agency, including any federal or State court. Copies shall be submitted to the City simultaneously with the Company's filing or submission of such matters with said agencies. The Company's routine correspondence to said agencies need not be routinely submitted to the City, but shall be made available to the City promptly upon the City's written request.

B. Failure to Report. The refusal or failure of the Company to file any required reports, or to provide required information to the City, or the inclusion of any materially false or misleading statement or representation by the Company in such report shall be deemed a material breach of the Agreement as described in Section 10 and shall subject the Company to all remedies which are available to the City under the Agreement or otherwise.

7.5 Right to Inspect Records

The City shall have the right to inspect or review the specific documents or records required expressly or by inference pursuant to this Agreement, or any other similar records or reports of the Company or its related party entities that the City shall deem, in its sole discretion, necessary to evaluate annual reports, compensation applications provided for in this Agreement and the Company's performance provided for in this Agreement. Failure to make such records readily available shall be deemed a material breach of this Agreement.

ARTICLE 8

INDEMNIFICATION, INSURANCE AND BONDS

8.1 Indemnification

The Company hereby agrees to and shall indemnify and hold harmless the City, its elected and appointed boards, commissions, officers, employees, and agents (collectively, Indemnitees) from and against any and all loss, liability, penalty, forfeiture, claim, demand, action, proceeding or suit in law or equity of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to property, or for contribution or indemnity claimed by third parties) including attorney's fees arising or resulting from and in any way connected with (1) the negligence or willful misconduct of the Company, its officers, employees, agents, Companies and/or subcontractors in performing services under this Agreement; (2) the failure of the Company, its officers, employees, agents, Companies and/or subcontractors to comply in all respects with the provisions of this Agreement, applicable laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of the Company, its officers, employees, agents, Companies and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws). The foregoing indemnity shall apply regardless of whether such loss, liability, penalty, forfeiture, claim, demand, action, proceeding, suit, injury, death or damage is also caused in part by any of the Indemnitees negligence, but shall not extend to matters resulting from the Indemnitees sole or active negligence, willful misconduct or breach of this Agreement. The Company further agrees to and shall, upon demand of the City, at the Company's sole cost and expense, defend (with attorneys acceptable to the City) the Indemnitees against any claims, actions, suits in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events.

The Company, upon demand of the City, made by and through the City Attorney, shall protect the City and appear in and defend the Indemnitees, in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of "Solid Waste" or "Recyclable Material" or

the limits of the City's authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or federal or State laws to provide Solid Waste services in the City. This provision shall survive the expiration of the period during which Collection services are to be provided under this Agreement. The City and the Company agree to confer following any trial to decide jointly whether to appeal or to oppose any appeal. In the event the City and the Company jointly agree to appeal, or to oppose any appeal, the City and the Company agree to share equally the costs of appeals. Should either the City or the Company decide to appeal, or to oppose an appeal, and the other decide not to appeal, or to oppose an appeal, the party which decides to appeal, or to oppose an appeal, shall bear all fees and costs of the appeal or the opposition to the appeal.

The Company's duty to indemnify and defend from the aforementioned events arising during the Term of the Agreement and as it may be extended shall survive the expiration or earlier termination of this Agreement.

8.2 Hazardous Substances Indemnification

The Company shall defend with counsel reasonably acceptable to the City, indemnify, protect and hold harmless the Indemnitees from and against all claims, damages (including but not limited to special, consequential, natural resources and punitive damages), injuries, costs, (including without limit any and all response, remediation and removal costs), losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties, attorney's fees for the adverse party and expenses (including without limit attorneys' and expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity), (collectively, Damages) of any kind whatsoever paid, incurred or suffered by, or asserted against, the Indemnitees arising from or attributable to the acts or omissions of the Company, its officers, directors, employees, companies or agents, whether or not negligent or otherwise culpable, in connection with or related to the performance of this Agreement, including without limit Damages arising from or attributable to any 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, Hazardous Waste, Household Hazardous Waste, Solid Waste, and/or other waste that has been generated, Collected, stored, transported, or disposed in the City. The

foregoing indemnity is intended to operate as an agreement pursuant to §107(e) of the Comprehensive Environmental Response, Compensation and Liability Act, CERCLA, 42 USC. §9607(e), Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. §§6901 *et seq.*, and California Health and Safety Code §25364, to defend, protect, hold harmless, and indemnify the Indemnitees from liability. This provision is in addition to all other provisions in this Agreement and shall survive the end of the term of this Agreement. The liability of the Company pursuant to this Section 8.2 is not limited to the limits of the policies of insurance provided pursuant to Section 8.4.

If the City exercises its option under Section 3.10, in writing, to direct refuse to another landfill that is not owned or operated by Company or its affiliates, including Waste Management, Inc. and its subsidiaries, or a landfill that has not been previously used by Company in performance of this Agreement, then this indemnity shall not apply to that portion of the waste that the City has redirected. Waiver of this indemnification will not apply to residue left over from processing activities that is disposed, even if the City directs waste to a particular processing facility.

8.3 AB 939 Indemnification

The Company shall indemnify and hold harmless the City from and against all fines and/or penalties imposed by the California Integrated Waste Management Board if the source reduction and Recycling goals, or any other requirement of AB 939, are not met by the City with respect to the waste stream Collected under this Agreement.

Company’s indemnification of the City is subject to all of the following restrictions:

- a. The Company’s obligation to indemnify the City shall not be enforceable if the Board-imposed penalty is based solely upon the failure of the City to establish and maintain a source reduction and recycling element pursuant to Section 41000 *et. seq.* of the Public Resources Code.
- b. No payment required under the company’s obligation to indemnify the City may exceed that portion of any penalty assessed by the Board against the City that was attributable to the Company’s breach of or noncompliance with an express obligation or requirement. Further, the Company shall not be liable under the indemnity obligation to the extent that the company’s breach or non-compliance resulted from City’s action

or failure to act, determined as a result of judicial review, hearing or appeal to the California Integrated Waste Management Board.

8.4 Insurance

The City does not, and shall not, waive any rights against the Company which it may have by reason of the aforesaid hold harmless agreements, because of acceptance by the City or the deposit with the City by the Company of the insurance policies described in this provision. The insurance required is in addition to and separate from any other obligations contained in the contract.

A. Minimum Scope of Insurance. Coverage shall be at least as broad as:

1. The most recent editions of Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 1996 or later).
2. The most recent editions of Insurance Services Office form number CA 00 01 covering Automobile Liability, code 1 "any auto" and endorsement CA 00 25.
3. Workers' Compensation insurance as required by the Labor Code of the State of California and Employers Liability insurance.

B. Minimum Limits of Insurance. The Company shall maintain in force for the term of this Agreement limits no less than:

1. General Liability: Ten Million Dollars (\$10,000,000) limit aggregate and Five Million Dollars (\$5,000,000) limit per occurrence, for bodily injury, personal injury and property damage per year. If Commercial General Liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: Five Million Dollars (\$5,000,000) per accident for bodily injury and property damage.
3. Workers' Compensation and Employers Liability: Workers' compensation limits as required by the Labor Code of the State of California and Employers Liability limits of One Million Dollars (\$1,000,000) per accident.

C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Indemnitees; or the Company shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in the amount of such deductibles or self-insured retentions.

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

1. General Liability and Automobile Liability Coverages
 - a) The City of Manhattan Beach and its officers and employees are to be named as additional insureds by policy endorsement as respects: liability arising out of activities performed by or on behalf of the Company; products and completed operations of the Company; Premises owned, leased or used by the Company; or vehicles owned, leased, hired or borrowed by the Company. The coverage shall contain no additional limitations on the scope of protection afforded to the City of Manhattan Beach, its elective and appointive boards, commissions, officials, employees, agents or volunteers unless specifically agreed to in writing by the City.
 - b) The Company's insurance coverage shall be primary insurance as respects the Indemnitees. Any insurance or self-insurance maintained by the City, its officials, elective and appointive boards, commissions, employees, agents or volunteers shall be excess of the Company's insurance and shall not contribute with it.
 - c) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Indemnitees.
 - d) Coverage shall state that the Company's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. Workers' Compensation and Employers Liability Coverage - The insurer shall agree to waive all rights of subrogation against the Indemnitees for losses arising from work performed by the Company for the City.
3. All Coverages - Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

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

F. Verification of Coverage. The Company shall furnish the City with certificates of insurance and with original endorsements affecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a Person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to the City and are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time. The City will attempt to maximize confidentiality of the policies to the extent permitted by law.

Renewal certificates will be furnished periodically to the City to demonstrate maintenance of the required coverage throughout the Term.

G. Companies and Subcontractors. The Company shall include all other companies and subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each other company and subcontractor. All coverages for companies and subcontractors shall be subject to all of the requirements stated herein.

H. Required Endorsements

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

"Thirty (30) days prior written notice by certified mail (10 days in the event of cancellation for non-payment), return receipt requested, shall be given to the City in the event of cancellation, reduction in coverage, or non-renewal of this policy. Such notice shall be sent to:

Risk Manager
City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266

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

a) "Thirty (30) days prior written notice (10 days in the event of cancellation for non-payment) shall be given to the City in the event of cancellation, reduction in coverage, or non-renewal of this policy. Such notice shall be sent to:

Risk Manager
City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266

b) "The City, its officers, elective and appointive boards, commissions, employees, and agents are additional insureds on this policy."

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

d) "Inclusion of the City as an insured shall not affect the City's rights as respects any claim, demand, suit or judgment brought or recovered against the Company. This policy shall protect the Company and the City in the same manner as though a separate policy had been issued to each, but this shall not operate to increase the Company's liability as set forth in the policy beyond the amount shown or to which the Company would have been liable if only one party had been named as an insured."

I. Other Insurance Requirements

1. Company will establish an insurance policy repository and maintain copies of insurance policies required pursuant to this Agreement for one hundred (100) years after the end of the term during which Collection services are to be provided pursuant to this Agreement. Company shall notify City's risk manager and City attorney before destroying copies of such policies. This provision shall survive the expiration of the period during which Collection services are to be provided under this Agreement.
2. In the event any services are delegated to another company or subcontractor, the Company shall require such company or subcontractor to provide statutory workers' compensation insurance and employer's liability insurance for all of the other company or subcontractor's employees engaged in the work in accordance with this section. The liability insurance required by this section shall cover all company or subcontractors or the company or subcontractor must furnish evidence of insurance that meets all of the requirements of this section.
2. The Company shall comply with all requirements of the insurers issuing policies. The carrying of insurance shall not relieve the Company from any obligation under this Agreement. If any claim exceeding the amount of any deductibles or self-insured reserves is made by any third party against the Company or any company or subcontractor on account of any occurrence related to this Agreement, the Company shall promptly report the facts in writing to the insurance carrier and to the City.

If the Company fails to procure and maintain any insurance required by this Agreement, the City may take out and maintain, at the Company's expense, such insurance as it may deem proper and deduct the cost thereof from any moneys due the Company.

8.5 Performance Bond

Concurrently with execution of this Agreement, the Company shall deliver to the City a performance bond, from an admitted surety insurer with a Bests Rating of not less than A-:VII, in the amount of \$500,000 (Five Hundred Thousand Dollars) similar to the form provided in Exhibit 5, which secures the faithful performance of this Agreement, including, without limitation, payment of any penalty and the funding of any work to

cure a breach of this Agreement. The bond shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his power of attorney. The bond shall be unconditional and remain in force during the entire term of the Agreement and shall be null and void at the conclusion of the term of this Agreement only if the Company promptly and faithfully performs all terms and conditions of this Agreement.

8.6 Forfeiture of Performance Bond

In the event the Company shall for any reason become unable to, or fail in any way to, perform as required by this Contract, the City may declare a portion or all of the performance bond which is necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the performance bond, the Company shall restore the performance bond to its face amount within 30 days of the City's declaration. Failure to restore the performance bond to its full amount within 30 days shall be a material breach of contract.

8.7 Property Damage

Any physical damage caused by the negligent or willful acts or omissions of employees of Company to public or private property shall be repaired or replaced by Company at Company's sole expense.

8.8 Pavement Damage

Company shall be responsible for damage to City's driving surfaces, whether paved or not paved, beyond normal wear and tear. Company understands that the exercise of this Franchise may involve operation of its Collection vehicles over private roads and streets. Disputes between Company and its service recipients as to damage to private pavement are civil matters and complaints of damage will be referred to Company as a matter within its sole responsibility and as a matter within the scope of Section 8.1.

ARTICLE 9

CITY'S RIGHT TO PERFORM SERVICE

9.1 General

In addition to, but not in lieu of, any other rights or remedies City might have under this Agreement, at law or in equity, in the event that the Company, for any reason whatsoever, fails, refuses or is unable to Collect, Recycle, process, transport or dispose of any or all Solid Waste that it is required by this Agreement, at the time and in the manner provided in this Agreement, for a period of more than seventy-two (72) hours, and if, as a result thereof, Solid Waste should accumulate in the City to such an extent, in such a manner, or for such a time that the City should find that such accumulation endangers or menaces the public health, safety or welfare, then the City shall have the right, but not the obligation, upon notice to the Company during the period of such emergency as determined by the City, as hereinafter set forth, (1) to perform, or cause to be performed, such services itself with its own or other personnel without liability to the Company; and/or (2) to take possession of any or all of the Company's land, equipment and other property used or useful in the Collection and transportation of Solid Waste, and to use such property to Collect and transport any Solid Waste generated within the City which the Company would otherwise be obligated to Collect, transport and properly dispose of or process pursuant to this Agreement.

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

The Company further agrees that in such event:

- A. It will take direction from the City to effect the transfer of possession of equipment and property to the City for the City's use.
- B. It will, if the City so requests, keep in good repair and condition all of such equipment and property, provide all motor vehicles with fuel, oil and other service, and

provide such other service as may be necessary to maintain said property in operational condition.

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

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

If the interruption or discontinuance in service is caused by any of the reasons listed in Section 10.5, the City shall pay to the Company the reasonable rental value of the equipment and Facilities, possession of which is taken by the City, for the period of the City's possession, if any, which extends beyond the period of time for which the Company has rendered bills in advance of service, for the class of service involved.

9.2 Billing and Compensation to the City During the City's Possession

During such time that the City is providing Solid Waste services, as above provided, the City shall bill and collect payment from all users of the above-mentioned services as described in Section 4.1. The Company further agrees that, in such event, it shall reimburse the City for any and all costs and expenses incurred by the City beyond that billed and received by the City in taking over possession of the above-mentioned equipment and property for Solid Waste service in such manner and to an extent as would otherwise be required of the Company under the terms of this Agreement. Such reimbursement shall be made from time to time after submission by the City to the Company of each statement listing such costs and expenses, but in no event later than five (5) working days from and after each such submission.

9.3 City's Right to Relinquish Possession

It is further mutually agreed that the City may at any time at its discretion relinquish possession of any or all of the above-mentioned property to the Company and

thereupon demand that the Company resume the Solid Waste services as provided in this Agreement, whereupon the Company shall be bound to resume the same.

9.4 City's Possession Not A Taking

Except as otherwise expressly provided in the previous paragraph, the City's exercise of its rights under this Article: (1) does not constitute a taking of private property for which compensation must be paid; (2) will not create any liability on the part of the City to the Company; and (3) does not exempt the Company from the indemnity provisions of Article 9, which are meant to extend to circumstances arising under this section, provided that the Company is not required to indemnify the City against claims and damages arising from the sole negligence of the City, its elective and appointive boards, commissions, officers, employees and agents in the operation of Collection vehicles during the time the City has taken possession of such vehicles.

9.5 Duration of the City's Possession

The City's right pursuant to this Article to retain temporary possession of the Company's Facilities and equipment, and to render Collection services, shall terminate when the City determines that such services can be resumed by the Company, or when the City no longer reasonably requires such property or equipment. In any case, the City has no obligation to maintain possession of the Company's property or equipment and/or continue its use for any period of time and may at any time, in its sole discretion, relinquish possession to the Company.

ARTICLE 10

DEFAULT, REMEDIES AND LIQUIDATED DAMAGES

10.1 Events of Default

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

- A. Fraud or Deceit or Misrepresentation.** If the Company engages in, or attempts to practice, any fraud or deceit upon the City or makes a misrepresentation regarding material information to the City.
- B. Insolvency or Bankruptcy.** If the Company becomes insolvent, unable, or unwilling to pay its debts, files a bankruptcy petition or takes steps to liquidate its assets.
- C. Failure to Maintain Coverage.** If the Company fails to provide or maintain in full force and effect the Workers' Compensation, liability, or indemnification coverage as required by this Agreement.
- D. Violations of Regulation.** If the Company violates any orders or filings of any regulatory body having jurisdiction over the Company or City relative to the performance of this Agreement, provided that the Company may contest any such orders or filings by appropriate proceedings conducted in good faith, in which case no breach of the Franchise and this Agreement shall be deemed to have occurred until a final decision adverse to the Company is entered.
- E. Failure to Perform.** If the Company ceases to provide Collection, processing or Recycling services as required under this Agreement over all or a substantial portion of its Franchise area for a period of two (2) consecutive days or more, unless excused per Section 10.5.
- F. Failure to Pay.** If the Company fails to make any payments required under this Agreement and/or refuses to provide the City, within ten (10) days of the demand,

with required information, reports, and/or records in a timely manner as provided for in the Agreement.

G. Acts or Omissions. Any other act or omission by the Company related to performance under this Agreement which violates the terms, conditions, or requirements of this Agreement, the California Integrated Waste Management Act of 1989, any Environmental Law as it may be amended from time to time, or any law, statute, ordinance, order, directive, rule, or regulation issued thereunder and which is not corrected or remedied within the time set in the written notice of the violation or, if the Company cannot reasonably correct or remedy the breach within the time set forth in such notice, if the Company should fail to commence to correct or remedy such violation within the time set forth in such notice and diligently effect such correction or remedy thereafter.

H. False or Misleading Statements. Any representation or disclosure made to the City by the Company in connection with or as an inducement to entering into this Agreement, or any future amendment to this Agreement, which proves to be false or misleading in any material respect as of the time such representation or disclosure is made, whether or not any such representation or disclosure appears as part of this Agreement.

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

J. Failure to Provide Assurance of Performance. If the Company fails to provide reasonable assurances of performance as required under Section 10.6.

The Company shall be given forty-eight (48) hours from notification by the City to cure any default arising under subsections E, F, I and J provided, however, that the City shall not be obligated to provide the Company with a notice and cure opportunity if the Company has committed the same or similar breach within a six-month period.

10.2 Criminal Activity of Company

Should the Company or any of its officers, directors or employees be found guilty of felonious conduct related to the performance of this Contract, or of felonious conduct

related to anti-trust activities, illegal transport or disposal of hazardous or toxic materials, or bribery of public officials, the City reserves the right to unilaterally terminate this Contract or impose other such sanctions (which may include financial sanctions, temporary suspensions or any other condition deemed appropriate short of termination) as it shall deem proper. Such action shall be taken after Contractor has been given notice and opportunity to present evidence in mitigation. The term "found guilty" shall be deemed to include any judicial determination that Company or any of Company's officers, directors or employees is guilty and any admission of guilt by Company or any of Company's officers, directors or employees including, but not limited to, the plea of "guilty", "nolo contendere", "no contest", and "guilty to a lesser charge" entered as part of any plea bargain. If the agreement is terminated pursuant to the above, such termination shall not occur if, within six months after City determines to terminate, the Company completes a transfer of its contract rights and obligations to an individual or entity acceptable to the City pursuant to this Agreement.

10.3 Right to Terminate Upon Default

Upon a default by the Company, the City shall have the right to terminate this Agreement upon a ten (10) days notice if the public health or safety is threatened, or otherwise a thirty (30) days notice, but without the need for any hearing, suit or legal action.

The City's rights to terminate this Agreement, or to take possession of the Company's Facility are not exclusive, and the City's termination of this Agreement shall not constitute an election of remedies. Instead, they shall be in addition to any and all other legal and equitable rights and remedies which the City may have.

By virtue of the nature of this Agreement, the urgency of timely continuous and high-quality service, the time required to effect alternative service, and the rights granted by the City to the Company, the remedy of damages for a breach hereof by the Company is inadequate and the City shall be entitled in injunctive relief.

10.4 Liquidated Damages

A. General. The City finds, and the Company agrees, that as of the time of the execution of this Agreement, it is impractical, if not impossible, to reasonably ascertain the extent of damages which shall be incurred by the City as a result of a breach by the

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

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

Company _____ City _____
Initial Here _____ Initial Here _____

The Company agrees to pay (as liquidated damages and not as a penalty) the amounts set forth below:

1. **Collection Reliability**

- a) For each failure to commence service to a new Customer account within seven (7) days after order, which exceed five (5) such failures annually: \$150.00
- b) For each failure to deliver Bins, Carts, or Containers on the day scheduled for delivery that exceeds five (5) such failures annually: \$ 50.00
- c) For each failure to Collect Solid Waste, which has been properly set out for Collection, from an established Customer account, or accounts, on the scheduled Collection day and not Collected by 5:00 P.M. the following business day, and for each additional business day in which the Collection is not made up, which exceeds ten (10) such failures annually: \$150.00/day
- d) For each failure to Collect Solid Waste, which has been properly set out for Collection, from the same Customer on two (2) consecutive scheduled pickup days: \$150.00

2. **Collection Quality**

- a) For each occurrence of damage to private property which exceeds five (5) such occurrences annually: \$250.00
- b) For each occurrence of failure to properly return empty Containers to avoid pedestrian or vehicular traffic impediments or to place Containers upright with lids secured which exceeds ten (10) such occurrences annually: \$150.00
- c) For each failure to clean up Solid Waste spilled from Solid Waste Containers within 90 minutes that exceeds ten (10) such failures annually: \$150.00

- d) For each occurrence of Collecting Solid Waste during unauthorized hours which exceeds five (5) such occurrences annually: \$250.00
- e) For each failure to clean or replace Commercial and Industrial Containers in accordance with Section 3.7.5 of this Agreement which exceeds ten (10) such failures annually: \$150.00
- f) For each failure to deliver a Rolloff Box or temporary Bin within 48 hours of a Customer's request: \$ 50.00

3. **Customer Responsiveness**

- a) For each failure to initially respond to a Customer complaint within one (1) business day, and for each additional day in which the complaint is not addressed: \$250.00
- b) For each failure to process Customer complaints to the City as required by Article 5 herein: \$250.00
- c) For each failure to notify City within one (1) hour from the time Company has remedied a complaint forwarded by City. \$ 10.00
- d) For each failure to remove graffiti from Containers, or to replace with Containers bearing no graffiti, within one business day of request from City or Customers: \$150.00
- e) For each failure to process a claim for damages within thirty (30) days from the date submitted to Company. \$100.00
- f) For each additional thirty (30) day increment of time in which Company has failed to resolve a claim for damages within thirty (30) days from the claim date. \$100.00

4. **Timeliness of Submissions to the City**

Any report shall be considered late until such time as a correct and complete report is received by the City. For each calendar day a report is late, the daily liquidated damage amount shall be:

- a) Monthly or Quarterly Reports: \$100 per day
- b) Annual Reports: \$350 per day

5. **Accuracy of Billing Information**

- a) For each failure to notify the City within 72 hours of a Customer or service change so that Customer billing records may be updated: \$100/occurrence

6. **Implementation of Public Education Plan**

- a) Each day past the agreed upon deadline that the Company fails to perform a task set forth in its public education plan. \$100 per day

The City may determine the occurrence of events giving rise to liquidated damages through the observation of its own employees or representative or investigation of Customer complaints.

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

C. Amount. The City may assess liquidated damages for each calendar day or event, as appropriate, that the Company is determined to be liable in accordance with this Agreement.

D. Timing of Payment. The Company shall pay any liquidated damages assessed by the City within ten (10) days after they are assessed. If they are not paid within the ten (10) day period, the City may withhold amount due from the next monthly payment to Company, may proceed against the Bond required by the Agreement or order the

termination of the Franchise granted by this Agreement, or exercise any other right or remedy available to City under this Agreement or at law or in equity, or any combination of these remedies.

10.5 Excuse from Performance

10.5.1 Force Majeure

The parties shall be excused from performing their respective obligations hereunder in the event they are prevented from so performing by reason of floods, earthquakes, other natural disasters, war, civil insurrection, riots, acts of any government (including judicial action), and other similar catastrophic events which are beyond the control of and not the fault of the party claiming excuse from performance hereunder.

10.5.2 Labor Unrest

Labor unrest, including but not limited to strike, work stoppage or slowdown, sick-out, picketing, or other concerted job action conducted by the Company's employees or directed at the Company will be considered an excuse from performance to the extent that Company meets the terms of this Section 10.5. Notwithstanding other remedies to which the City shall be entitled under this Agreement in event of failure to perform, in the event of Company's failure to perform, or anticipated failure to perform, due to labor unrest, Company shall:

- 1) Provide a contingency plan to the City within ninety (90) days of the execution of this Agreement demonstrating how services will be provided during the period of labor unrest. The contingency plan is subject to City approval and Contractor shall amend the plan to meet City requirements, including reasonably demonstrating how City's basic Collection and sanitary needs will be met to the City's satisfaction. Plan shall address, at a minimum, the priority of Collection by customer type (residents, hospitals, restaurants, nursing homes, etc.) and waste streams, additional Collection options to be provided (drop-off sites, etc.), source of additional personnel to be utilized and detailed communications procedures to be used.
- 2) Notify City Manager sixty (60) days prior to the expiration of its drivers' labor agreement.
- 3) Meet the requirements agreed to in the contingency plan.

- 4) Meet requirements of 10.5.3 below.

Contractor shall meet all requirements under this Section or City may choose to revoke this excuse from performance offered under this Agreement and may choose to use enforcement provisions under this Agreement, including Sections 10.1, 10.3 and 10.4, in which case Contractor is not excused from performance and Contractor shall be obligated to continue to provide service notwithstanding the occurrence of any or all of such events.

10.5.3 Procedures In Event of Excused Performance

The party claiming excuse from performance under Section 10.5.1 or 10.5.2 shall, within two (2) days after such party has notice of such cause, give the other party notice of the facts constituting such cause and asserting its claim to excuse under this section.

Throughout service disruption, Company shall:

- 1) Provide City with a minimum of daily service updates.
- 2) Shall notify Customers on a real-time basis as to alternative Collection procedures. At a minimum, Company shall update its website and shall provide ongoing updates to City for use on its website, and a "reverse 911" contact method to reach all possible Customers. Should enhanced contact technologies become available, Company shall use such methods upon approval from City.

The interruption or discontinuance of the Company's services caused by one or more of the events excused shall not constitute a default by the Company under this Agreement. Notwithstanding the foregoing, however, if the Company is excused from performing its obligations hereunder for any of the causes listed in this section for a period of thirty (30) days or more, the City shall nevertheless have the right, in its sole discretion, to terminate this Agreement by giving ten (10) days' notice, in which case the provisions relative to taking possession of the Company's land, equipment and other property and engaging the Company's Personnel in Article 10 and this Article 11 will apply.

10.6 Assurance of Performance

The City may, at its option and in addition to all other remedies it may have, demand from the Company reasonable assurances of timely and proper performance of this Agreement, in such form and substance as the City may require. If the Company fails

or refuses to provide satisfactory assurances of timely and proper performance in the form and by the date required by the City, such failure or refusal shall be an event of default.

ARTICLE 11

OTHER AGREEMENTS OF THE PARTIES

11.1 Relationship of Parties

The parties intend that the Company shall perform the services required by this Agreement as an independent Company engaged by the City and not as an officer or employee of the City nor as a partner of or joint venture with the City. No employee or agent or Company shall be or shall be deemed to be an employee or agent of the City. Except as expressly provided herein, the Company shall have the exclusive control over the manner and means of conducting the Solid Waste Collection services performed under this Agreement, and all Persons performing such services. The Company shall be solely responsible for the acts and omissions of its officers, employees, Companies, subcontractors, Affiliates and agents. Neither the Company nor its officers, employees, Companies, subcontractors, Affiliates and agents shall obtain any rights to retirement benefits, workers' compensation benefits, or any other benefits which accrue to the City employees by virtue of their employment with the City.

11.2 Compliance with Law

In providing the services required under this Agreement, the Company shall at all times, at its sole cost, comply with all applicable laws and regulations of the United States, the State of California, and local agencies. The City shall comply with all applicable regulations promulgated by federal, State, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended during the Term.

11.3 Governing Law

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

11.4 Jurisdiction

Any lawsuits between the parties arising out of this Agreement shall be brought and concluded in the courts of the State of California, which shall have exclusive jurisdiction over such lawsuits.

With respect to venue, the parties agree that this Agreement is made in and will be performed in Los Angeles County.

11.5 Assignment

Except as may be provided for in Article 10 (the City's Right to Perform Service), neither party shall assign its rights, nor delegate, subcontract or otherwise transfer its obligations under this Agreement to any other Person without the prior written consent of the other party. Any such assignment made without the consent of the other party shall be void and the attempted assignment shall constitute a material breach of this Agreement.

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

The Company acknowledges that this Agreement involved rendering a vital service to the City's residents and businesses, and that the City has selected the Company to perform the services specified herein based on (1) the Company's experience, skill and

reputation for conducting its operations in a safe, effective and responsible fashion, at all times in keeping with applicable Environmental Laws, regulations and best Solid Waste management practices, and (2) the Company's financial resources to maintain the required equipment and to support its indemnity obligations to the City under this Agreement. The City has relied on each of these factors, among others, in choosing the Company to perform the services to be rendered by the Company under this Agreement.

If the Company requests the City's consideration of and consent to an assignment, the City may deny or approve such request in its complete discretion, except for an assignment to an Affiliate, which the city shall deny or approve in its reasonable discretion. No request by the Company for consent to an assignment need be considered by the City unless and until the Company has met the following requirements:

- a) The Company shall pay a transfer fee to the City equal to 1% of the annual revenue for the most recent 12 months prior to the effective date of the change of ownership multiplied by the number of remaining years, or fraction thereof, under this Agreement. Notwithstanding the above, payment of a transfer fee will not be required in the event of an assignment to an Affiliate of the Company;
- b) Except for an assignment to an Affiliate of the Company, the proposed assignee must furnish the City with audited financial statements of the proposed assignee's operations for the immediately preceding three (3) operating years;
- c) Except for an assignment to an Affiliate of the Company, the proposed assignee must furnish the City with satisfactory proof: (i) that the proposed assignee has at least ten (10) years of Solid Waste management experience on a scale equal to or exceeding the sale of operations conducted by the Company under this Agreement; (ii) that in the last five (5) years, the proposed assignee has not suffered any significant citations or other censure from any federal, State or local agency having jurisdiction over its Solid Waste management operations due to any significant failure to comply with State, federal or local Environmental Laws and that the assignee has provided the City with a complete list of such citations and censures; (iii) that the proposed assignee has at all times conducted its operations in an environmentally safe and conscientious fashion; (iv) that the

proposed assignee conducts its Solid Waste management practices in accordance with sound Solid Waste management practices in full compliance with all federal, State and local laws regulating the Collection and Disposal of Solid Waste including Hazardous Substances; and, (v) of any other information required by the City to ensure the proposed assignee can fulfill the Terms of this Agreement in a timely, safe and effective manner.

Under no circumstances shall the City be obliged to consider any proposed assignment by the City if the Company is in default at any time during the period of consideration.

11.6 Contracting or Subcontracting

The Company shall not engage any companies or subcontractors for Collection, transfer, processing, Recycling or Disposal of Solid Waste without the prior written consent of the City. Transport from the transfer station to processing or disposal facilities is excluded from this paragraph.

11.7 Binding on Assigns

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

11.8 Transition to the Next Company

If the transition of services to another company occurs through expiration of term, default and termination, or otherwise, the Company will cooperate with the City and subsequent company(ies) to assist in an orderly transition which will include, but not be limited to, the Company providing detailed route lists, billing and service-level information and other operating records needed to service all properties covered by this Agreement. The failure to cooperate with City following termination shall be conclusively presumed to be grounds for specific performance of this covenant and/or other equitable relief necessary to enforce this covenant.

11.9 Parties in Interest

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

11.10 Waiver

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

11.11 The Company's Investigation

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

11.12 Condemnation

The City fully reserves the rights to acquire the Company's property utilized in the performance of this Agreement, by purchase or through the exercise of the right of eminent domain. This provision is additive, and not intended to alter the rights of the parties set forth in Article 10.

11.13 Notice

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

If to the City: City Manager
 City of Manhattan Beach
 1400 Highland Avenue

Manhattan Beach, CA 90266

Copy to: Public Works Director
Department of Public Works
City of Manhattan Beach
3621 Bell Avenue
Manhattan Beach, CA 90266

And to: City Attorney
City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266

If to the Company: USA Waste of California, Inc.
1920 East 213th Street
Long Beach, CA 90810
Attn: District Manager

Copy to: USA Waste of California, Inc.
Group General Counsel
Waste Management - Western Group
7025 Scottsdale Avenue
Suite 200
Scottsdale, AZ 85253

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

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

11.14 Representatives of the Parties

References in this Agreement to the "City" shall mean the City Council and all actions to be taken by the City shall be taken by the City Council except as provided below. The City Council may delegate, in writing, authority to the City Manager, and/or to other City employees and may permit such employees, in turn, to delegate in writing some or all of such authority to subordinate employees. The Company may rely upon actions taken by such delegates if they are within the scope of the authority properly delegated to them.

The Company shall, by the effective date, designate in writing a responsible officer who shall serve as the representative of the Company in all matters related to the Agreement and shall inform the City in writing of such designation and of any limitations upon his or her authority to bind the Company. The City may rely upon action taken by such designated representative as actions of the Company unless they are outside the scope of the authority delegated to him/her by the Company as communicated to the City.

11.15 City Free to Negotiate with Third Parties

Notwithstanding the exclusive nature of the Franchise, the City may investigate all options for the Collection, transporting, Recycling, processing and Disposal of Solid Waste at any time prior to the expiration of the Term. Without limiting the generality of the foregoing, the City may solicit proposals from the Company and from third parties for the provision of Collection services, Disposal services, Recycling services, Green Waste services and processing, and any combination thereof, and may negotiate and execute agreements for such services which will take effect upon the expiration or earlier termination under Section 10 of this Agreement.

11.16 Compliance with Municipal Code

The Company shall comply with those provisions of the municipal code of the City which are applicable, and with any and all amendments to such applicable provisions during the term of this Agreement.

11.17 Privacy

The Company shall strictly observe and protect the rights of privacy of Customers. Information identifying individual Customers or the composition or contents of a Customer's waste stream shall not be revealed to any Person, governmental unit, private agency, or company, unless upon the authority of a court of law, by statute, or upon valid authorization of the Customer. This provision shall not be construed to preclude the Company from preparing, participating in, or assisting in the preparation of waste characterization studies or waste stream analyses which may be required by AB 939. This provision shall not apply to reports or records provided to City pursuant to this Agreement so long as City maintains reports or records with Customer identification or confidential information in accordance with this section, in which case this section shall apply to City in the same manner to which it applies to Company.

11.18 Compliance with Immigration Laws.

The Company agrees that, in the performance of this Agreement, it will comply with all immigration laws.

11.19 Proprietary Information, Public Records

The City acknowledges that a number of the records and reports of the Company are proprietary and confidential. The Company is obligated to permit the City inspection of its records on demand and to provide copies to the City where requested. The City will endeavor to maintain the confidentiality of all proprietary information provided by the Company. Notwithstanding the foregoing, and notwithstanding Section 11.18 (as it applies to City), any documents provided by the Company to the City that are public records may be disclosed pursuant to a proper public records request.

11.20 Guarantee of Contractor's Performance

Pursuant to a guarantee in substantially the form attached as Exhibit 4, Waste Management Holdings, Inc., a Delaware corporation which owns all of the issued and outstanding common stock of USA Waste of California, Inc., has agreed to guarantee the Company's performance of this Agreement. The Guarantee is being provided concurrently with the Company's execution of this Agreement.

11.21 Attorney's Fees

In any action or proceeding to enforce or interpret any of the terms or conditions of this Agreement the prevailing party shall be entitled to an award to attorney's fees in the amount reasonably incurred in the prosecution or defense of such action. The term "prevailing party" shall mean the party entitled to recover costs of suit, upon the conclusion of the matter, in accordance with the laws of the State of California.

ARTICLE 12

MISCELLANEOUS AGREEMENTS

12.1 Entire Agreement

This Agreement, including the Exhibits, represents the full and entire Agreement between the parties with respect to the matters covered herein. No verbal agreement or conversation with any office, agent, or employee of the City, either before, during, or after the execution of this contract, shall affect or modify any of the terms or obligations herein contained nor such verbal agreement or conversation entitle the Company to any additional payment whatsoever under the terms of this contract.

12.2 Section Headings

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

12.3 References to Laws and Other Agreements

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

12.4 Interpretation

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

12.5 Agreement

This Agreement may not be modified or amended in any respect except by a writing signed by the parties.

12.6 Severability

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

12.7 Exhibits

Each of the Exhibits identified in this Agreement is attached hereto and incorporated herein and made a part hereof by this reference.

12.8 Non-Waiver Provision

Failure of either party to exercise any of the remedies set forth herein within the time periods provided for shall not constitute a waiver of any rights of that party with regard to that failure to perform or subsequent failures to performing whether determined to be a breach, excused performance or unexcused defaults by the other party.

IN WITNESS WHEREOF, the City and the Company have executed this Agreement as of the day and year first above written.

CITY OF MANHATTAN BEACH

("City")

ATTEST: _____
CITY CLERK

By: _____
CITY OF MANHATTAN BEACH

APPROVED AS TO FORM:

USA Waste of California, Inc.

City Attorney

By: _____
Name:
Title:

EXHIBIT 1

PUBLIC EDUCATION PLAN
(to be prepared by Company)

EXHIBIT 2

MAXIMUM INITIAL COMPANY COMPENSATION

Residential Monthly Rates (As of October 1, 2010)

Flat Rate Automated and Manual Three-Cart/Can Collection Service for Single Unit Homes	Monthly Rate	
	Standard Service	Backyard Service Surcharge ⁽²⁾
Any size or number of cans/carts	\$ 12.66	\$ 7.34

Automated Three-Cart Collection Service for Residential Cart Customers with 2 to 9 Units	Monthly Rate Per Building	
	Standard Service	Backyard Service Surcharge ⁽²⁾
2 Dwelling Units	\$ 24.04	\$ 13.99
3 Dwelling Units	\$ 34.81	\$ 20.24
4 Dwelling Units	\$ 45.57	\$ 26.48
5 Dwelling Units	\$ 56.30	\$ 32.76
6 Dwelling Units	\$ 67.07	\$ 39.00
7 Dwelling Units	\$ 77.82	\$ 45.33
8 Dwelling Units	\$ 88.59	\$ 51.51
9 Dwelling Units	\$ 99.34	\$ 57.77

Residential Cart Monthly Rates (As of January 1, 2011)

Volume-Based Automated Three-Cart Collection Service for Single Unit Homes	Monthly Rate	
	Standard Service	Backyard Service Surcharge ⁽²⁾
96-gallon refuse ⁽¹⁾	\$ 14.57	\$ 7.34
64-gallon refuse ⁽¹⁾	\$ 12.85	\$ 7.34
35-gallon refuse ⁽¹⁾	\$ 11.24	\$ 7.34

(1) Rate for first container at each dwelling unit. Additional containers shall be collected by Company for no additional charge.

(2) Backyard Service Surcharge is in addition to Standard Service fee and is assessed per dwelling unit.

EXHIBIT 2 (continued)
MAXIMUM INITIAL COMPANY COMPENSATION
(as of October 1, 2010)

Commercial Bin Rates

Refuse Bin Size (in Cubic Yards)	Number of Pickups Per Week							Extra Pickups
	1	2	3	4	5	6	7	
Commercial Can	\$ 13.80	\$ 27.60	\$ 41.41	\$ 55.21	\$ 69.01	\$ 82.81	\$ 96.62	\$ 3.50
32-Gallon Cart	\$ 13.80	\$ 27.60	\$ 41.41	\$ 55.21	\$ 69.01	\$ 82.81	\$ 96.62	\$ 3.50
64-Gallon Cart	\$ 27.60	\$ 55.20	\$ 82.82	\$ 110.42	\$ 138.02	\$ 165.62	\$ 193.24	\$ 7.00
96-Gallon Cart	\$ 41.40	\$ 82.80	\$ 124.23	\$ 165.63	\$ 207.03	\$ 248.43	\$ 289.86	\$ 10.00
2 Cubic Yard	\$ 70.03	\$ 105.04	\$ 140.03	\$ 175.06	\$ 210.06	\$ 280.08	\$ 350.08	\$ 19.35
3 Cubic Yard	\$ 89.95	\$ 133.25	\$ 177.66	\$ 222.08	\$ 266.49	\$ 355.31	\$ 444.14	\$ 29.00
4 Cubic Yard	\$ 107.76	\$ 161.65	\$ 215.54	\$ 269.42	\$ 323.30	\$ 431.08	\$ 538.84	\$ 38.69
6 Cubic Yard	\$ 138.54	\$ 207.81	\$ 277.10	\$ 346.38	\$ 415.65	\$ 554.20	\$ 692.74	\$ 58.01
2 Cubic Yard Compactor	\$ 119.57	\$ 179.29	\$ 239.04	\$ 301.98	\$ 358.58	\$ 478.15	\$ 597.80	\$ 33.04
3 Cubic Yard Compactor	\$ 152.46	\$ 228.71	\$ 307.09	\$ 381.10	\$ 457.28	\$ 609.75	\$ 762.21	\$ 49.15
4 Cubic Yard Compactor	\$ 185.61	\$ 278.36	\$ 371.15	\$ 463.89	\$ 556.74	\$ 742.27	\$ 927.96	\$ 66.64
6 Cubic Yard Compactor	\$ 239.47	\$ 359.19	\$ 478.95	\$ 598.64	\$ 718.37	\$ 957.84	\$ 1,197.31	\$ 100.27

EXHIBIT 2 (continued)
MAXIMUM INITIAL COMPANY COMPENSATION
(as of October 1, 2010)

Rolloff Box Rates

Rate Per Pull, Excluding Disposal	
Standard Box, Any Size	\$ 166.87 per pull
Compactor Box, Any Size	\$ 225.28 per pull
Rolloff Per Ton Charges	
Refuse Disposal	\$ 36.72 per ton
Additional Container Rental - (for boxes emptied less than 3x/month)	
Standard Box, Any Size	\$ 29.89 per week
Compactor Box, Any Size	\$ 40.25 per week

EXHIBIT 2 (continued)
MAXIMUM INITIAL COMPANY COMPENSATION
(as of October 1, 2010)

Temporary Bins

Service Category	Bin Size (Cubic Yards)			
	2	3	4	6
10 Day Rental with One Dump Included	\$ 77.35	\$ 87.03	\$ 96.69	\$ 116.04
Each Additional Dump	\$ 19.35	\$ 29.00	\$ 38.69	\$ 58.01
Rent Per Day Beyond 10 Days	\$ 1.93	\$ 1.93	\$ 1.93	\$ 1.93

Extra Services

Hasp and Lock Services	\$ 7.74 per bin per month
Cart Exchange	per applicable overage (see Section 3.7.1.1)
Refuse Cart Overage	\$ 5.00 per applicable overage (see Section 3.1.2)
Additional Residential Bulky Item Pickup	\$ 21.60 per pickup (three items) in excess of three pickups per year
Commercial Bulky Item Pickup Per Item	
• White Goods with CFCs	\$ 16.20 per item
• All Other Items	\$ 10.80 per item
Commercial Green Waste Cart	50% of comparable refuse service rate
Emergency Collection and Disposal	\$ 75.60 per hour
Bin Overage Charge	per applicable overage (see Section 3.1.6)

EXHIBIT 3A

EXAMPLE CART & BIN RATE ADJUSTMENT FORMULA

Step One: Calculate percentage change in indices						
Row	Adjustment Factor	Index	A	B	C	
			Old Index Value	New Index Value	Percent Change In Index ((Column B/ Column A) -1)	
1	Labor	(1)	\$ 20.80	\$ 21.80	4.8%	
2	Fuel	(2)	344.0	159.1	-53.8%	
3	Transfer Fuel	(3)	324.9	180.6	-44.4%	
4	Equipment	(4)	118.9	124.3	4.5%	
5	Disposal	(5)	215.8	219.2	1.6%	
6	Transformation	(6)	\$ 48.00	\$ 55.00	14.6%	
7	All Other	(5)	215.8	219.2	1.6%	

Step Two: Determine components					
Row	Adjustment Factor	Index	D	E	F
			Cost Factor Category Weighted as a % of Component Total (7)	Percent Change In Index (from Column C)	Total Weighted Change
8	Labor	(1)	31.1%	4.8%	1.5%
9	Fuel	(2)	4.5%	-53.8%	-2.4%
10	Transfer Fuel	(3)	2.3%	-44.4%	-1.0%
11	Equipment	(4)	12.9%	4.5%	0.6%
12	Disposal	(5)	33.4%	1.6%	0.5%
13	Transformation	(6)	2.3%	14.6%	0.3%
14	All Other	(5)	13.5%	1.6%	0.2%
15	Total		100.0%		-0.3%

Step Three: Apply percentage change to rates						
Row	Rate Category	Current Customer Rate (8)	G	H	I	J
			Total Weighted Percentage Change (from Column F)	Rate Increase or Decrease (Column G x Column H)	Adjusted Rate (Column G + Column I)	
16	64-gallon Cart Service	\$ 12.85	-0.3%	\$ (0.04)	\$ 12.81	
17	2 unit Service	\$ 24.04	-0.3%	\$ (0.07)	\$ 23.97	
18	1 unit backyard	\$ 7.34	-0.3%	\$ (0.02)	\$ 7.32	
19	2 unit backyard	\$ 13.99	-0.3%	\$ (0.04)	\$ 13.95	
20	Extra bulky item	\$ 21.60	-0.3%	\$ (0.06)	\$ 21.54	
19	Special Pickup/Cart Ov.	\$ 5.00	-0.3%	\$ (0.02)	\$ 4.98	
20	Commercial Can	\$ 13.80	-0.3%	\$ (0.04)	\$ 13.76	
21	3 yd bin, 1x week	\$ 89.95	-0.3%	\$ (0.27)	\$ 89.68	
22	3 yd comp., 1x week	\$ 152.46	-0.3%	\$ (0.46)	\$ 152.00	
23	3 yd bin, extra pickup	\$ 29.00	-0.3%	\$ (0.09)	\$ 28.91	

Step Four: Re-weight cost components							
Row	Adjustment Factor	Index	K	L	M	N	O
			Cost Component (Column D)	Percent Change as Applied to Rate Adjustment (Column F)	Increase in Cost Components (Column K x Column L)	Cost Component Increased (Column K + Column M)	Cost Components Reweighted to Equal 100%
24	Labor	(1)	31.1%	1.5%	0.5%	31.6%	31.4%
25	Fuel	(2)	4.5%	-2.4%	-0.1%	4.4%	4.4%
26	Transfer Fuel	(3)	2.3%	-1.0%	0.0%	2.3%	2.3%
27	Equipment	(4)	12.9%	0.6%	0.1%	13.0%	12.9%
28	Disposal	(5)	33.4%	0.5%	0.2%	33.6%	33.4%
29	Transformation	(6)	2.3%	0.3%	0.0%	2.3%	2.3%
30	All Other	(5)	13.5%	0.2%	0.0%	13.5%	13.3%
31	Total		100.0%			100.7%	100.0%

(1) Driver A/B rate from Agreement between local haulers and Package and General Utility Drivers Local Union 396, International Brotherhood of Teamsters.

(2) Producer Price Index, WPU 0531 not seasonally adjusted, Fuels and related products and power, natural gas - average annual change.*

(3) Producer Price Index, WPS057303 not seasonally adjusted, Fuels and related products and power, #2 diesel fuel - average annual change.*

(4) Producer Price Index, PCU336120336120, Heavy duty truck manufacturing - average annual change.*

(5) Consumer Price Index for All Urban Consumers, less food and energy, U.S. city average - average annual change.*

(6) Gate rate at transformation facility

(7) First year based on Section 6.4. After the first adjustment, this column comes from Column O of the previous year's rate adjustment worksheet.

(8) Example rates listed. Adjustment applies to all applicable rate categories.

* See Exhibit 3C.

EXHIBIT 3B

EXAMPLE ROLL-OFF BOX RATE ADJUSTMENT FORMULA

Step One: Calculate percentage change in indices

Row	Adjustment Factor	Index	A	B	C
			Old Index Value	New Index Value	Percent Change In Index ((Column B/ Column A) -1)
1	Service Component (Pull Rate)				
2	Labor	(1)	\$ 20.80	\$ 21.80	4.8%
3	Fuel	(2)	344.0	159.1	-53.8%
4	Transfer Fuel	(3)	324.9	180.6	-44.4%
5	Equipment	(4)	118.9	124.3	4.5%
6	All Other	(5)	215.8	219.2	1.6%
7	Refuse/Ton	(5)	215.8	219.2	1.6%

Step Two: Determine components

Row	Adjustment Factor	Index	D	E	F
			Cost Factor Category Weighted as a % of Component Total (6)	Percent Change In Index (from Step One, Column C)	Total Weighted Change
8	Service Component (Pull Rate)				
9	Labor	(1)	48.4%	4.8%	2.3%
10	Fuel	(2)	6.9%	-53.8%	-3.7%
11	Transfer Fuel	(3)	3.6%	-44.4%	-1.6%
12	Equipment	(4)	20.0%	4.5%	0.9%
13	All Other	(5)	21.1%	1.6%	0.3%
14	Service Component Total		100.0%	n/a	-1.8%
15	Refuse/Ton	(5)	100.0%	1.6%	1.6%

Step Three: Apply percentage change to rates

Row	Rate Category	Current Customer Rate	G	H	I	J
			Total Weighted Percentage Change (from Column F)	Rate Increase or Decrease (Column H x Column I)	Adjusted Rate (Column H + Column J)	
16	Standard Rolloff Box Pull Rate	\$ 166.87	-1.8%	\$ (3.00)	\$ 163.87	
17	Compactor Rolloff Box Pull Rate	\$ 225.28	-1.8%	\$ (4.06)	\$ 221.22	
18	Refuse/Ton	\$ 36.72	1.6%	\$ 0.59	\$ 37.31	

Step Four: Re-weight service component cost components

Row	Adjustment Factor	Index	K	L	M	N	O
			Cost Component (Column D)	Percent Change as Applied to Rate Adjustment (Column F)	Increase in Cost Components (Column K x Column L)	Cost Component Increased (Column K + Column M)	Cost Components Reweighted to Equal 100%
19	Labor	(1)	48.4%	2.3%	1.1%	49.5%	49.0%
20	Fuel	(2)	6.9%	-3.7%	-0.3%	6.6%	6.5%
21	Transfer Fuel	(3)	3.6%	-1.6%	-0.1%	3.5%	3.5%
22	Equipment	(4)	20.0%	0.9%	0.2%	20.2%	20.0%
23	All Other	(5)	21.1%	0.3%	0.1%	21.2%	21.0%
24	Total		100.0%			101.0%	100.0%

- (1) Driver A/B rate from Agreement between local haulers and Package and General Utility Drivers Local Union 396, International Brotherhood of Teamsters.
- (2) Producer Price Index, WPU 0531 not seasonally adjusted, Fuels and related products and power, natural gas - average annual change.*
- (3) Producer Price Index, WPS057303 not seasonally adjusted, Fuels and related products and power, #2 diesel fuel - average annual change.*
- (4) Producer Price Index, PCU336120336120, Heavy duty truck manufacturing - average annual change.*
- (5) Consumer Price Index for All Urban Consumers, less food and energy, U.S. city average - average annual change.*
- (6) First year based on Section 6.4. After the first adjustment, this column comes from Column O of the previous year's rate adjustment worksheet.

* See Exhibit 3C.

EXHIBIT 3C

EXAMPLE CALCULATION FOR

AVERAGE ANNUAL CHANGE IN PUBLISHED PRICE INDICES

Rate adjustment indices for fuel, transfer vehicle fuel, equipment, disposal and “all other” are calculated using the “average annual change” as demonstrated in the example below. The Bureau of Labor Statistics publishes these monthly indices, and the “Annual” index, which is an average of the calendar year’s monthly indices.

The following example is for the Consumer Price Index that is used to adjust the “disposal” and “all other” cost components. If a rate adjustment based on this CPI index were to be implemented as of July 1, 2010, the 2009 average annual index of 219.235 would have been the “New Index Value” to be used in Column B of the example rate adjustment formulas in Exhibits 3A and 3B, and the 2008 average annual index of 215.572 would have been the “Old Index Value” in Column A. This would have resulted in a 1.7% increase to the “disposal” and “all other” cost components in Column C.

Consumer Price Index - All Urban Consumers, U.S. City Average
All items less food and energy, CUUR0000SAOL1E

Year	Jan	Feb	March	April	May	June	July	August	Sept	Oct	Nov	Dec	Average
2008	213.138	213.866	214.866	215.059	215.18	215.553	216.045	216.476	216.862	217.023	216.690	216.100	215.572
2009	216.719	217.685	218.639	219.143	219.128	219.283	219.350	219.596	220.137	220.731	220.384	220.025	219.235
Average Annual Change:													1.7%

EXHIBIT 4

CORPORATE GUARANTY

Guaranty

THIS GUARANTY (the "Guaranty") is given as of the ____ day of ____, 2010.

THIS GUARANTY is made with reference to the following facts and circumstances:

A. USA Waste of California, Inc., hereinafter ("Owner") is a corporation organized under the laws of the State of California, all of the issued and outstanding stock of which is owned by Waste Management Holdings, Inc., (Guarantor).

B. Owner and the City of Manhattan Beach ("the City") have negotiated an Agreement for Collection, Processing, and Disposal of Solid Waste dated as of _____, (hereinafter "Agreement"). A copy of this Agreement is attached hereto.

C. It is a requirement of the Agreement, and a condition to the City entering into the Agreement, that Guarantor guaranty Owner's performance of the Agreement.

D. Guarantor is providing this Guaranty to induce the City to enter into the Agreement.

NOW, THEREFORE, in consideration of the foregoing, Guarantor agrees as follows:

1. **Guaranty of the Agreement.** Guarantor hereby irrevocably and unconditionally guarantees to the City the complete and timely performance, satisfaction and observation by Owner of each and every term and condition of the Agreement which Owner is required to perform, satisfy or observe. In the event that Owner fails to perform, satisfy or observe any of the terms and conditions of the Agreement, Guarantor will promptly and fully perform, or cause to perform them in the place of the Owner or cause them to be performed, satisfied or observed. Guarantor hereby guarantees payment to the City of any damages, costs or expenses which might become recoverable by the City from Owner due to its breach of the Agreement.

2. Guarantor's Obligations Are Absolute. The obligations of the Guarantor hereunder are direct, immediate, absolute, continuing, unconditional and unlimited, and with respect to any payment obligation of Owner under the Agreement, shall constitute a guarantee of payment and not of collection, and are not conditional upon the genuineness, validity, regularity or enforceability of the Agreement. In any action brought against the Guarantor to enforce, or for damages for breach of, its obligations hereunder, the Guarantor shall be entitled to all defenses, if any, that would be available to the Owner in an action to enforce, or for damages for breach of, the Agreement (other than discharge of, or stay of proceedings to enforce, obligations under the Agreement under bankruptcy law).

3. Waivers. Except as provided herein the Guarantor shall have no right to terminate this Guaranty or to be released, relieved, exonerated or discharged from its obligations under it for any reason whatsoever, including, without limitation: (1) the insolvency, bankruptcy, reorganization or cessation of existence of the Owner; (2) the actual or purported rejection by a trustee in bankruptcy of the Agreement, or any limitation on any claim in bankruptcy resulting from the actual or purported termination of the Agreement; (3) any waiver with respect to any of the obligations of the Agreement guaranteed hereunder or the impairment or suspension of any of the City's rights or remedies against the Owner; or (4) any merger or consolidation of the Owner with any other corporation, or any sale, lease or transfer of any or all the assets of the Owner. Without limiting the generality of the foregoing, Guarantor hereby waives the rights and benefits under California Civil Code Section 2819.

The Guarantor hereby waives any and all benefits and defenses under California Civil Code Section 2846, 2849, and 2850, including without limitation, the right to require the City to (a) proceed against Owner, (b) proceed against or exhaust any security or collateral the City may hold now or hereafter hold, or (c) pursue any other right or remedy for Guarantor's benefit, and agrees that the City may proceed against Guarantor for the obligations guaranteed herein without taking any action against Owner or any other guarantor or pledgor and without proceeding against or exhausting any security or collateral the City may hold now or hereafter hold. City may unqualifiedly exercise in its sole discretion any or all rights and remedies available to it against Owner or any other guarantor or pledgor without impairing the City's rights and remedies in enforcing this Guaranty.

The Guarantor hereby expressly waives, diligence, presentment, demand for payment or performance, protest and all notices whatsoever, including, but not limited to, notices of non-payment or non-performance, notices of protest, notices of any breach or default, and notices of acceptance of this Guaranty. If all or any portion of the obligations guaranteed hereunder are paid or performed, Guarantor's obligations hereunder shall continue and remain in full force and effect in the event that all or any part of such payment or performance is avoided or recovered directly or indirectly from the City as a preference, fraudulent transfer or otherwise, irrespective of (a) any notice of revocation given by Guarantor or Owner prior to such avoidance or recovery, and (b) payment in full of any obligations then outstanding.

4. Term. This Guaranty is not limited to any period of time, but shall continue in full force and effect until all of the terms and conditions of the Agreement have been fully performed or otherwise discharged and Guarantor shall remain fully responsible under this Guaranty without regard to the acceptance by the City of any performance bond or other collateral to assure the performance of Owner's obligations under the Agreement. Guarantor shall not be released of its obligations hereunder so long as there is any claim by the City against Owner arising out of the Agreement based on Owner's failure to perform which has not been settled or discharged.

5. No Waivers. No delay on the part of the City in exercising any rights under this Guaranty or failure to exercise such rights shall operate as a waiver of such rights. No notice to or demand on Guarantor shall be a waiver of any obligation of Guarantor or right of the City to take other or further action without notice or demand. No modification or waiver of any of the provisions of this Guaranty shall be effective unless it is in writing and signed by the City and by Guarantor, nor shall any waiver be effective except in the specific instance or matter for which it is given.

6. Attorney's Fees. In addition to the amounts guaranteed under this Guaranty, Guarantor agrees in the event of Guaranty's breach of its obligations including to pay reasonable attorney's fees and all other reasonable costs and expenses incurred by the City in enforcing this Guaranty, or in any action or proceeding arising out of or relating to this Guaranty, including any action instituted to determine the respective rights and obligations of the parties hereunder.

City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266

with a copy to the City Counsel at the same address.

To the Guarantor:

By: _____
(title)

By: _____
(title)

EXHIBIT 5

COMPANY'S FAITHFUL PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That USA Waste of California, Inc., a Delaware corporation, as PRINCIPAL, and _____, a Corporation organized and doing business by virtue of the laws of the State of California, and duly licensed for the purpose of making, guaranteeing, or becoming sole surety upon bonds or undertakings required or authorized by the laws of the State of California, as SURETY, are held and firmly bound to City, hereinafter called OBLIGEE, in the penal sum of Five Hundred Thousand (\$500,000) lawful money of the United States, for the payment of which, well and truly to be made, we and each of us hereby bind ourselves, and our and each of our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the above bounden PRINCIPAL has entered into a contract, entitled "INTEGRATED SOLID WASTE MANAGEMENT SERVICES" with City, to do and perform the following work, to wit: Collect, Process and Dispose of Solid Waste generated within City, in accordance with the contract.

NOW, THEREFORE, if the above bounden PRINCIPAL shall well and truly perform, or cause to be performed each and all of the requirements and obligations of said contract to be performed by said PRINCIPAL, as in said contract set forth, then this BOND shall be null and void; otherwise it will remain in full force and effect.

And the said Surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall in any wise affect its obligations on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications.

IN WITNESS WHEREOF, said PRINCIPAL and said SURETY have caused these presents to be duly signed and sealed this _____ DAY OF _____, 2010.

a Delaware Corporation

SURETY

By: _____

By: _____

(PRINCIPAL)

(ATTORNEY IN FACT)

(SEAL)

(SEAL)

EXHIBIT 6

NOTARY CERTIFICATION

STATE OF CALIFORNIA)

COUNTY OF _____) ss:

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

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

Notary Public

My Commission Expires:

EXHIBIT 7

CITY SPONSORED SPECIAL EVENTS

Row	Event
1	Earth Day Fair
2	Family Campout
3	Fishing Derby
4	Concerts in the Park (11 weeks)
5	Tennis Tournament
6	Sand Castle Design Contest
7	Employee Picnic
8	Polliwog Movie in the Park
9	Pet Appreciation Expo
10	6-Man Volleyball Tournament & Surf Festival
11	Halloween Carnival
12	Downtown Open House/Pier Lighting Ceremony
13	Pier Fireworks Show
14	Family Crafts Night
15	Cultural Arts Fair
16	Senior Health Fair
17	2012 City of MB Centennial Celebrations

EXHIBIT 8

OPTIONAL PROGRAMS

City may instruct Company to implement the following programs during the Agreement Term in accordance with the terms described below. Company shall be required to send a public outreach piece at the beginning of each program.

A. Door-to-Door HHW Collection Program

City may direct Company to begin the following program upon 90 days written notice, with the following rate adjustment effective upon full implementation of program. Upon initiation of this program, City will adjust Company Compensation to compensate Company for \$85,000 per year (\$7,083 per month) while the program is in place. City will determine how the increase shall be billed to Customers. This \$85,000 per year rate is effective as of October 1, 2010 and will subsequently be adjusted at 3% per year each July 1 beginning July 1, 2011.

Company shall provide unlimited door-to-door collection of Household Hazardous Waste (HHW) from both Single Family and Multi-Family Customers. Company shall provide Residential Customers with a number to call in to schedule an appointment for the Collection of HHW. Individual Customers may request unlimited pickups per year.

Materials collected will include, at a minimum, the following:

- Garden Chemicals (such as fertilizer, insect sprays, weed killers, and other poisons);
- Swimming Pool Chemicals (such as pool acid and liquid and tablet chlorine);
- Automotive Waste (such as motor oil, antifreeze, waxes, polishes, cleaners, brake fluid, gasoline, used oil filters, oily rags, transmission fluid, windshield washer fluid, hydraulic fluid, and automotive batteries);
- Paint Products (such as oil-based, latex and spray paints, stripper, stains, caulking, wood preservatives, glue; and thinner);
- Household Cleaners (such as bleach, cleaning compounds, floor stripper, drain cleaner, tile remover, tile cleaners, and rust remover); and

- Miscellaneous Household Waste (such as household batteries, fluorescent tubes, thermometers, hobby glue, artist's paint, and non-controlled pharmaceuticals).

Electronic wastes shall be advertised to be collected as Bulky Items under Section 3.1.5, and Sharps shall be advertised to be collected as part of the Sharps program under Section 3.6.7. However, electronic waste may be collected under this program provided it is co-collected with other HHW items on the same trip.

Company shall be required to send a public outreach piece to all Residential Dwelling units at the beginning of the program with start date, materials to be collected, and instructions on how to call in for a pickup. Company shall be required to update the City's "e-book" or "e-magazine" (see Section 4.3.2) to include this program and periodic program updates. Company shall include ongoing information for this program (including the location of the City's "e-book") in public education mailers required under Section 4.3.2.

B. Additional Processing of Bin and Commercial Cart Refuse

City may request to have Company process all Bin and Commercial Cart and Can Refuse that is Collected on Bin routes. Company will recover a minimum of 3,549 tons per calendar year from this program, including the 1,364 tons required to be recovered under Section 3.5 and an additional 2,184 tons to be recovered. These annual tonnage requirements shall be pro-rated if program begins or ends partially through a calendar year. City may instruct Company to begin the additional processing upon 90 day notice, with a corresponding Company Compensation increase of \$155,000 per year, or \$12,917 per month while this requirement is in place. This \$155,000 per year cost is as of October 1, 2010 and shall increase at a rate of three percent (3%) each year each July 1, beginning July 1, 2011. City will determine how the increase will be applied to Customer rates.

For each ton short of the required 3,549 tons (or as pro-rated) that Company fails to divert each calendar year from landfilling through this processing of Commercial Refuse, Company shall be assessed liquidated damages of \$71 per ton. Alternatively, provided Company is sending all Commercial Bin, Cart and Can Refuse Collected on Bin routes for processing, but failing to meet the minimum diverted tonnage requirement due to a low recovery rate from this material, Company may off-set this diversion tonnage shortfall by sending additional tonnage (i.e. Residential Cart Refuse, processing residue) to a transformation facility to the extent the City is provided with additional diversion credit. To the extent the additional tons diverted

through transformation offset the processing tonnage diversion shortfall, liquidated damages will not be assessed.

Tonnage processed and recovered under this program shall be separately listed on monthly tonnage reports. This program will enhance, and not replace, the provision of source separated Recyclables Collection at no additional charge. This is intended to increase diversion over and above current program levels. This program does not include any business instruction and therefore does not need to be placed in outreach materials.

EXHIBIT 9

CITY HAZARDOUS WASTE MANIFEST

The following is an estimate of the types and volumes of materials generated by the City in need of Collection and proper processing or disposal by Company on an annual basis as of the start of this Agreement. See Section 3.6.2.

Item	Annual Quantity Disposed
City facility batteries only*	apx. 1,000 pounds
Circuit Boards	(1) 32 gallon container
F-40 Lamps	870-900
F-60 Lamps	25-30
F-96 Lamps	25-30
HID Lamps	50-60
Printer Cartridges	Unknown
Toner	Unknown
Miscellaneous Electronic Waste - CRTs, keyboards, small appliances, etc.	40-50 per year
(Fire Dept) Combustible liquids N.O.S. (decamethylcyclopentasiloxane)	Small containers
(Fire Dept) This is noted (per the Waste Manifest) as non-RCRA hazardous waste, solid (absorbent contaminated with hydro carbons).	(4) 55 gallon drums
(Garage) Waste oil	Apx. 1,000 gallons per year (Bulk in 500 gallon above ground tank)
(Garage) Antifreeze	Apx. 700 gallons per year (Bulk in 250 Gal. above ground tank)
(Garage) Waste Oil Filters	(5) 55 gallon drums (apx. 50-70 filters per drum)
(Garage) Waste Fuel Filters	(2) 55 gallon drums (apx. 80-150 filters per drum)
(Garage) Absorbent/Pig Blankets (wipes)	(4) 55 gallon drums (average weight is 200 Lbs. per drum)
(Garage) Tires	400
(Garage) Batteries (Automotive/Industrial)**	20
Miscellaneous liquids	(2) 55 gallon drums
(Streets Division) Aerosol Sprays	Apx. 60 cans per year
Paint - low VOC	Apx. 200-250 pails per year

CITY OF MANHATTAN BEACH

WORKPLAN FOR COMPETITIVE RFP PROCESS

TASK DESCRIPTION	Sr. Vice President	Director	Senior Associates	Associate	Total Hours
1. Prepare Procurement Strategy					
A. Prepare schedule and key RFP issues	4	0	6	0	10
B. Meet once with City staff (meeting #1)	4	0	4	0	8
2. Prepare and Issue Request for Proposals					
A. Prepare draft RFP and revise agreement	16	8	60	50	134
B. Revise documents once after review by City Attorney, other City staff, and potential proposers	8	0	8	0	16
C. Attend Council meeting to approve RFP package (meeting #2)	6	0	6	0	12
D. Prepare for and attend proposers' conference (meeting #3)	4	0	6	0	10
E. Prepare addenda	4	2	12	2	20
3. Review and Evaluate Proposals					
A. Review proposals for completeness	1	0	4	0	5
B. Evaluate complete proposals (maximum of five)	15	0	50	20	85
C. Prepare follow-up questions for proposers	4	0	8	0	12
D. Review responses and clarify unresolved issues	4	0	8	0	12
E. Meet with City staff to discuss preliminary evaluation (meeting #4)	5	0	5	0	10
F. Interview proposers (meeting #5)	8	8	8	0	24
G. Contact references for recommended contractor	1	0	4	6	11
H. Prepare evaluation report and review City staff report	16	0	32	20	68
I. Review City comments and prepare final evaluation report	4	0	8	0	12
4. Negotiate Final Agreement and Prepare a New Agreement					
A. Participate in one negotiating session (meeting #6)	8	0	8	0	16
B. Prepare revised portions of agreement	8	0	16	0	24
C. Attend up to two Council meetings for approval of final agreement (meetings #7 and #8)	12	0	12	0	24
5. Manage Project and Prepare Workpapers	4	2	4	2	12
Total Hours	136	20	269	100	525
Hourly Rate	\$ 245	\$ 200	\$ 195	\$ 140	
Fees	\$ 33,320	\$ 4,000	\$ 52,455	\$ 14,000	\$ 103,775
Expenses					\$ 1,225
Total Budget					\$ 105,000