

RESOLUTION NO. 2017-052

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIO VISTA APPROVING THE FRANCHISE AGREEMENT FOR WASTE COLLECTION SERVICES BETWEEN THE CITY OF RIO VISTA AND RIO VISTA SANITATION SERVICE, INC.

WHEREAS, the City Council desires to continue to utilize the services of Rio Vista Sanitation Services (RVSS) to collect the City's solid waste and,

WHEREAS, the City and RVSS have engaged in and completed franchise agreement negotiations:

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIO VISTA hereby approves the **attached Franchise Agreement for Waste Collection Services** between the City and RVSS and authorizes the City Manager to execute the agreement.

PASSED AND ADOPTED this 18TH day of **JULY, 2017**. I, **ANNA OLEA-MOGER, CITY CLERK OF THE CITY OF RIO VISTA, HEREBY CERTIFY** the foregoing resolution was introduced and passed at a regular meeting of the Rio Vista City Council by the following roll call vote:

AYES: Council Members Boulware, Cohn, Roos, Vice Mayor Kott & Mayor Richardson
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:



Anna Olea-Moger, CMC, City Clerk



**Franchise Agreement
For
Waste Collection Services
By and Between
the
City of Rio Vista
&
Rio Vista Sanitation Service, Inc.**

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Franchise Agreement for Collection Services

This Franchise Agreement for Collection Services (“Agreement”) is entered into by and between the City of Rio Vista, a municipal corporation of the State of California (“City”), and Rio Vista Sanitation Service, Inc., a California corporation (“Contractor”). City and Contractor are sometimes singularly referred to as “Party” and sometimes collectively referred to herein as the “Parties.” This Agreement will take effect as of the date signed by all Parties (“Effective Date”).

RECITALS

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

B. WHEREAS, Contractor has been serving as the exclusive provider for the collection of Solid Waste (as defined in Article 1 below) in the City since November, 1976 and is currently acting as the City’s exclusive provider for the collection, removal and disposal of Solid Waste under that certain written agreement entitled ‘Franchise Agreement for Collection of Municipal Solid Waste,’ which was entered into between the City and Contractor on October 1, 2002, and subsequently amended thereafter; and

C. WHEREAS, the City and the customers in the City are satisfied with the services that they receive from the Contractor and the Parties have expressed a mutual interest in continuing their relationship, including the additional terms and conditions set forth below, by executing this Agreement; and

D. WHEREAS, the City has undertaken negotiations with the Contractor to develop and draft this Agreement, the negotiations have resulted in a satisfactory result, and the Contractor agrees to and acknowledges that it shall provide the Collection Services, as set forth below, in the Service Area pursuant to this Agreement; and

E. WHEREAS, the Parties intend for this Agreement to be the sole agreement relating to the collection, transfer, transportation and disposal of Solid Waste and other services related to Solid Waste collection by Contractor, as described in this Agreement and that this Agreement shall fully supersede and replace, in its entirety, the original “Franchise Agreement for Collection of Municipal Solid Waste,” any amendments thereto, and any exhibits or documents attached to and/or incorporated by reference in the “Franchise Agreement for Collection of Municipal Solid Waste”.

NOW, THEREFORE, in consideration of the foregoing recitals and of the mutual promises, covenants and conditions herein, the Parties agree as follows:

ARTICLE 1. DEFINITIONS

1.01 Definitions. For the purpose of this Agreement, the definitions contained in this Article apply unless otherwise specifically stated. If a word or phrase is not defined in this Article, the definition of the word or phrase as contained in Chapter 8 of the Rio Vista Municipal Code shall control. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Use of the masculine gender includes the feminine gender. **“Agreement”** means this Franchise Agreement for Collection Services, including all exhibits and attachments, and any amendments thereto, between the City and the Contractor for the collection, transfer, transportation and disposal of Solid Waste, Recyclable Materials, Green Waste and other services related to the Collection Services provided by Contractor pursuant to this Agreement.

Bin means a container with capacity of one to eight cubic yards, with hinged lid and wheels/no wheels serviced by a front end-loading truck.

Business means hotels, restaurants, hospitals, retail stores, and all other business establishments.

Bulky Items means discarded large household items such as washers and dryers, dishwashers and other appliances (white goods), e-waste, furniture, tires, carpets, mattresses and similar large items which require special handling due to their size, but can be collected without special loading equipment (such as forklifts or cranes) and without violating vehicle load limits. It does not include abandoned vehicles or Household Hazardous Waste.

California Integrated Waste Management Act of 1989 or AB 939 means California Public Resources Code Section 40000, et seq., and any subsequent amendments to it.

Commercial garbage means all garbage and other refuse, rubbish, swill, and waste generated by any person who does not generate residential garbage.

Cart means a container with a hinged lid and wheels serviced by an automated or semi-automated loading truck with varying capacities of approximate twenty (20) to one hundred (100) gallons.

City Manager means the City Manager of Rio Vista or his or her designee.

Collection, Collect, and Collection Services means the collection of:

- (a) Solid Waste and its transportation to a transfer station or landfill;
- (b) Recyclable material and its transportation to a processing or materials recovery facility;
- (c) Green Waste and its transportation to a processing or materials recovery facility; and
- (d) Construction and Demolition Debris and its transportation to a processing facility or landfill;

Commercial means a primarily non-residential use, including retail sales, professional services, wholesale operations, manufacturing and industrial operations, healthcare and educational operations, and institutional, governmental and non-profit uses. It does not include a business conducted in a residence with a home occupation use permit.

Compactor means a mechanical apparatus that compresses materials.

Compost means the product resulting from the controlled decomposition of organic wastes, including wood waste and Food waste, which are not Hazardous Waste.

Construction and Demolition Debris means wood, wallboard, metals, glass, paper, plastic, concrete, asphalt, and other recyclable and non-recyclable Solid Wastes, including Mixed Waste, generated by residential, commercial and industrial demolition, remodeling, and construction activities.

Container means an approved container used for the disposal and storage until collection by Contractor of Solid Waste or Recyclable material. It includes a Cart, Bin, Drop Box, roll-off box and/or debris box.

Contractor means Rio Vista Sanitation Service, Inc., a California corporation.

Disposal means the ultimate disposition of Solid Waste collected by Contractor at a landfill in full regulatory compliance or other fully permitted disposal site. Disposal does not include alternative daily cover (ADC) to the extent state law defines ADC as landfill diversion for the purposes of AB 939.

Diversion Requirement means the diversion of fifty percent (50%) or more of the Solid Waste and recyclables disposed of in the City, as required by AB 939 and as subsequently amended.

Drop Box means an open-top container with a capacity of eight (8) to fifty (50) cubic yards that is serviced by a roll-off truck. "Handy hauler" means a small drop box with an approximate capacity of four (4) to six (6) cubic yards, which is generally used by customers on a temporary basis.

Environmental Laws mean all federal and state statutes and City ordinances and regulations concerning public health, safety and the environment, including amendments to them. These include (by way of example and not limitation):

- the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §9601 et seq;
- the Resource Conservation and Recovery Act, 42 U.S.C. §69012 et seq.;
- the Federal Clean Water Act, 33 U.S.C. §1251 et seq.;
- the Toxic Substances Control Act, 15 U.S.C. §2601 et seq.;
- the Occupational Safety and Health Act, 29 U.S.C. §651 et seq.;
- the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.;
- the Carpenter-Presley-Tanner Hazardous Substance Account 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.;

E-waste means discarded electronic equipment such as stereos, radios, speakers, televisions, computers, monitors, VCRs, printers, copiers, facsimile machines, DVDs, microwaves, telephones and similar items (including but not limited to cathode ray tubes and other Universal Waste which may require special handling).

Exempt Waste means those wastes, including but not limited to Hazardous Waste, Medical waste, and Infectious waste, not contemplated in Chapter 8.12 of the City of Rio Vista Municipal Code.

Food waste means food scraps separated from Solid Waste and offered for collection by the Contractor, that will decompose and/or putrefy including (i) all kitchen and table food waste, and animal or vegetable waste that attends or results from the storage, preparation, cooking or handling of food stuffs, and (ii) paper waste contaminated with food waste or otherwise not accepted pursuant to the service specifications.

Garbage See definition of 'Solid Waste.'

Green Waste means all organic material from trees, shrubs, grass and any other vegetation and/or foliage and shall include all "Yard Trimmings" as defined in Chapter 8 of the Rio Vista Municipal Code. Trees may not be more than six (6) inches in diameter or three (3) feet in length. Green Waste does not include plastic bags, bricks, rocks, gravel, large quantities of dirt, concrete, sod, non-organic wastes, loose fruits and vegetables, tree trunks, stumps, palm fronds, branches more than six (6) inches in diameter or three (3) feet in length, or pet waste.

Gross Receipts means all monetary amounts collected by Contractor for the provision of Collection Services pursuant to this Agreement calculated in accordance with Generally Accepted Accounting Procedures (GAAP). The term Gross Receipts, for purposes of this Agreement, shall not include (i) any revenues generated from the sale of Recyclable Materials, (ii) any other receipts from federal, state, and/or local government accounts (e.g. grants, cash awards and rebates) resulting from the performance of Contractor under this Agreement, or (iii) refundable deposits or bad debts for which no payment was received by Contractor from the customer or subscriber.

Hazardous Waste means all materials that are hazardous, including (1) "Hazardous Waste" pursuant to Section 40141 of the California Public Resources Code, all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by Sections 25110.02, 25115, and 25117 of the California Health and Safety Code, California Health and Safety Code Section 25100, et seq., and future amendments to or re-codification of such statutes or regulations promulgated thereunder, including 23 California Code of Regulations Sections 2521 and 2522, (2) materials regulated under the Resource Conservation and Recovery Act, 42 U.S.C. §6901, et seq., as amended (including but not limited to amendments thereto made by the Solid Waste Disposal Act Amendments of 1980), and related Federal, State and local laws and regulations, (3) materials regulated under the Toxic Substance Control Act, 15 U.S.C. §2601, et seq., as amended and related Federal, State, and local laws and regulations, including the California Toxic Substances Account Act and California Health and Safety Code Section 25300, et seq., (4) materials regulated under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601, et seq., as amended and regulations promulgated thereunder, and (5) materials regulated under any future additional or substitute Federal, State, or local laws and regulations pertaining to the identification, transportation, treatment, storage, or disposal of toxic substances or Hazardous Waste.

Household Hazardous Waste means hazardous waste generated at residential sites in the City, including normal residential amounts of household chemicals, pesticides, motor oil, paint, products containing mercury, E-waste categorized as Universal Waste (such as television tubes or monitors), anti-freeze, and lead-acid batteries.

Landfill means a permitted disposal site which accepts Solid Waste.

Litter means any quantity of improperly discarded waste materials, including paper, metal, plastic, glass or other miscellaneous Solid Waste thrown or deposited in the public right-of-way, public property or water.

Materials Recovery Facility (MRF) means a permitted facility where Solid Waste, Green Waste, or Recyclable material is sorted or separated for recycling, reuse or processing.

Medical Waste or Infectious Waste means waste which may cause disease or reasonably be suspected of harboring pathogenic organisms, including waste resulting from medical clinics, dental offices, research laboratories, pharmaceutical industries, blood banks, mortuaries, veterinary facilities, hospitals, and similar facilities processing wastes which may include human or animal parts, contaminated bandages, pathological specimens, hypodermic needles, sharps, contaminated clothing and surgical gloves. (Reference: 17 Cal. Adm. Code 314(d); Health and Safety Code Sections 118215 and 25015 et seq., especially 25117.5).

Mixed Waste or Contaminated Recyclables means combined Recyclable Materials and non-Recyclable Materials.

Multi-Family Dwelling ("MFD") Residential means a Residential premises having multiple residences located thereon, which have centralized Solid Waste services. In this Agreement, a residential Premises may be classified as Single-Family Dwelling residential (as defined below, with individual billing for each residence) or Multi-Family Dwelling residential (with a single billing for each complex or group of units).

Person means any institution, public or private corporation, governmental unit or jurisdiction, individual, company, firm, association, partnership or other entity.

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

Processing Facility means a facility to which residential Green Waste, Food waste or Recyclable material is brought to be processed (into compost, mulch, or soil amendment), separated, recycled, or reused.

Recyclable Materials means and includes any waste materials that are capable of being recycled, including but not limited to glass, paper, cardboard, wood, concrete, plastic, used motor oil & filters, ferrous and non-ferrous metal, and aluminum. The terms 'recycle,' 'recycled,' and 'recycling,' each mean and refer to the process of collecting, sorting, cleansing, treating, reconstituting and/or selling recycling materials, and returning them to the use in the economy and includes Construction and Demolition Debris as defined herein.

Recycling Center means a facility established and licensed for the collection of Recyclable Materials, including but not limited to buy-back centers or drop-off locations, which are supplemental to the curbside recycling program operated by Contractor.

Refuse means and includes any solid or semi-solid waste product other than domestic sewage or other human body waste, including but not restricted to garbage, swill, trash, recyclable materials, rubbish, construction waste, industrial and domestic solid and semi-solid waste, trees or shrubs.

Refuse collector means the person, firm, agency or public body or employee or agent thereof, who is or intends to be engaged in the collection or transportation of refuse in the incorporated area of the city.

Refuse Rate Index ("RRI") is an index developed from the United States Department of Labor/Bureau of Labor Statistics information reflecting actual established cost changes that are designed to more accurately reflect the change in costs more reflective of the operation of a Solid Waste hauling and collection company than the Consumer Price Index, which is designed to measure the change in costs of a household. The RRI considers items like transportation and trucking costs, tipping fees and labor separately as these items are likely to vary from the Consumer Price Index.

Residence or Residential means an individual living unit having bathroom and kitchen facilities in either a Single-Family Dwelling residence (SFD) or Multi-Family Dwelling (MFD) residence. It does not include hotels, motels, or institutional facilities.

Residential garbage means any garbage generated from a site other than a business for profit (including hotels, motels, and other commercial businesses) and includes garbage collected from a site where a person or persons reside on a permanent basis, including houses, apartments, flats, and those sites which are commonly considered to be places of permanent residence.

Salvage means the authorized and controlled accumulation of Solid Waste materials for subsequent use.

Single-Family Dwelling ("SFD") residential means a Residential premise having a single residence located thereon. In this Agreement, a Residential premises may be classified as Single-Family Dwelling residential (as defined below, with individual billing for each residence) or Multi-Family Dwelling residential (with a single billing for each complex or group of units).

Solid Waste and Waste each mean all putrescible and non-putrescible solid, semi-solid, and liquid wastes, including Garbage, trash, refuse, paper, rubbish, ashes, commercial and industrial wastes, wood waste, Construction and Demolition Debris, abandoned vehicles and parts thereof, discarded home and industrial appliances, and other discarded solid and semi-solid wastes. Solid Waste and waste include Recyclable Materials and Mixed Waste which include both recyclable and non-recyclable materials. Solid Waste and waste does not include any of the following wastes: (1) Hazardous Waste (as defined above), (2) Household Hazardous Waste (as defined above), (3) radioactive waste, (4) Medical waste, (5) Infectious waste, (6) Exempt Waste, (7) Universal Waste, (8) Waste that the disposal of which is prohibited by local, State, or Federal law, regulation, ordinance, and/or permit, and (9) any waste excluded by the terms and definitions of this Agreement or the Rio Vista Municipal Code. Solid Waste does not include separated Recyclable Materials, Green Waste or Food Waste.

Source separated means the generator's segregation from Solid Waste of materials designated for separate collection for recycling, recovery or reuse.

Transfer Station means a facility used to receive Solid Wastes, temporarily store or process the materials in the Solid Wastes, or to transfer the Solid Wastes directly from smaller to larger vehicles for transport.

Universal Waste is hazardous wastes that are more common and pose a lower risk to people and the environment than other hazardous wastes (see California Code of Regulations, Div. 4.5,

chapter 23), including but not limited to, mercury thermostats, switches and thermometers, batteries, fluorescent and high-intensity lamps, non-empty aerosol cans, certain consumer electronic devices, and cathode ray tubes such as those found in television and non-flat monitors.

Waste Generator or Generator means the person who produces the Solid Waste, Recyclable material or Green Waste, or whose act first causes the Solid Waste to become subject to regulation (see Public Resources Code §§40170, 40191).

White Goods means inoperative or discarded refrigerators, ranges, water heaters, freezers, washers, dryers, and other similar large household appliances (See also Bulky Items).

Yard trimmings means tree branches not more than one inch in diameter and not more than four feet long, shrubbery, leaves, lawn clippings and weeds, and shall not include rocks and/or dirt.

ARTICLE 2. EXCLUSIVE AGREEMENT

2.01 Exclusive Agreement. The Contractor is herein granted the exclusive right by the City to provide collection, processing, and disposal services within the City for Solid Waste, Recyclable Materials, Green Waste, Construction and Demolition Debris, and Food waste for SFD residential, MFD residential, Commercial and industrial Premises located within the City. This Agreement is based on the statutory and constitutional powers provided to the City effectuated through the contractual terms of this Agreement. Contractor accepts this exclusive franchise right and privilege and contractually agrees to perform according to the terms, benefits and obligations provided for herein.

In accordance with applicable law, Contractor's exclusive right to collect, process and dispose of Commercial Recycling and Construction and Demolition Debris shall not take effect unless and until the City is satisfied that such grant of exclusive franchise complies with California Public Resources Code section 49520.

2.02 Self-Haulers. Notwithstanding the exclusive franchise granted to Contractor under this Agreement, any person or entity within City limits may engage in self-hauling of Solid Waste generated directly by that person or entity to a disposal site to the extent permitted by the Rio Vista Municipal Code.

2.03 Contractor Warranties. In signing this Agreement, Contractor warrants that to the best of its knowledge the following is true and accurate:

a. Contractor Resources. Contractor possesses the business, professional, and technical expertise to collect, transport, process, and transfer the Solid Waste, Green Waste, and Recyclable material generated in the City and Contractor possesses the equipment, facility, and employee resources required to perform the services specified in this Agreement.

b. Agreement Will Not Cause Breach. To the best of Contractor's knowledge, after reasonable investigation, neither the execution or delivery of this Agreement nor the performance by Contractor of its obligations hereunder: (i) conflicts with, violates, or results in a breach of any law or governmental regulation applicable to Contractor; or (ii) conflicts with, violates or results in a breach of any term or condition of any judgment, order, or decree of any court, administrative agency or other governmental authority, or any agreement or instrument to which Contractor is a party or by which Contractor or any of its properties or assets are bound, or constitutes a default thereunder.

c. No Adverse Judicial Decisions. To the best of Contractor's knowledge, after reasonable investigation, there is no judicial decision that affects the validity of this Agreement and may subject this Agreement to legal challenge.

d. No Legal Prohibition. To the best of Contractor's knowledge, after reasonable investigation, there is no applicable law in effect on the date Contractor signed this Agreement that would prohibit the performance by the Contractor of its obligations under this Agreement and the transactions contemplated hereby.

e. Contractor's Investigation. Contractor has made an independent investigation (satisfactory to it) of the conditions and circumstances surrounding the Agreement and the work to be performed hereunder and has taken these matters into consideration in its agreement to provide these services in exchange for the compensation provided for under the terms of this Agreement.

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

g. Contractor Authorization. Contractor has the authority to enter into and perform its obligations under this Agreement. The board of directors of Contractor (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 Contractor represent and warrant that they have authority to do so. This Agreement constitutes the legal, valid and binding obligation of the Contractor.

h. No Litigation. To the best of Contractor's knowledge, after reasonable investigation, there is no action, suit, proceeding or investigation, at law or in equity, before or by any court or governmental authority, commission, board, agency or instrumentality decided, pending or threatened against Contractor wherein an unfavorable decision, ruling or finding, in any single case or in the aggregate, would materially adversely affect the performance by Contractor of its obligations hereunder or which, in any way, would adversely affect the validity or enforceability of this Agreement or which would have a material adverse effect on the financial condition of Contractor, or any surety or entity guaranteeing Contractor's performance under this Agreement.

2.04 Limitations to Scope. This Agreement, shall be interpreted to be consistent with state and federal laws and Environmental Laws, now and during the term of the Agreement, and the services provided hereunder shall be limited by applicable state and federal laws and Environmental Laws, regulations or judicial decisions or orders with regard to the matters contained in this Agreement.

ARTICLE 3. TERM OF AGREEMENT

3.01 Term. The term of this Agreement shall commence on July 31, 2017 and terminate on July 31, 2027.

Either Party may terminate this Agreement by giving at least one hundred twenty days (120) notice in writing to the other Party of such termination that will become effective at the end of current Agreement term and/or renewal period. The term of this Agreement, may be extended by 3 three (5) five-year terms at the election of the City. Nothing in this section shall prohibit the

Contractor from requesting the City consider extending the contract. Contractor should request the extension in writing six (6) months prior to the expiration date of the current contract period in order for the City to consider and rule on the request. Contractor may request the city to renew this Franchise Agreement for a third five (5) year period upon written notice received by the city six (6) months prior to the expiration date in which case said renewal period will expire on April 30, 2042. The City shall expeditiously commence a process to consider Contractor's request for renewal. A condition precedent to granting Contractor any renewal shall be an affirmative finding by the City Council that Contractor is in compliance with all terms and conditions of this Agreement and is providing a high quality level of service to the City of Rio Vista.

3.02 Defense of Agreement. Contractor may at its election, and if it makes that election, at its sole expense, defend the validity of this Agreement against all challenges to the Agreement including challenges to any compensation or fees provided to City, by any entity or person not a party to this Agreement. Neither the City nor the Contractor shall have any liability to each other resulting from a determination that this Agreement violates any state or federal law, statute, or constitutional provision, except to the extent such determination relates to the Contractor's willful misconduct or negligence. However, if the Contractor elects to not defend the validity of this Agreement, the City may, upon reasonable notice, terminate the Agreement at its election, and if it makes that election, it shall have no liability to the Contractor resulting from that election to terminate.

ARTICLE 4. SERVICES PROVIDED BY THE CONTRACTOR

4.01 Service Standards. Contractor shall perform all Collection Services under this Agreement in a thorough and professional manner so that the residents and businesses are provided uninterrupted, reliable, courteous, timely and high quality collection services at all times. Collection services described in this Agreement shall be performed regardless of weather conditions or difficulty of collection. The City Manager may direct services be initiated at any address within the city where the property appears to be occupied.

4.02 City Right to Direct Changes.

a. Procedure for Making Changes. The City may determine that additional services and/or a modification to the existing Collection Services performed by Contractor are needed or required by law. Contractor shall be entitled to an adjustment in its compensation for providing such additional or modified services. The City Council will adjust Contractor's rates to compensate Contractor for its reasonable costs of providing such additional or modified services.

After receipt of written notice from the City pursuant to this Article, Contractor shall present, within 45 calendar days of the City's request, a proposal to provide the additional or expanded services described in this Section 4.02. At a minimum, the proposal shall contain a complete description of the following:

1. Collection methodology to be employed (equipment, manpower, etc.).
2. Equipment to be utilized (vehicle number, types, capacity, age, etc.).
3. Labor requirements (number of employees by classification).
4. Type of materials.

5. Containers to be utilized.
6. Timeline for implementation.
7. Five year projection of the financial results of the program's operations in a balance sheet and operating statement format including documentation of the key assumptions underlying the projections and the support for those assumptions, giving full effect to the savings or costs to existing services.

The City Manager shall review Contractor's proposal and make a recommendation to the City Council, whose decision shall be final and binding with respect to the additional and/or modified services at issue. The Parties agree to negotiate in a timely and expeditious manner regarding the modification in the Contractor's rates in order to compensate Contractor for the additional services requested by the City. Once the appropriate adjustment to the Contractor's rates has been approved by Contractor and the City, Contractor shall, on a schedule agreed to by the City, commence the additional and/or modified services.

Contractor acknowledges and agrees that the City may permit other persons besides Contractor to provide the additional services not otherwise contemplated in this Agreement if Contractor and the City cannot agree on terms and conditions of such services in 120 calendar days from the date when the City first requests a proposal from the Contractor to perform such services.

4.03 Responsibility for Service Billing and Collection. The Contractor is responsible for the billing and collection of payments for Collection Services. The Contractor shall not bill for Collection Services rendered to City facilities as described in Article 4.04.

4.04 Service to City Facilities. Contractor shall collect and dispose of all Solid Waste of the City, the City Parks Department, the City Police Department, the City Fire Department, and any other municipal stations which may hereafter be designated by the City, at no cost or charge to City. The cost for providing such services shall be considered an allowable cost in the determination of rates under Article 5. The Collection Services provided to the City at no cost to City shall not include any City facilities that are run and/or managed by private independent third parties, including but not limited to any waste water treatment plants. The Solid Waste collection service shall be at least weekly at each location. Any changes to service levels must be agreed upon by Contractor and the City prior to start of service. Annually, or more frequently as needed, Contractor and the City will review the waste stream at each facility to evaluate diversion programs and make changes to service levels.

The free City services provided for in this Section shall not include free hauling and/or disposal of Construction and Demolition Debris from the demolition or renovation of City buildings or structures. In the event the City wishes to have Contractor provide these services, Contractor shall negotiate a fee for such services with the City that will compensate Contractor for the reasonable value of such services.

4.05 Labor and Equipment. Contractor shall provide and maintain all labor, equipment, tools, facilities, and personnel supervision required for the performance of Contractor's obligations under this Agreement. Contractor shall at all times have sufficient backup equipment and labor to fulfill Contractor's obligations under this Agreement. No compensation for Contractor's services or for Contractor's supply of labor, equipment, tools, facilities or supervision shall be provided or paid to Contractor by City or by any customer except as expressly provided by this Agreement.

4.06 Purchase, Distribution and Ownership of Carts. The Contractor is responsible for the purchase and distribution of fully assembled and functional garbage and recycling Carts, Bins and drop boxes. Contractor retains ownership of the Carts, Bins and drop boxes and shall provide maintenance and or replacements, within seven (7) working days, upon receipt of request by a customer.

4.07 Holiday Service. The Contractor observes December 25th and January 1st as legal holidays. Contractor is not required to provide collection services or maintain office hours on the designated holidays. In any week in which one of these holidays falls on a work day (Monday through Saturday), SFD collection services for the holiday and each work day thereafter will be delayed one work day for the remainder of the week, with normally scheduled Friday SFD collection services being performed on Saturday. MFD and commercial collection services shall be adjusted as necessary but must meet the minimum frequency requirements of one time per week.

4.08 Spillage and Litter. The Contractor shall not litter premises in the process of providing collection services or while its vehicles are on the road. The Contractor shall transport all materials collected in such a manner as to prevent the spilling or blowing of such materials from the Contractor's vehicle. The Contractor shall exercise reasonable care in providing Collection Services so as to prevent spilling or dropping of Solid Waste or Recyclable Materials and shall immediately, at the time of occurrence, clean up such spilled or dropped waste or materials.

The Contractor is not responsible for cleaning up sanitary conditions caused by the customer; however, the Contractor shall clean up any material or residue that is caused by the Contractor or its employees.

4.09 Ownership of Materials. Once Solid Waste, Recyclable Material, and Green Waste are placed in containers and properly presented for collection, ownership and the right to possession shall transfer directly from the generator to Contractor by operation of this Agreement. Contractor is hereby granted the exclusive right to retain, process, dispose of, and otherwise use such Solid Waste, Recyclable Material, and Green Waste, or any part thereof, in any lawful fashion or for any lawful purpose desired by Contractor. Subject to the provisions of this Agreement, Contractor shall have the right to retain any benefit resulting from its right to retain, process, dispose of, or use the Solid Waste, Recyclable Material, and Green Waste which it collects. Solid Waste, or any part thereof, which is disposed of at a disposal site or facility (whether landfill, transformation facility, transfer station, or Materials Recovery Facility) shall become the property of the owner or operator of the disposal site(s) or facility once deposited there by Contractor. Contractor shall be entitled to retain all revenues from the sale of Recyclable Materials and Green Waste collected by Contractor, which shall not be considered a Gross Receipt under this Agreement.

4.10 Disposal or Processing of Collected Materials. The Contractor shall dispose of or deliver for processing all Solid Waste collected under this Agreement at a transfer station, landfill, Materials Recovery Facility or other appropriate state-licensed facility at its sole and absolute discretion. All separately collected Recyclable Materials, Green Waste, and Food Waste collected under this Agreement, shall be delivered to a Materials Recovery Facility or Processing Facility.

4.11 AB 939 and 1826. In the event that AB 939 and/or AB 1826 is suspended, amended, repealed, superseded, and/or restated, the Parties agree to promptly meet and confer in good faith in person to discuss the potential impacts of the change to AB 939 and/or AB 1826 on the Parties

and to discuss and negotiate any potential modifications and/or amendments to the terms of this Agreement.

4.12 Amendment of Agreement. In the event that Contractor is required to provide services not delineated herein under any existing or subsequently enacted local, state, or Federal law, statute, rule, regulation or ordinance, the Parties agree to promptly meet and confer in good faith in person to discuss the additional required services and to amend this Agreement to expressly include such services and costs in the scope of this Agreement.

ARTICLE 5. RATES, CHARGES AND CONTRACTOR COMPENSATION

5.01 Charges and Rates.

a. SFD Residential. Contractor covenants and agrees to collect and dispose of all Single-Family Dwelling (SFD) residential Solid Waste from the City in accordance with the rates adopted by the City Council of the City by resolution from time to time in accordance with the terms of this Agreement. Current and/or agreed to rates are those set forth in Exhibit "A," which is attached hereto and fully incorporated herein by this reference.

b. Commercial/Industrial/MFD Residential. Contractor covenants and agrees to collect and dispose of all Commercial, industrial, Construction and Demolition Debris, and Multi-Family Dwelling (MFD) residential Solid Waste, and other non-residential Solid Waste from the City. The charges for such collection and disposal will be in accordance with the rates adopted by the City Council of the City by resolution from time to time in accordance with the terms of this Agreement. Current and/or agreed to rates are those set forth in Exhibit "A," which is attached hereto and fully incorporated herein by this reference.. In case of dispute between a Commercial, industrial, MFD residential, and/or other non-residential customer and Contractor as to the rate charged or to be charged for any service provided hereunder, the matter shall be referred to the City Manager for investigation. The City Manager shall make a determination regarding the dispute within thirty (30) days after completion of the investigation. The determination of the City Manager shall be subject to an appeal to the City Council. The appealing party shall have ten (10) days from the date of the City Manager's decision in which to file an appeal of determination with the City Council. The appeal shall be placed on the City Council's Agenda as soon as practicable.

c. Rate Adjustment. Beginning on September 1, 2017, and annually thereafter during the term of this Agreement, the SFD Residential and Commercial rates set forth in Exhibit "A" of this Agreement shall be adjusted by the Refuse Rate Index (RRI) adjustment as follows:

(i) The RRI adjustment shall be the sum of the weighted percentage change in the annual average of each RRI index number between the base year, which shall be the prior preceding fiscal year ending December 31st and the preceding fiscal year ending December 31st as contained in the most recent release of the source documents listed in Exhibit "B," entitled "RRI Calculation Summary," which is attached hereto and fully incorporated into this Agreement. Therefore, the first rate adjustment will be based on the percentage changes between the annual average of the RRI indices for the most recent two years. The RRI adjustment shall be calculated using the RRI methodology included in Exhibit "B." The RRI shall be capped at 4%

per year and have a 0% floor, such that if a negative number, no cost adjustment would occur. However, the reduction would be used in calculating the next year's adjustment. In no event may rates be charged in excess of those permitted pursuant to Rio Vista Municipal Code section 8.12.080.

(ii) On or before June 30, 2017, and annually thereafter during the term of this Agreement, Contractor shall deliver to City financial information for the specific services performed under this Agreement for the preceding fiscal year ending December 31st. Such financial information shall be in the format as set forth in Exhibit B, or as may be further revised by City and Contractor from time to time. Contractor's failure to provide the financial information shall not preclude City from applying the RRI using the prior year's financial data, or pro forma data if no prior year financial data is available, if that application would result in a negative RRI. City shall calculate the applicable RRI and proposed rate adjustment, and Contractor shall certify the RRI as complying with the RRI Calculation Summary, prior to being implemented by Contractor. City will notify Contractor of the RRI adjustment by July 31st in order for Contractor to provide notification to customers in August, with the RRI adjustment effective on September 1st.

(d) **Base Year Rate Review.** Beginning in September 2018, and at the end of each four (4) year period thereafter, Contractor shall submit a full and comprehensive rate application for City review; so that the collection rates then in effect can be adjusted to accurately reflect the actual costs of Contractor, rather than the rates as adjusted solely by RRI. These comprehensive rate reviews shall be presented to the City Council for its consideration and the approval.

5.02 Collection services. The Contractor is responsible for the billing and collection of payments for all Collection Services. Since the responsibility of subscribing for service lies with the owner of the property, the Contractor shall have the ability to obtain property owner information as filed with the Solano County Assessor's office to the extent permitted by law.

The Contractor shall charge SFD residential customers the service rates established by the City Council and set forth in Exhibit A (and as subsequently amended) and shall charge all Commercial, industrial, and MFD residential customers the agreed upon rates pursuant to Article 5.01. The rates may be adjusted under the terms of this Agreement. Collection services are not required for vacant and unoccupied properties, and no fees or charges shall apply to such properties until they become occupied.

5.03 Partial Month Service. If a SFD residential customer is added to or deleted from Contractor's City area during a month, the Contractor's billing shall be pro-rated based on the daily service rate (the daily service rate shall be the service rate established in Exhibit A divided by the number of actual days in the month that service was provided to the customer). If a Commercial, industrial, or MFD residential customer is added to or deleted from Contractor's City area during a month, the Contractor's billing shall be pro-rated based on the daily service rate (the daily service rate shall be the service rate agreed to by the parties pursuant to Article 5.01 and divided by the number of actual days in the month that service was provided to the customer).

5.04 General Billing Requirements. Contractor shall prepare mail and collect bills (and issue written receipts for cash payments) for Solid Waste Collection Services provided by Contractor. Residential bills shall be for service for no more than a three-month period in advance. Contractor may choose to bill monthly, but any change in the billing interval must be

approved by the City Manager. Each bill must clearly describe that the billed amount is for the billed period. Bills for residential service shall be mailed in advance of the provision of service but no more than three months in advance. Commercial bills shall be for service for a one month period billed monthly in arrears. The Contractor's bills shall contain a local address, phone number, and e-mail address, the customer's service level (container size, frequency of collection), and any credits due the customer. Contractor is authorized to send notices of non-payment to a customer after thirty (30) days and to terminate service after 45 days of non-payment by customer. Contractor is also authorized to charge late fees on unpaid balances and other fees per Contractor's billing policies and practices. Contractor shall notify City of accounts where service has been terminated for delinquent or non-payment of the bill on a monthly basis. Contractor reserves the right to refuse to make any collection of Solid Waste from any person(s) within the City for good cause, which shall include delinquent payment of bills. In the event that a dispute as to what constitutes good cause should arise, notice thereof shall be submitted in writing to the City Manager. Pending a decision by the City Manager, Collection Services shall continue by Contractor. The City Manager shall determine whether or not good cause is supported in fact and said decision shall be made within twenty (20) days of receipt of the notice of dispute. The City Manager shall have the authority to override the Contractor's right of refusal to make collections, In such cases, the City will work with Contractor to lien such properties annually for the amount due plus any accrued penalties.

ARTICLE 6. CITY COMPENSATION

6.01 Franchise Fee. During the term of this franchise, and any extension hereof, Contractor shall pay City an annual franchise fee of twelve percent (12%) of its annual Gross Receipts from Commercial, industrial, Construction and Demolition Debris, MFD residential Solid Waste collection and disposal services, and SFD residential Solid Waste collection service. Such payments will be prorated and made quarterly on or before January 31st, April 30th, July 31st, and October 31st of each year.

ARTICLE 7. SINGLE FAMILY DWELLING (SFD) RESIDENTIAL COLLECTION SERVICES

7.01 SFD Residential Collection Services: General. The Contractor shall provide SFD Collection Services to all SFD customers in the City area whose residential Solid Waste, Recyclable Materials, and Green Waste are properly containerized and set out within three feet of the curb, swale, paved surface of the public roadway, closest accessible roadway, or other such location agreed to by the Contractor and customer, that will provide safe and efficient accessibility to the Contractor's collection crew and vehicle. Contractor shall provide weekly service for residential Solid Waste and biweekly service for Recyclable Materials and Green Waste.

7.02 On-Premises Service. Contractor shall provide on-premises collection of SFD residential Solid Waste, Recyclable Materials, and Green Waste to a SFD customer if all adult customers residing there have disabilities that prevent them from setting their garbage or recycling cart at the curb for collection and if a request for on-premises service has been made to, and approved by, the City Manager in the manner required by City. On premises service shall

include pickup and replacement of carts within the front or side yard and return of the cart to such location. The Contractor shall authorize on-premises service in appropriate circumstances. If there is a dispute between the Contractor and a customer regarding this issue, the Contractor shall refer the matter to the City Manager for his or her determination. No additional monies shall be due to the Contractor for the provision of on-premises service to special needs or disabled customers. The City may direct Contractor to provide an elective or optional on-premises service to customers who request it for a fee in addition to the otherwise applicable rates and charges. This elective on-premises service would be available to able-bodied customers.

Contractor shall provide on-premises collection service on the same work day that curbside collection would otherwise be provided to the SFD customer.

7.03 Frequency and Scheduling of Service. SFD collection services shall be provided one time per week on a scheduled route basis, except for Bulky Item collection and Holiday tree collection.

a. Hours and Days of Collection. SFD collection services shall be provided beginning no earlier than 5:00 a.m. and ending no later than 6:00 p.m., Monday through Saturday. The hours or days of collection may be extended due to extraordinary circumstances with the prior consent of the City Manager.

b. Manner of Collection. The Contractor shall provide SFD collection service with as little disturbance as possible and shall leave carts in an upright position at the same point they were collected without obstructing alleys, roadways, driveways, sidewalks or mail boxes.

7.04 SFD Solid Waste Collection Service. Contractor is not required to collect any SFD residential Solid Waste that is not placed in the cart or that is commingled with Hazardous Waste, Infectious waste, and/or Medical waste. In the event of non-collection, Contractor shall affix to the cart a non-collection notice explaining why collection was not made.

7.05 SFD Recycling Service.

a. Collection. The Contractor shall provide biweekly SFD recycling service to all SFD customers whose Recyclable Materials are properly containerized in the cart provided by Contractor and set out. The Contractor is not required to collect Recyclable Materials if the customer does not segregate the Recyclable Materials from residential Solid Waste. If Recyclable Materials are contaminated through commingling with Solid Waste, the Contractor shall, if practical, separate the Solid Waste from the Recyclable Materials. The Recyclable Materials shall then be collected and the Solid Waste shall be left in the recycling container along with a non-collection notice. However, if the Recyclable Materials and Solid Waste are commingled to the extent that they cannot easily be separated by the Contractor or the nature of the residential Solid Waste renders the entire recycling container contaminated, the Contractor shall leave a notice of warning to the customer, and upon the second instance within six months may leave the container un-emptied along with a non-collection notice.

b. Cardboard. Corrugated cardboard that will not fit inside the recycling cart shall be placed as specified by the Contractor.

c. Changes to Work. If changes in law arise that necessitate any additions or deletions to the work described here including the type of items included as Recyclable Materials, the Parties shall negotiate any necessary cost changes and shall enter into an

amendment to the Agreement covering the modifications to the work to be performed and the compensation to be paid before undertaking any changes or revisions to the work.

7.06 SFD Green Waste Collection Service. Upon execution of this Agreement, Contractor shall deliver thirty-two (32) gallon Green Waste containers to customers within the City. Any SFD customer may request a ninety-six (96) gallon Green Waste container, which Contractor shall provide and service for an additional fee. Contractor shall provide Green Waste collection to all citizens of the City on a biweekly basis on alternating weeks with the SFD Recycling collection services provided by Contractor. Contractor is not required to collect any Green waste ~~that is~~ not placed in a Green waste cart. In the event of non-collection, Contractor shall affix to the Green waste cart a non-collection notice.

7.07 Change in Collection Schedule. Contractor shall notify City not later than sixty (60) days prior to, and residential customers not later than fourteen (14) days prior to, any change in SFD residential collection operations that results in a change in the day on which Solid Waste collection occurs. Contractor shall not permit any customer to go more than seven (7) days without service in connection with a collection schedule change. City must give final approval to the routing changes and its approval shall not be withheld unreasonably.

7.08 SFD Residential Clean-Up Service. The Contractor shall provide SFD residential clean-up collection service to all SFD customers whose items or extra residential Solid Waste have been placed in a disposable bag or container, or bundled, and placed within three feet of the curb, swale, paved surface of the public roadway, closest accessible roadway, or other such location agreed to by the Contractor and customer, that will provide safe and efficient accessibility to the Contractor's collection crew and vehicle. SFD residential clean-up collection service is limited to three (3) times per year, with a maximum of two (2) cubic yards per collection. The cost of the SFD residential clean-up service is included in the Contractor approved rates.

ARTICLE 8. MULTIPLE FAMILY DWELLING (MFD) RESIDENTIAL COLLECTION SERVICES

8.01 MFD Residential Collection Services: General. The Contractor shall provide MFD Collection Services to all MFD customers in the City area whose residential Solid Waste, Recyclable Materials, and Green Waste are properly containerized and set out within three feet of the curb, swale, paved surface of the public roadway, closest accessible roadway, or other such location agreed to by the Contractor and customer, that will provide safe and efficient accessibility to the Contractor's collection crew and vehicle.

8.02 On-Premises Service. Contractor shall provide on-premises collection of MFD residential Solid Waste, Recyclable Materials, and Green Waste to a MFD customer if all adult customers residing there have disabilities that prevent them from setting their garbage or recycling cart at the curb for collection. On premises service shall include pickup and replacement of carts within the front or side yard and return of the cart to such location. The Contractor shall authorize on-premises service in appropriate circumstances. If there is a dispute between the Contractor and a customer regarding this issue, the Contractor shall refer the matter to the City Manager for his or her determination. No additional monies shall be due to the Contractor for the provision of on-premises service to special needs or disabled customers. The City may direct Contractor to provide an elective or optional on-premises service to customers

who request it for a fee in addition to the otherwise applicable rates and charges. This elective on-premises service would be available to able-bodied customers.

Contractor shall provide on-premises collection service on the same work day that curbside collection would otherwise be provided to the MFD customer.

8.03 Frequency and Scheduling of Service. The MFD Collection Services are governed by the following terms and conditions:

a. Hours and Days of Collection. MFD collection services shall be provided beginning no earlier than 5:00 a.m. and ending no later than 6:00 p.m., Monday through Saturday. The hours or days of collection may be extended due to extraordinary circumstances with the prior consent of the City Manager.

b. Manner of Collection. The Contractor shall provide Collection Services with as little disturbance as possible and shall leave any container at the same point it was collected, with the lid closed, without obstructing alleys, roadways, driveways, sidewalks or mailboxes.

8.04 MFD Solid Waste Collection Service. The Contractor shall provide MFD Solid Waste Collection Services to all MFD customers whose residential solid waste is properly contained in a container. This service shall be provided at least once every week on a scheduled route basis. The size of the container and the frequency (above the minimum) of collection shall be determined between the customer and the Contractor.

8.05 MFD Recycling Service. This service will be governed by the following terms and conditions.

a. Conditions of Service. The Contractor shall provide biweekly MFD recycling service to all MFD customers whose Recyclable Materials are properly containerized and set out. The Contractor is not required to collect Recyclable Materials if the customer does not segregate the Recyclable Materials from residential Solid Waste. If Recyclable Materials are contaminated through commingling with Solid Waste, the Contractor shall, if practical, separate the Solid Waste from the Recyclable Materials. The Recyclable Materials shall then be collected and the Solid Waste shall be left in the recycling container along with a non-collection notice. However, if the Recyclable Materials and Solid Waste are commingled to the extent that they cannot easily be separated by the Contractor or the nature of the residential Solid Waste renders the entire recycling container contaminated, the Contractor may leave the container un-emptied along with a non-collection notice.

b. Frequency of Service. This service shall be provided a minimum of every other week on a scheduled route basis.

c. Changes to Work. If changes in law arise that necessitate any additions or deletions to the work, including the type of items included as Recyclable Materials, the Contractor shall modify its operations to appropriately address the change in law. The Parties shall attempt to negotiate any reasonable and necessary cost changes and shall enter into an amendment to the Agreement covering the modifications to the work to be performed and the modification to the rates and charges of Article 5.

ARTICLE 9. COMMERCIAL AND INDUSTRIAL COLLECTION SERVICES

9.01 Commercial and Industrial Collection Service: General. The Contractor shall provide commercial Collection Services to all Commercial and industrial customers. This service is governed by the following terms and conditions:

a. Provision of Service. Contractor shall provide commercial Solid Waste and Recycling service to all Commercial customers.

b. Hours of Collection. Commercial Collection Services except for debris box service shall not occur between the hours of 6:00 p.m. and 5:00 a.m. within 300 feet of an inhabited dwelling unit. In order to reasonably accommodate nearby residents with noise complaints, Contractor shall adjust its collection times for specific business customers if the scheduled collection time is before 7:00 a.m. as long as the scheduled collection time can be adjusted without posing a safety risk.

c. Manner of Collection. The Contractor shall provide Commercial Collection Services with as little disturbance as possible and shall leave any container at the same point it was originally located without obstructing alleys, roadways, driveways, sidewalks or mail boxes. Bin lids must be left in the closed position when garbage enclosure is not roofed.

9.02 Commercial Solid Waste Collection Service.

a. Conditions of Service. The Contractor shall provide Commercial Solid Waste Collection Services to all Commercial and industrial customers whose Solid Waste is properly contained in containers.

b. Size and Frequency of Service. Contractor shall provide Solid Waste collection service as deemed necessary and as determined between the Contractor and the customer, but such service shall be received no less than one (1) time per week. Collection service scheduled to fall on a holiday may be rescheduled as determined between the customer and the Contractor as long as the minimum frequency requirement is met. The frequency (above the minimum) of collection shall be determined between the customer and the Contractor.

The Contractor shall provide containers as part of the Commercial Collection Services. The kind, size and number of containers furnished to particular customers shall be as determined mutually by the customer and Contractor. Containers which are front loading bins, shall have lids. All containers with a capacity of one cubic yard or more shall meet applicable regulations for container safety and shall have reflective markings, shall be maintained in good repair with neatly and uniformly painted surfaces and shall prominently display the name and telephone number of Contractor. Containers shall be clearly marked and identified as belonging to Contractor. Contractor shall not be obligated to provide customers with compactor units, but will be obligated to charge the rates set by the City for the collection of compacted Solid Waste.

The kind, size and number of containers and frequency of collection shall be sufficient to provide that no Solid Waste need be placed outside the container.

c. Non-Collection. Contractor is not required to collect any commercial Solid Waste that is not placed in a container unless the Solid Waste is outside the container as a result of overflow. If Solid Waste is not collected, the Contractor shall contract the customer to advise them of the problem.

9.03 Commercial Recycling Service. This service will be governed by the following terms and conditions:

a. Conditions of Service. The Contractor shall provide weekly Commercial Recycling service to all Commercial customers whose Recyclable Materials are properly containerized and set out. The Contractor is not required to collect Recyclable Materials if the customer does not segregate the Recyclable Materials from commercial Solid Waste. If Recyclable Materials are contaminated through commingling with Solid Waste, the Contractor shall, if practical, separate the Solid Waste from the Recyclable Materials. The Recyclable Materials shall then be collected and the Solid Waste shall be left in the container along with a non-collection notice. However, if the Recyclable Materials and Solid Waste are commingled to the extent that they cannot easily be separated by the Contractor or the nature of the commercial Solid Waste renders the entire recycling container contaminated, the Contractor may leave the container un-emptied along with a non-collection notice.

b. Size and Frequency of Service. The Contractor shall provide this service as deemed necessary and as determined between the Contractor and the customer, but such service shall be received no less than every other week. Collection service scheduled to fall on a holiday may be rescheduled as determined between the customer and the Contractor as long as the minimum frequency requirement is met. Service may be provided by bin, cart or drop box at the option of the customer. The size of the container and the frequency (above the minimum) of collection shall be determined between the customer and the Contractor. The Contractor shall provide containers as part of the Commercial service rates.

c. Changes to Work. If changes in law arise that necessitate any additions or deletions to the work described here, including the type of items included as Recyclable Materials, the Parties shall negotiate any necessary cost changes and shall enter into an amendment to the Agreement covering the modifications to the work to be performed and the compensation to be paid before undertaking any changes or revisions to the work.

ARTICLE 10. CONTRACTOR'S OFFICE, PERSONNEL AND COLLECTION EQUIPMENT

10.01 Contractor's Office.

a. Location; Telephone Service. Contractor shall designate a location in the City where bills may be paid by customers and a listed telephone number for the City of Rio Vista which does not involve a toll call for Rio Vista residents. Said billing payment location shall be open during normal business hours on all work days. The main office shall be open during normal business hours on all work days. Call back messages left on a business day before noon shall be returned by the end of the same day. Calls received after noon or after normal business hours shall be addressed before noon of the next business day.

b. Emergency Contact. The Contractor shall provide the City Manager with an emergency phone number where the Contractor can be reached outside of the required office hours.

10.02 Contractor's Personnel.

a. Qualified Personnel. The Contractor shall employ and assign qualified personnel to perform the services under this Agreement. The Contractor is responsible for ensuring that its

employees comply with all applicable laws and regulations and meet all federal, state and local requirements related to their employment and position.

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

Contractor shall furnish such qualified drivers, mechanical, supervisory, clerical, management and other personnel as may be necessary to provide the services required by this Agreement in a satisfactory, safe, economical and efficient manner. If additional personnel are required to meet the service specifications of this Agreement, Contractor shall provide such additional personnel.

b. Driver's Qualifications. 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. Each driver of a collection vehicle shall at all times comply with all applicable state and federal laws, regulations and requirements.

c. Customer Service Personnel. Contractor shall employ and provide ongoing training to the number of customer service representatives (CSRs) necessary to provide an excellent level of customer service. The primary responsibility of the CSRs is answering and addressing telephone and e-mail requests including for, but not limited to, new service, service changes, missed-pickups and other service-related complaints and billing inquiries. CSRs shall be fully trained to address the entire range of customer service issues and shall be fully trained in the use of telecommunications devices for the deaf services to communicate with hearing-impaired customers.

d. Employee Courtesy. Contractor 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. Contractor shall use its best efforts to assure that all employees present a neat appearance and conduct themselves in a courteous manner.

10.03 Collection Equipment.

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

b. Registration. All vehicles used by Contractor in providing collection services, except those vehicles used solely on Contractor's premises, must be registered with the California Department of Motor Vehicles.

c. Requirements for Equipment. The Contractor shall keep its vehicles in good order and repair. The Contractor shall clean and wash the trucks at a sufficient frequency to keep them clean and neat at all times. The cab and forepart of each truck shall be a uniform color. The Contractor shall paint its name on the side of each truck. The Contractor shall at all times possess and maintain adequate equipment to perform this Agreement.

d. Reserve Equipment. The Contractor shall have available to it, at all times, reserve collection equipment which can be put into service and operation within a reasonable period of

time after any breakdown. Such reserve equipment shall correspond in size and capacity to the equipment used by the Contractor to perform the contractual duties.

e. Vehicle Inspections. City, through the Solano County Department of Resource Management—Environmental Health Division, shall continue to inspect and approve each vehicle annually to ensure that all equipment is operating properly.

f. Operation. Vehicles shall be operated in compliance with the California Vehicle Code, and all applicable safety and local ordinances. Contractor shall not load vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local weight restrictions on vehicles.

10.04 Public Education and Outreach. Contractor will develop educational materials that convey instructions and information to residential and commercial customers. Information will be distributed to customers on an annual basis. Multifamily and commercial literature may differ slightly due to collection differences. This information will include:

- ◆ Garbage collection guidelines
- ◆ Recycle collection guidelines
- ◆ Green waste collection guidelines
- ◆ On call cleanup guidelines
- ◆ Recycle cleanups
- ◆ Set out of oil and oil filters
- ◆ Spacing between carts
- ◆ Recycling Drop Off Center
- ◆ How to Reach Us
- ◆ Payment Options
- ◆ Service Questions
- ◆ Vacation policy
- ◆ Holidays
- ◆ Holiday Tree Collection Program.
- ◆ Website
- ◆ Customer Complaint Resolution Process
- ◆ Electronic Waste Recycling

ARTICLE 11. RECORD KEEPING AND REPORTING REQUIREMENTS

11.01 Records, Reports and Compilations.

a. Confidentiality. Certain financial records and data prepared by Contractor relating to the cost of Contractor providing services under this Agreement, may contain or constitute confidential trade secret information which is proprietary to Contractor. Contractor shall designate any such information as "Confidential" if and when it is inspected by the City and its agents. The City agrees to maintain the confidentiality of such records and data to the full extent permitted by law. The City agrees to use its best efforts to notify Contractor of any request from any third party that files legal action against the City seeking release of such records and data. The City shall tender the defense of such action to Contractor and Contractor shall indemnify and hold the City harmless from any and all expenses associated with the

defense of such action. If Contractor fails to timely accept tender, the City may disclose the requested records without any liability therefor. Notwithstanding the foregoing, nothing in this Agreement shall be interpreted to restrict the City's ability to comply with State law, including but not limited to the California Public Records Act. The City shall have sole discretion whether records are disclosable and Contractor hereby waives any right to bring a claim or action based on the City's disclosure under this section.

b. Records. Contractor 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, Contractor agrees to take direction from the City on matters related to this Agreement, conduct data collection, information and record keeping, and reporting activities needed to comply with applicable laws and regulations and to meet the reporting and Solid Waste program management needs of the City, AB 939, and all other applicable laws (passed or will be passed) that the City must be in compliance with. 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 Manager, the records and reports to be maintained and provided by Contractor in accordance with this and other articles of the Agreement may be adjusted in number, format, or frequency.

c. Records Access. The City may designate one or more City employee(s) or independent contractor(s) who shall have full access to the Contractor's accounting, statistical and other records at reasonable times. The City's employee(s) or independent contractors shall be subject to such reasonable disclosure limitation as may be necessary to protect Contractor's trade secrets. These limitations, if necessary, shall be negotiated in good faith between Contractor and the City and commemorated in a separate legally binding document.

11.02 Record Retention. Contractor shall maintain any and all letters, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to under this Agreement. Contractor shall retain all such records for at least three (3) years after termination or expiration of this Agreement.

Contractor shall maintain all documents and records under this Agreement and shall make such documents and records available for inspection or audit, at any time during regular business hours, upon written request by the City Manager, City Attorney, City Auditor, or a designated representative of any of them. Copies of such documents shall be provided to the City for inspection at the City offices when it is practical to do so. Otherwise, unless an alternative site is mutually agreed upon, the records shall be available at Contractor's address indicated for receipt of notices in this Agreement.

11.03 City Audit of Billings. Contractor shall provide yearly financial statements by a qualified independent certified public accounting firm upon request by City. City may, at its sole discretion, select a qualified independent certified public accounting firm to perform up to five billing audits during the term of the Agreement. The frequency and timing of the billing audits shall be determined at City's sole discretion. City shall provide Contractor

sixty (60) days' notice of each change in the audit schedule. City shall determine the scope of any audits.

The auditor shall review the billing practices of Contractor with relation to delivery of Collection Services. The intent of this audit is to reconcile gross receipts against franchise fee payments made to the City and to use sampling to verify that Customers are receiving the correct type and level of service for the rates they are billed.

The cost of any audit that demonstrates an error rate of less than five percent (5%) shall be borne by City. The cost of any audit that demonstrates an error rate equal to or greater than five percent (5%) shall be borne by Contractor.

ARTICLE 12. SERVICE INQUIRIES, COMPLAINTS, AND QUALITY OF SERVICE.

12.01 Service Inquiries and Complaints.

All service inquiries and complaints shall be directed to the Contractor. A representative of the Contractor shall be available to receive the complaints during normal business hours. All service complaints will be handled by the Contractor in a courteous, prompt and efficient manner. If there is an unresolved dispute between the Contractor and a customer, the matter will be reviewed and a decision made by the City Manager.

12.02. Quality of Service.

a. Service Quality Guarantee. Contractor acknowledges and agrees that one of City's primary goals in entering into this Agreement is to ensure that the Collection Services are of the highest caliber, that customer satisfaction remains at the highest level, that maximum diversion levels are achieved, and that materials collected are put to the highest and best use.

b. Annual Customer Satisfaction Performance Measure. Contractor shall provide a notice approved by City, a telephone number, and an e-mail address on billing statements sent to Customers and on Contractor's website that informs Customers about the contact information for any service complaints and to contact City to report any service complaints unresolved by Contractor. If Customers should happen to contact City before contacting Contractor, City shall first refer the customer to Contractor. Unresolved complaints received by City under this subsection during each calendar year must equate to less than five (5) percent of the total amount of Customers in order for Contractor to be deemed to have satisfied this performance measure (the "Annual Customer Satisfaction Performance Measure"). For purposes of this section and the calculation of the Annual Customer Satisfaction Performance Measure, the term "complaint" as used in this agreement shall be defined as a service complaint reported to City by a Customer that is not reasonably resolved by Contractor.

ARTICLE 13. INSURANCE; INDEMNIFICATION.

13.01 Insurance.

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

b. Minimum Limits of Insurance. Contractor shall maintain limits no less than:

(i). Commercial or Comprehensive General Liability: \$5,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage.

(ii). Automobile Liability: \$5,000,000 combined single limit per accident for bodily injury and property damage.

(iii). Workers' Compensation and Employers Liability: Workers compensation limits as required by the Labor Code of the State of California and Employers Liability limits of \$2,000,000 per accident.

c. 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 insurance policy or policies to be obtained, and mentioned and described in subsection (b)(i) above, shall provide that the City, its officials, agents, and employees are to be covered as additional insureds and Contractor's insurance coverage shall be primary insurance and no other insurance effected by the City or other named insureds will be called upon to cover a loss thereunder.

(b) The insurance policy or policies to be obtained, and mentioned and described in subsection (b)(iii) above, shall provide that the City shall be covered as an additional insured under said policy or policies and to the extent permitted by law, but not otherwise, such insurance shall operate as primary insurance and that no other insurance effected by the City or other named insureds will be called upon to cover a loss thereunder.

(c) If the coverage limits set forth in this subsection are not reasonably obtainable through the insurance markets, the City Manager shall meet and discuss with the Contractor its inability to obtain such coverage, and to adjust the coverage limitations to conform to industry standards taking into consideration Contractor's demonstration that it is responsibly conducting its business and that coverage is not reasonable available at coverage limits.

13.02 Indemnification. Contractor will indemnify, hold harmless, and assume defense of (with counsel acceptable to the City), in any actions of law or in equity, the City, its officers, officials, employees, agents, and volunteers from and against any and all claims, losses, damages, including property damage, personal injury, including death, and liability of every kind, nature, and description, directly or indirectly employed by or acting as agent for Contractor, but not including the sole negligence of the City. Contractor further agrees to indemnify, hold harmless, and defend (with counsel acceptable to the City), in any actions of law or in equity, the City, its officers, officials, employees, volunteers, and agents from and against any and all damages, loss, liability, fines, penalties, forfeitures, claims, demands, actions, proceedings or suits arising or resulting from, or in any way concerning, the assessment, payment, allocation, increase, or amendment of any rates, fees, or charges imposed pursuant to this Agreement and challenged as unconstitutional or otherwise unlawful pursuant to Articles XIII C and XIII D of the California Constitution.

Acceptance of insurance certificates required under this Agreement does not relieve Contractor from liability under this indemnity and hold harmless clause. This indemnity and hold harmless clause shall apply to all damages and claims from damages of every kind suffered, or alleged to have been suffered by reason of any of Contractor's operations, regardless of

whether or not such insurance policy shall have been determined to be applicable to any such damages or claims for damages.

ARTICLE 14. DEFAULT AND REMEDIES

14.01 Damages. The Parties understand and agree that in the event of any breach by the Contractor of the provisions of this Agreement which involves substantial cessation of the Contractor's operations, then the exact amount of damages suffered by the City on account of such breach would be impossible or extremely difficult to ascertain, and the Parties therefore agree that in the event that the Contractor breaches this Agreement by any substantial cessation of operations, either partial or complete, and fails to cure the alleged breach within the time outlined below, then the Contractor shall pay the following to the City as liquidated damages: as follows:

a.	Failure to promptly repair damage to customer property caused by Contractor or its personnel after the determination of fault.	\$500.00 per incident per location.
b.	Failure to maintain or timely submit to City all documents and reports required under the provisions of this Agreement.	\$500.00 per incident per day.
c.	Failure to comply with the hours of operation as required by this Agreement.	\$500.00 per incident per day.
d.	Failure or neglect to complete at least ninety (90%) percent of each route on the regular scheduled collection service work day.	\$1,000.00 for each route not completed.
e.	For each failure to collect Solid Waste, that has been properly set out for collection, from an established customer account on the scheduled collection day and not thereafter collected within one (1) working day.	\$150.00 per customer, per day.
f.	For each failure to forward unresolved customer complaints to City	\$500.00, per complaint.
g.	Failure to provide cart (s), bins(s) or containers to an existing customer on next service day and new customer within three (3) days.	\$200.00, per incident.
h.	For each failure to provide an on-call cleanup	\$150.00, per incident.
i.	Keeping fraudulent or grossly inaccurate records or providing fraudulent records with regard to customer complaint logging, tracking and resolution.	\$10,000 per incident
j.	Failure to maintain accurate records.	\$200.00, per report.

Upon receipt of written notification by the City to Contractor of its intent to assess liquidated damages pursuant to this Article, for violations which can be cured, Contractor shall have three (3) days after receipt of the written notification to cure the alleged default to the reasonable satisfaction of the City. In the event that Contractor fails to timely cure the alleged breach and the City assesses liquidated damages pursuant to this Article, the City's assessment of liquidated damages shall become final unless, within ten (10) calendar days of the date of the Notice of Assessment, Contractor provides a written request for a meeting with the City to present evidence that the assessment should not be made. The City shall schedule a meeting between Contractor and the City Manager as soon as reasonably possible after timely receipt of Contractor's request. The City Manager shall review Contractor's evidence and render a decision sustaining or reversing the administrative charges as soon as reasonably possible after the meeting. Written notice of the decision shall be provided to Contractor. An appeal of the City's decision may be taken to the City Council. The City Council's decision on the appeal shall be the final decision of the City. Payment of liquidated damages shall be made by Contractor within thirty (30) days following the City's final determination of imposition of liquidated damages.

The provisions of this section shall be applicable, and the Contractor's obligation shall continue regardless of whether or not the City exercises its right hereunder set forth to terminate this Agreement for breach hereof by the Contractor. It is understood that the provisions of this paragraph as to liquidated damages for the breach stated hereinabove, do not preclude the City from the recovery of damages for any and all other types of breaches of this Agreement by the Contractor. In this connection the Contractor agrees to pay to the City upon demand all damages sustained by the City as a result of any breach of this Agreement.

14.02 Cessation of Operations. In the event of any substantial cessation of operations by the Contractor hereinunder, either partial or complete, for a period of three days or more, then at the sole and exclusive option of the City Manager of the City, and without any demand for performance whatever, the City may take whatever action it deems necessary to protect the public health, safety, or welfare, and the Contractor shall not be entitled to any monetary damages resulting from such action.

In the event such cessation exceeds seven (7) days, then, at the option of the City Council, and without notice or demand for performance whatever, all rights of the Contractor hereunder and this Agreement may be terminated. This right of termination may not be exercised when such cessation is due to war, insurrection, riots, floods, earthquakes, fires, acts of God, acts of the public enemy, epidemics or quarantine restrictions.

14.03 Contractor Default. In the event that the Contractor defaults in the payment of any monies owing hereunder, or in the performance of the other provisions of this Agreement (other than a cessation of operations as provided for in Article 14.02) then the City may give the Contractor written notice of such default. If the Contractor does not cure such default within forty-five (45) days after such notice is given, then at the option of City and without further notice or demand, all rights of Contractor hereunder shall immediately cease and terminate. Also, if such default is of a recurring nature and the Contractor suffers, or permits a similar default to occur within one year after said notice is given, then at the option of the City and without further notice or demand, all rights of the Contractor hereunder shall immediately cease and terminate.

14.04 Termination. It is understood and agreed that termination of this Agreement by the City shall not affect the obligations of the Contractor to pay all sums owing to the City hereunder, either on account of the monthly payments herein provided for, or on account of liquidated damages, or otherwise.

14.05 Statutory Compliance. If any regional, state or federal agency action should determine or define that this Agreement is in violation of any regional, state, or federal plan or legal mandate for waste management such as any plan or legal mandate required by AB 939, the California Integrated Waste Management Act of 1989, and any amendments thereto and, if subject to the requirements contained in this Agreement, Contractor is unable to consent to appropriate amendments to such Agreement which would bring it into compliance with any such plan or legal mandate within a reasonable time, this Agreement may be terminated by either Party; provided, however, Contractor shall continue to provide full service for a period not to exceed thirty (30) days thereafter in order to allow the City to obtain other means of collection and disposal of Solid Waste.

14.06 Excuse from Performance. The Parties shall be excused from performing their respective obligations hereunder in the event they are prevented from so performing by reason of an floods, earthquakes, other "acts of God", 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. Labor unrest of the Contractor's employees, including but not limited to strike, work stoppage or slowdown, sick-out, picketing, or other concerted job action conducted by Contractor's employees is not an excuse from performance and Contractor shall be obligated to continue to provide service notwithstanding the occurrence of any or all of such events; however, Contractor shall be excused from performance hereunder in the event that any third party strike, work stoppage or slowdown, sick-out, picketing, or other concerted job action that prevents Contractor from performing its obligations under the Agreement, including but not limited to, its ability to collect, dispose, and/or re-sell any Solid Waste, Recyclable Materials, and Green Waste collected within the City.. The Party claiming excuse from performance shall, within two (2) business 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. The interruption or discontinuance of Contractor's services caused by one or more of the events excused shall not constitute a default by Contractor under this Agreement.

ARTICLE 15. MODIFICATIONS TO THE AGREEMENT

15.01 Modifications. The City shall have the power to make changes in this Agreement as the result of changes in law, changes in the City of Rio Vista Municipal Code, or both, to impose new rules and regulations on the Contractor under this Agreement relative to the scope and methods of providing collection services as may be necessary or desirable to meet City's responsibilities with regard to public welfare, sanitation, health and AB 939. The City shall give the Contractor notice of any proposed change and an opportunity to be heard concerning those matters. The scope and method of providing Collection Services under this Agreement shall also be liberally construed to include, but not be limited to, the manner, procedures, operations and obligations, financial or otherwise, of the Contractor.

15.02 Change in Law. The City and the Contractor understand and agree that the California Legislature and other regulatory bodies have the authority to make comprehensive changes in Solid Waste management legislation and that these and other changes in law in the future which mandate certain actions or programs for counties or municipalities may require changes or modifications in some of the terms, conditions or obligations under this Agreement. The Contractor agrees that the terms and provisions of the City of Rio Vista Municipal Code, as it now exists or as it may be amended, shall apply to all of the provisions of this Agreement.

If any future change in law (including new laws, regulations, policies, mandates, and/or guidance documents) or the City of Rio Vista Municipal Code materially alters the obligations of the Contractor, then the affected service rates as established in Exhibit A of this Agreement and/or the agreed upon rates between Contractor and Commercial, industrial, and/or MFD residential customers pursuant to Article 5 herein may be adjusted.

Nothing in this Agreement requires any Party to perform any act or function contrary to law. The City and Contractor agree to enter into good faith negotiations regarding modifications to this Agreement which may be required in order to implement changes in the interest of the public welfare or due to change in law. When such modifications are made to this Agreement, the City and the Contractor shall negotiate in good faith, a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of the Contractor due to any modification in the Agreement. The City and the Contractor shall not unreasonably withhold agreement to such compensation adjustment.

15.03 Amendments. This Agreement may be modified or amended only by a written document executed by both the Contractor and the City, and approved as to form by the City Attorney.

ARTICLE 16. MISCELLANEOUS PROVISIONS

16.01 New Services and Container Inventory. Contractor shall provide Collection Services to any new customer on the next scheduled collection day after receiving such request. Contractor shall provide new customer requested carts and bins by the next regular pickup day.

16.02 Independent Contractor. In the performance of services under this Agreement, Contractor is an independent contractor and not an officer, agent, servant or employee of City. Contractor shall have exclusive control of the details of the services and work performed and over all persons performing such services and work. Contractor shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any. Neither Contractor nor its officers, employees, agents, contractors or subcontractors shall obtain any right to retirement benefits, workers compensation benefits, or any other benefits which accrue to City employees, and Contractor expressly waives any claim it may have or acquire to such benefits.

16.03 Laws to Govern. This Agreement and all matters relating to it shall be governed by the laws of the State of California.

16.04 Venue. The parties agreed that any court action or alternative dispute resolution between City and Contractor concerning or arising out of this Agreement shall be filed and maintained exclusively in the County of Solano.

16.05 Dispute Resolution. In the event that any dispute should arise under this franchise between City and Contractor, then the Parties may resolve such dispute by adjudication in a court of competent jurisdiction.

16.06 Attorney's Fees. In any adjudication by a court of competent jurisdiction, the prevailing party shall be entitled to recover its attorney's fees and costs reasonably incurred. In any private judicial proceeding, mediation, or arbitration, the judge, mediator, or arbitrators may apportion attorney's fees and costs equitably between the Parties.

16.07 Assignment. No assignment of this Agreement or any right occurring under this Agreement shall be made in whole or in part by the Contractor without the express written consent of the City, which shall not be unreasonably withheld. Notwithstanding the foregoing, Contractor shall have the absolute right to assign and/or transfer Contractor's rights and obligations hereunder without the City's consent to an existing or newly formed entity or entities controlled by, or under the common control of Contractor or a related entity, or which is controlled by Contractor or a parent or related entity or any member of the Garaventa family, provided Contractor's obligations hereunder are assumed in writing and Contractor shall not be released from Contractor's obligations hereunder.

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

16.09 Compliance with Laws. In the performance of this Agreement, Contractor shall comply with all applicable laws, regulations, ordinances and codes of the federal, state and local governments, including the City of Rio Vista Municipal Code.

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

16.10 Permits and Licenses. Contractor shall obtain, at its own expense, all permits and licenses required by law or ordinance, specifically including the City business license, and maintain them in effect throughout the term of this Agreement. Contractor shall provide proof of such permits, licenses or approvals and shall demonstrate compliance with them upon the request of the City Manager.

16.11 Notices. Whenever either party desires to give notice to the other, it must be given by written notice addressed to the Party for whom it is intended, at the place last specified as the place for giving of notice in compliance with this paragraph. For the present, the Parties designate the following as the respective persons and places for giving of notice:

As to the City:

City of Rio Vista
Attn: City Manager
One Main Street
Rio Vista, CA 94571

As to the Contractor:

Rio Vista Sanitation Service, Inc.
Attn: Joseph Garaventa
4080 Mallard Drive.
Concord, CA 94520

With a copy to:

With a copy to:

City Attorney
City of Rio Vista
One Main Street
Rio Vista, CA 94571

Mike Bonnifield, Esq.
4080 Mallard Drive.
Concord, CA 94520

Notices shall be effective when received at the address as specified above. Any changes in the respective address to which such notice is to be directed may be made by written notice. Facsimile transmission is acceptable notice, effective when received, however, facsimile transmissions received (i.e. printed) after 4:30 p.m. or on weekends or holidays, will be deemed received on the next business day. The original of items that are transmitted by facsimile equipment must also be mailed.

16.12 Entire Agreement. This Agreement is the result of mutual drafting efforts of the Parties, both of whom were represented by counsel. Therefore, no interpretation shall be given to this Agreement which would favor one Party or the other because of the identity of the drafter. This Agreement and the attached Exhibits constitute the entire Agreement and understanding between the Parties, and it shall not be considered modified, altered, changed or amended in any respect unless in writing and signed by the Parties. In addition, all prior written and oral communications, including correspondence, drafts, memoranda and representations, are superseded by this Agreement.

16.13 Severability. If any provision of this Agreement or the application of it to any person or situation shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall continue in full force and effect.

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

16.15 Exhibits. Each Exhibit referred to in this Agreement forms an essential part of this Agreement. Each such Exhibit is a part of this Agreement and each is incorporated by this reference. The list of exhibits is set forth at the end of the Table of Contents.

16.16 Authority to Execute. Each Party warrants that it has the authority to enter in to this Agreement and that the individuals signing below have the authority to bind their respective Party.

16.17 Effective Date. This Agreement shall take effect when it is properly executed by the City and the Contractor, and that date shall be reflected in the opening paragraph.

SIGNATURE PAGE FOLLOWS

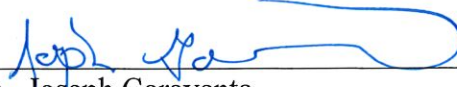
IN WITNESS WHEREOF, the City and the Contractor have executed this Agreement on the respective date(s) below each signature.

City of Rio Vista
A Municipal Corporation, State of California


By: Rob Hickey
City Manager

Date: 7/28/17

Rio Vista Sanitation Service, Inc.
Franchise Contractor


By: Joseph Garaventa
Title: CEO.

Date: July 24, 2017

ATTEST:


Anna Olea-Moger, CMC, City Clerk

Date: 8/1/17

APPROVED AS TO FORM:


Mona Ebrahimi, City Attorney

Date: 8/1/17

EXHIBIT A

SFD RESIDENTAL COLLECTION SERVICE RATES

**CURRENT
MONTHLY RATE**

32 TRASH	\$35.60
64 TRASH	\$41.22
96 TRASH	\$46.72

BI-WEEKLY 64 RECYCLING	INCLUDED
---------------------------	----------

BI-WEEKLY 64 GREEN WASTE	INCLUDED
96 GREEN WASTE	\$3.00 ADDITIONAL

**CURRENT
MAXIMUM RATE**

32 TRASH	\$36.10
64 TRASH	\$41.72
96 TRASH	\$47.22

EXHIBIT B

Refuse Rate Index Calculation Summary

Definitions:

Refuse Rate Index (RRI) shall mean the sum of the products of the weighted averages of the approved cost categories multiplied by increase in the index or contractual price for each cost category as established in Step 1 of the calculation.

Current Rate shall mean the current effective Maximum Rate as approved by the City.

Franchise Fee shall mean the residential franchise fee rate as established in the Agreement or any amendment thereafter to such section.

Base Rate shall mean the Current Rate excluding the Franchise Fee.

Adjusted Base Rate shall mean the Base Rate increased by the calculated RRI.

New Rate shall mean the calculated Maximum Rate effective for the next rate period.

The Annual Maximum Rate Adjustment shall be calculated in the following manner:

Step 1: Calculate the Refuse Rate Index ("RRI").

Step 2: Calculate Maximum Base Rates ("Base Rates") by removing the Franchise Fee from the current maximum rate ("Current Rate").

Step 3: Adjust Base Rates by RRI calculated in Step 1 ("Adjusted Base Rates").

Step 4: Add the Franchise Fee for the new rate year to Adjusted Base Rates calculated in Step 3 ("New Rates").

Step 1: Calculate the Refuse Rate Index ("RRI").

The Refuse Rate Index (RRI) adjustment shall be calculated in the following manner:

1. The expenses of the Collection and Processing Services of Contractor for the designated fiscal year period shall be prepared in the format set forth in Table 2 below.
2. The expenses of the disposal services shall be broken down into the following cost categories: Indirect Labor, Direct Labor, Diesel Fuel, Vehicle Replacement, Vehicle Maintenance, Disposal/Tipping Fees, All Other, and Franchise Fee. Each cost category is assigned a weighted percentage factor on that cost category's proportionate share of the total of the costs shown for all cost categories. Note - additional categories may be utilized in the future for CNG fuel or additional governmental fees. Other indexed or contracted cost items may be added with mutual consent of both parties.

3. The indices, as designated in Table 1, published by the United States Department of Labor, Bureau of Labor Statistics (BLS), are used to calculate the adjustment for each cost category. For any category that rates are established through contractual terms negotiated by Contractor, including but not limited to Direct Labor, Diesel Fuel, and Disposal/Tipping Fees, the actual contractual percentage change should be used. The change in each cost category is calculated in accordance with the terms of the Agreement if the Agreement so designates. In the event any index is discontinued, a successor index shall be selected by mutual agreement of the parties. Successor indices shall be those indices that are most closely equivalent to the discontinued indices as recommended by the BLS.
4. The percentage weight for each cost category is multiplied by the average annual change in each appropriate index or contractual price to calculate a weighted percentage change for each category. The weighted percentage changes for each cost category are added together to calculate the Refuse Rate Index (See Example). The Franchise Fee cost shall be included to properly weight the other expenses, but the annual increase to this line item shall be zero (0) in the RRI calculation.

Table 1:

Cost Category	Description
Indirect Labor	Series ID: ceu6056210008 Service Producing Industries
Direct Labor	Actual direct labor change as outlined in Collective Bargaining Agreement for the time period wherein the adjusted rate is to be applied. Percentage change in total compensation for Residential Trash Driver.
Diesel Fuel	Long-term Fuel price contracted by Contractor or an affiliated entity (typically 18 mos.) or Series ID: WPU057303 Commodity Code 0573-03 #2 Diesel Fuel or EIA CA #2 Diesel Fuel; whichever applicable
CNG Fuel (If utilized)	Schedule G-NGV-1, compiled and published by the Pacific Gas and Electric Co. Analysis and Rate Department and reported monthly in the "Gas Rate Finder" publication (http://www.pge.com/eltariffs) reflecting the sum of the Customer, procurement, transportation and public purpose program charges.
Vehicle Replacement	Series ID wpu141301 Truck and bus bodies sold separately
Vehicle Maintenance	Series ID: pcu336211336211 Industrial truck and trailer mfg.
Disposal/Tipping Fees	Actual tip fee price change per ton for disposal of municipal solid waste at the transfer station, as established by the local jurisdiction.
All Other	Series ID: cuura422saO Consumer Price Index, All Urban Consumers, All Items - Bay Area
Franchise Fee	None

Table 2:

<u>Cost Category</u>	<u>Description</u>
Indirect Labor	List all indirect labor salary accounts. List payroll tax accounts, health and welfare, worker's compensation insurance, and pension accounts directly related to the above salary accounts.
Direct Labor	List all direct labor salary accounts. List payroll tax accounts, health and welfare, payroll worker's compensation insurance, and pension accounts directly related to the above salary accounts.
Diesel Fuel	List all diesel fuel accounts and CNG if utilized (See Table 1).
CNG Fuel (If utilized)	List all CNG fuel accounts.
Vehicle Replacement	List all collection and collection-related vehicle depreciation accounts. List all vehicle lease or rental accounts related to collection or collection related vehicles.
Vehicle Maintenance	List all collection and collection-related vehicle parts accounts.
Disposal/Tipping Fees	List disposal and transfer station costs.
All Other	List all other expense accounts related to the services provided under this Agreement. This category includes, insurance including general liability, fire, truck damage, and extended coverage; rent on property; truck licenses and permits; real and personal property taxes; telephone and other utilities; employee uniforms; safety equipment; non-diesel or non-CNG fuel; collection cart and bin depreciation; office supplies; postage; trade association dues and subscription; customer education; advertising; and miscellaneous other expenses.
Franchise Fee	List franchise fee costs.

Example RRI Calculation:

STEP 1: REFUSE RATE INDEX EXAMPLE CALCULATION SHEET					
<u>Item #</u>	<u>Category</u>	<u>Data Source</u>	<u>Percentage Change (1)</u>	<u>Item Weight (2)</u>	<u>Weighted Percentage Change (3)</u>
1	Indirect Labor	Labor Series ID: ceu6056210008 Employment Cost Index (NAICS):	2.19%	8.50%	0.186%

STEP 1: REFUSE RATE INDEX EXAMPLE CALCULATION SHEET					
<u>Item #</u>	<u>Category</u>	<u>Data Source</u>	<u>Percentage Change (1)</u>	<u>Item Weight (2)</u>	<u>Weighted Percentage Change (3)</u>
2	Direct Labor	As Outlined in Collective Bargaining Agreement	3.50%	32.00%	1.120%
3	Motor Fuel	Series ID: WPU057303 Commodity Code 0573-03 #2 Diesel Fuel or EIA CA #2 Diesel Fuel	4.74%	6.00%	0.284%
4	Vehicle Replacement	Series ID: wpu141301 Truck and bus bodies sold separately	6.79%	4.00%	0.272%
5	Vehicle Maintenance	Series ID: pcu336211336211 Industrial truck and trailer mfg.	0.016%	12.00%	0.002%
6	CPI All Items	Series ID: CUURA422SA0 CPI-All Urban Consumers, All Items Bay Area	1.70%	8.00%	0.136%
7	Disposal	Annual Tip-Fee Increase	3.5%	20.00%	0.700%
8	Franchise Fees	Enter zero percentage change – Only used to calculate weighted percentage change	0.0%	9.50%	0.00%
Total RRI Adjustment				100%	2.70%

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

Step 2: Calculate Base Rates ("Base Rates") by removing the Franchise Fee from the current rate ("Current Rate").

The franchise fee is removed from the current rate by multiplying the current rate by the inverse of the current franchise fee rate to get Base Rates.

$$\text{Base Rate} = [\text{Current Rate}] \times (1 - [\text{Current Franchise Fee Rate}])$$

For example, if the current monthly rate is \$32.00 with a current franchise fee rate of 10%, the Base Rate is calculated as follows:

$$\begin{aligned} \text{Base Rate} &= \$32.00 \times (1 - 0.10) \\ \text{Base Rate} &= \$28.80 \end{aligned}$$

Step 3: Adjust Base Rates calculated in Step 2 by the RRI calculated in Step 1 ("Adjusted Base Rates").

The Base Rates calculated in Step 2 are increased by the RRI calculated in Step 1 by multiplying the Base Rate by 1 plus RRI to get Adjusted Base Rates.

$$\text{Adjusted Base Rate} = [\text{Base Rate}] \times (1 + [\text{RRI}])$$

For example, if the calculated RRI from Step 1 is 2.70% and the Base Rate from Step 2 is \$28.80 the Adjusted Base Rate is calculated as follows:

$$\begin{aligned} \text{Adjusted Base Rate} &= \$28.80 \times (1 + 2.70\%) \\ \text{Adjusted Base Rate} &= \$29.58 \end{aligned}$$

Step 4: Add the Franchise Fee for the new rate year to Adjusted Base Rates calculated in Step 3 (“New Rates”).

The Franchise Fee for the new rate year is added to the Adjusted Base Rates by dividing the Adjusted Base Rate by the inverse of the New Franchise Fee Rate. The New Franchise Fee Rate for the new rate year may be the same as the Current Franchise Fee Rate.

$$\text{New Rates} = [\text{Adjusted Base Rate}] \div (1 - [\text{New Franchise Fee Rate}])$$

For example, if the Adjusted Base Rate is \$29.58 and the New Franchise Fee Rate is 11%, the New Rate is calculated as follows:

$$\begin{aligned} \text{New Rate} &= \$29.58 \div (1 - 0.11) \\ \text{New Rate} &= \$33.24 \end{aligned}$$

Example Spreadsheet Layout of Step 2 through Step 5 to Calculate Maximum Rates					
Service Level	Current Rate	Step 2: Base Rates	Step 3: Adjusted Base Rates	Step 4: New Rates	% Increase
32 Gallon	\$28.00	\$25.20	\$25.88	\$29.08	3.857%
64 Gallon	\$32.00	\$28.80	\$29.58	\$33.24	3.875%
96 Gallon	\$35.00	\$31.50	\$32.35	\$36.35	3.857%

All rates and figures are for illustrative purposes only and are not intended as the actual or anticipated rates charged by Contractor.