

**FINAL
AGREEMENT
BETWEEN
THE CITY OF ROHNERT PARK
AND
ROHNERT PARK DISPOSAL, INCORPORATED

FOR

REFUSE, RECYCLABLE MATERIALS,
COMPOSTABLE MATERIALS, AND
STREET SWEEPING SERVICES**

JUNE 19, 2001

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LIST OF EXHIBITS

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- B City-Sponsored Events
- C Refuse and Recyclable Material Rates
- D Annual Cleanups
- E Residential Recyclable Materials to Be Collected (Single-Family Residential and Multi-Family Residential Complexes)
- F Commercial Recyclable Materials to Be Collected
- G Schedule of Performance Adjustments
- H Holiday List
- I Street Sweeping Maps and Schedules
- J Notary's Certification
- K Sample Monthly/Quarterly Data Reporting Form
- L Allocation Methodology for Reporting of Tonnage Data
- M Initial Basis for Related Party Payments
- N City Insurance Endorsement Forms
- O Section 8.1.2 Adjustments

FOR REFUSE, RECYCLABLE MATERIALS, AND COMPOSTABLE MATERIALS SERVICES

RECITALS

Whereas; the City Council further declares its intent to maintain reasonable rates for the Collection, Transportation and Recycling, Composting and/or Disposal of Refuse; and,

1 **1.6 BULKY ITEM**

2 **"Bulky Item"** means discarded large household appliances, furniture, tires, carpets,
3 mattresses, and similar large items, which require special Handling due to their size, but can be
4 collected without the assistance of special loading equipment (such as forklifts or cranes) and
5 without violating vehicle load limits. It does not include abandoned automobiles.

6 **1.7 CART(S)**

7 **"Cart(s)"** means a City-approved plastic container with a hinged lid and wheels serviced
8 by an automated or semi-automated loading truck with varying capacities of twenty (20), thirty
9 (30), sixty (60), or ninety (90) gallons or their equivalents.

10 **1.8 CART SERVICE**

11 **"Cart Service"** means that service provided to Single-Family Residences, Multi-Family
12 Residential Complexes, and Commercial Businesses which places Refuse and/or Recyclable
13 Materials and/or Compostable Materials in Carts.

14 **1.9 CITY**

15 **"City"** means the City of Rohnert Park, a municipal corporation, and all the territory lying
16 within the municipal boundaries of the City as presently existing or as such boundaries may be
17 modified during the Term.

18 **1.10 CLEAN RECYCLABLE MATERIALS**

19 **"Clean Recyclable Materials"** means materials collected in individual components such
20 as, but not limited to cardboard, designated paper grades, mixed containers, scrap metal, and
21 designated plastics. Revenues generated from such material shall be rebated to the customers to
22 offset hauling costs.

23 **1.11 COLLECTION**

24 **"Collection"** means the removal and transportation of Refuse from the place where it was
25 generated to a Disposal Site and/or the removal and Transportation of Recyclable or
26 Compostable Materials from the place where they were generated to a Processing Facility.

27 **1.12 COMMERCIAL BUSINESS**

28 **"Commercial Business"** means any business property upon which business activity is
29 conducted, including but not limited to retail sales, services, wholesale operations, manufacturing
30 and Industrial operations, but excluding businesses conducted upon residential property which
31 are permitted under applicable zoning regulations and are not the primary use of the property.

32 **1.13 COMPACTOR**

33 **"Compactor"** means a mechanical apparatus that compresses materials. Compactors
34 include but are not limited to 2- to 4-yard Bin Compactors serviced by front-end loader trucks
35 and 6- to 50-yard Debris Boxes serviced by roll-off trucks.

1 **1.14 COMPLAINT**

2 **"Complaint"** means written or orally communicated statements made by members of the
3 public, customers of the Contractor, or officers, employees or agents of City alleging non-
4 performance or deficiencies in performance of Contractor's duties and obligations under this
5 Agreement, or otherwise alleging a violation by Contractor of the provisions of this Agreement.

6 **1.15 COMPOSTABLE CONTAINER**

7 **"Compostable Container"** means a Cart or Bin used by a Generator to store and contain
8 Compostable Materials Collection from a designated location.

9 **1.16 COMPOSTABLE MATERIALS**

10 **"Compostable Materials"** means grass cuttings, weeds, leaves, prunings, branches, dead
11 plants, brush, tree trimmings, and dead trees that may not exceed six (6) inches in diameter and
12 four (4) feet in length. Commercial organics are included in Compostable Materials.

13 No discarded material shall be considered to be Compostable Materials, however, unless
14 it is separated from Refuse and Recyclable Materials.

15 **1.17 COMPOSTING FACILITY**

16 **"Composting Facility"** means a facility designated by the City, which processes
17 Compostable Materials by means of decomposition of Organic Materials.

18 **1.18 CONTRACTOR**

19 **"Contractor"** means Rohnert Park Disposal, Incorporated, a corporation organized and
20 operating under the laws of the State of California and its officers, directors, employees, agents,
21 companies and subcontractors.

22 **1.19 CONSTRUCTION AND DEMOLITION DEBRIS (C&D DEBRIS)**

23 **"Construction and Demolition Debris"** means used or discarded construction materials
24 removed from residential, commercial, or Industrial Premises during the construction or
25 renovation of a structure.

26 **1.20 CURBSIDE**

27 **"Curbside"** means the location of a container for pickup, not more than five (5) feet from
28 the street curb. Where no street curb exists, the location shall be within five (5) feet from the
29 outside edge of the street nearest the property's entrance.

30 **1.21 DEBRIS BOX**

31 **"Debris Box"** means an open-top metal container serviced by a roll-off truck with a capacity of 6
32 to 50 cubic yards.

33 **1.22 DELIVERY**

34 **"Delivery"** means placement of Refuse, Recyclable Materials, or Compostable Materials
35 by a Generator in a container and at a location that is designated for Collection pursuant to the
36 City's Municipal Code.

1 **1.23 DESIGNATED WASTE**

2 **"Designated Waste"** means non-Hazardous Waste which may pose special Disposal
3 problems because of its potential to contaminate the environment and which may be disposed of
4 only in Class II Disposal Sites, or Class III Disposal Sites pursuant to a variance issued by the
5 California Department of Health Services. Designated Waste consists of those substances
6 classified as Designated Waste by the State of California, in 23 California Code of Regulations
7 Section 2522.

8 **1.24 DISPOSAL (OR DISPOSE)**

9 **"Disposal (or Dispose)"** means the final disposition of Refuse collected by the Contractor
10 at a Disposal Site designated by City. Disposal does not include the use of Compostable
11 Materials as ADC so long as the City and state regulations allow this use as diverted material.

12 **1.25 DISPOSAL SITE(S)**

13 **"Disposal Site(s)"** means the facility or facilities designated by the City for the ultimate
14 Disposal of Refuse collected by the Contractor.

15 **1.26 EXTRAS**

16 **"Extras"** means services provided to customers in addition to their regular service. Such
17 services and their costs shall be approved by City in advance. A temporary bin provided to a
18 residential customer and extra bags of Refuse placed beside multi-family carts are examples of
19 such Extras.

20 **1.27 FRANCHISE FEE**

21 **"Franchise Fee"** means the fee paid by Contractor to City for the right to hold the
22 exclusive franchise and the use of the public rights of way granted by this Agreement.

23 **1.28 GENERATOR**

24 **"Generator"** means any Person whose act or process produced Refuse, Recyclable, or
25 Compostable Materials.

26 **1.29 GROSS REVENUES**

27 **"Gross Revenues"** means the total amount billed to customers by City on an accrual basis
28 for a specified period of time for Refuse, Recyclable Materials, and Compostable Materials
29 services provided by Contractor. In this Agreement, Gross Revenues are adjusted by subtracting
30 bad debts for the specified period from Gross Revenues to account for amounts included in Gross
31 Revenues for a prior period, which have been determined to be uncollectable in the specified
32 period.

33 **1.30 HANDLING**

34 **"Handling"** means Collection and Transportation of Refuse and Compostable Materials
35 to a City designated Disposal Site or Composting Facility and Collection and Processing of
36 Recyclable Materials.

1 **1.31 HAZARDOUS SUBSTANCE**

2 **"Hazardous Substance"** means any of the following: (a) any substances defined,
3 regulated or listed (directly or by reference) as "Hazardous Substances," "hazardous materials,"
4 "Hazardous Wastes," "toxic waste," "pollutant" or "toxic substances," or similarly identified as
5 hazardous to human health or the environment, in or pursuant to (i) the Comprehensive
6 Environmental Response, Compensation and Liability Act (CERCLA) of 1980, 42 USC §9601 et
7 seq. (CERCLA); (ii) the Hazardous Materials Transportation Act, 49 USC §1802, et seq.; (iii) the
8 Resource Conservation and Recovery Act, 42 USC §6901 et seq.; (iv) the Clean Water Act, 33
9 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and
10 25316; (vi) the Clean Air Act, 42 USC §7901 et seq.; and (vii) California Water Code §13050;
11 (b) any amendments, rules or regulations promulgated thereunder to such enumerated statutes or
12 acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance,
13 material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any
14 other applicable federal, state or local environmental laws currently existing or hereinafter
15 enacted, including, without limitation, friable asbestos, polychlorinated biphenyl's ("PCBs"),
16 petroleum, natural gas and synthetic fuel products, and by-products.

17 **1.32 HAZARDOUS WASTE**

18 **"Hazardous Waste"** means all substances defined as Hazardous Waste, acutely
19 Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety
20 Code §25110.02, §25115, and §25117 or in the future amendments to or recodifications of such
21 statutes or identified and listed as Hazardous Waste by the U.S. Environmental Protection
22 Agency (EPA), pursuant to the Federal Resource Conservation and Recovery Act (42 USC
23 §6901 et seq.), all future amendments thereto, and all rules and regulations promulgated
24 thereunder.

25 **1.33 HOUSEHOLD HAZARDOUS WASTE**

26 **"Household Hazardous Waste"** means Hazardous Waste generated at residential
27 Premises within the City.

28 **1.34 INDUSTRIAL**

29 **"Industrial"** means manufacturing or technical productive enterprises.

30 **1.35 INFECTIOUS WASTE**

31 **"Infectious Waste"** means biomedical waste generated at hospitals, public or private
32 medical clinics, dental offices, research laboratories, pharmaceutical industries, blood banks,
33 mortuaries, veterinary facilities, and other similar establishments that are identified in Health and
34 Safety Code Section 25117.5.

35 **1.36 LEGISLATION**

36 **"Legislation"** means any code, ordinance, resolution, or any other formal enactment of
37 the governing body of the City, which now exists, or which may hereafter be adopted which
38 constitutes law or regulation governing the operation of the Contractor.

1 **1.37 MIXED LOADS OF CONSTRUCTION AND DEMOLITION (C&D) MATERIALS**

2 **"Mixed Loads of C&D Materials"** means C&D materials collected by mixed
3 components such as dirt, concrete, asphalt, and rebar, wood, roofing tile, and concrete, or other
4 such C&D materials.

5 **1.38 MULTI-FAMILY RESIDENTIAL COMPLEX**

6 **"Multi-Family Residential Complex"** means any residential complex, other than a
7 Single-Family Residence, used for residential purposes, including but not limited to two to six
8 (2-6) unit complexes, apartment buildings, mobile home parks, condominiums, and large
9 complexes over six (6) units.

10 **1.39 OCCUPANT**

11 **"Occupant"** means the person who occupies Premises.

12 **1.40 ORGANIC MATERIALS**

13 **"Organic Materials"** means materials that will decompose and/or putrefy. Organic
14 Materials include, but are not limited to, green trimmings, grass, small wood pieces, and yard
15 waste. Additional materials could include, but are not limited to, vegetable waste, fruit waste,
16 grain waste, dairy waste, meat waste, fish waste, yard waste, non-recyclable paper waste, pieces
17 of unpainted and untreated wood, and pieces of unpainted and untreated wallboard.

18 **1.41 OWNER**

19 **"Owner"** means the person with the legal right to the possession of land or building.

20 **1.42 PERSON**

21 **"Person"** means any individual, firm, association, organization, partnership, corporation,
22 business trust, joint venture, the United States, the State of California, the County of Sonoma,
23 and special purpose districts.

24 **1.43 PREMISES**

25 **"Premises"** means any land or building in the City where Refuse, Recyclable Materials or
26 Compostable Materials are generated or accumulated.

27 **1.44 PROCESSING**

28 **"Processing"** means to prepare, treat, or convert through some special method.

29 **1.45 PROCESSING FACILITY**

30 **"Processing Facility"** means any plant or site used for the purpose of sorting, cleansing,
31 treating or reconstituting Salvageable Material for the purpose of making such material available
32 for re-use. Activities that may be undertaken at a Processing Facility include but are not limited
33 to Processing Compostable Materials and Recyclable Materials.

34 **1.46 RECYCLING CONTAINER**

35 **"Recycling Container"** means City-approved Carts and/or Tubs used to place Recyclable
36 Materials at a designated Collection location for Collection for the purpose of Recycling.

1 **1.47 RECYCLABLE MATERIALS (ALSO “RECYCLABLES”)**

2 **"Recyclable Materials"** means those discarded materials that the City Code permits,
3 directs and/or requires Generators to set out in Recycling Containers for Collection for the
4 purpose of Recycling. No discarded material shall be considered to be Recyclable Materials,
5 however, unless it is separated from Refuse and Compostable Materials. Recyclable Materials
6 may include, newspaper, mixed paper, glass, metal and aluminum cans, plastic bottles (numbers
7 1-7), corrugated cardboard, cardboard and used motor oil and filters.

8 **1.48 RECYCLING**

9 **"Recycling"** means the process of sorting, cleansing, treating and reconstituting at a
10 Processing Facility those Recyclable Materials that would otherwise be disposed of at a Disposal
11 Site for the purpose of returning such materials to the economy in the form of raw materials for
12 new, re-used or reconstituted products.

13 **1.49 REFUSE**

14 **"Refuse"** means all putrescible and non-putrescible solid, semi-solid, and liquid waste
15 that the City Code requires Generators within the City to set out for Collection. Refuse does not
16 include:

- 17 (1) Salvageable Materials set out for Collection in a City-approved container;
- 18 (2) Hazardous Waste or Hazardous Substance;
- 19 (3) Infectious Waste;
- 20 (4) Abandoned automobiles;
- 21 (5) Unacceptable waste; or
- 22 (6) Radioactive waste.

23
24 Refuse includes Salvageable Materials only when such materials are commingled with
25 Refuse and included for Collection in a Refuse container. Only discarded materials shall be
26 considered Refuse.

27 **1.50 RELATED PARTY(IES)**

28 **"Related Party(ies)"** means a company that has ownership of 5 percent or more of the
29 voting stock or management control in common with Contractor.

30 **1.51 RE-USE VENDOR**

31 **"Re-Use Vendor"** means a vendor (i.e., St. Vincent de Paul, Goodwill Industries, or other
32 non-profit or for-profit organizations) that will collect used furniture and other re-usable
33 items as an alternative to Disposal.

1 **1.52 ROLL-OFF/COMPACTOR REFUSE SERVICE**

2 **"Roll-Off/Compactor Refuse Service"** means permanent service provided by Contractor
3 under this exclusive Agreement to any Generator requiring a Debris Box or Compactor for the
4 Collection of Refuse.

5 **1.53 ROLL-OFF CONTAINER**

6 **"Roll-Off Container"** means permanent service provided to any Generator requiring a
7 Debris Box or Compactor for the Collection of Refuse.

8 **1.54 SALVAGEABLE MATERIAL**

9 **"Salvageable Material"** means those discarded materials that may be re-used in their
10 existing form or may be re-used after some form of Processing including, but not limited
11 to, composting and Recycling.

12 **1.55 SINGLE-FAMILY RESIDENCE**

13 **"Single-Family Residence"** means a separate unit used for housing a single family.

14 **1.56 SINGLE RECYCLABLE MATERIAL STREAM**

15 **"Single Recyclable Material Stream"** means Recyclable Material including both paper
16 and mixed container material in one Cart, which is separated after Collection by
17 Contractor.

18 **1.57 SMALL COMMERCIAL GENERATOR**

19 **"Small Commercial Generator"** means any Commercial Business, which generates less
20 than 90 gallons of Refuse per week.

21 **1.58 SOURCE SEPARATED CONSTRUCTION AND DEMOLITION (C&D) MATERIALS**

22 **"Source Separated C&D Materials"** means C&D materials collected in individual
23 components such as but not limited to dirt, concrete, wood, asphalt, scrap metals, or other such
24 C&D materials.

25 **1.59 SPECIALTY RECYCLABLE MATERIAL**

26 **"Specialty Recyclable Material"** means material not specified in this Agreement that can
27 be (or may in the future) be recycled by any Person operating under a valid permit issued by the
28 City. Such Specialty Recyclable Material includes but is not limited to scrap metal, construction
29 and demolition debris, high-grade paper, pallets, and plastic film.

30 **1.60 SPLIT RECYCLABLE MATERIAL STREAM**

31 **"Split Recyclable Material Stream"** means Recyclable Material which is source
32 separated by Generator and collected in three (3) streams: (1) paper, (2) glass, and (3) all
33 other mixed container materials. Exhibit E describes residential Recyclable Materials
34 accepted in the program.

1 **1.61 TEMPORARY DEBRIS BOX SERVICE**

2 **"Temporary Debris Box Service"** means temporary service provided at a job site to any
3 residential or commercial Generator requiring a Debris Box for the Collection of Source
4 Separated C&D Materials, Mixed C&D Materials, Compostable Materials, or Clean Recyclable
5 Materials.

6 **1.62 TERM**

7 **"Term"** means the Term of this Agreement, as provided for in Article 3.

8 **1.63 TRANSFER STATION**

9 **"Transfer Station"** means a facility for the temporary Collection and storage of Refuse,
10 Compostable Materials and Recyclable Materials until they are transferred to trucks for
11 Transportation to a specific Disposal Site or Composting Facility designated by City or to
12 Contractor's Processing Facility for Recyclable Materials.

13 **1.64 TRANSPORTATION**

14 **"Transportation"** means the act of transporting or state of being transported to a specific
15 Disposal Site, Composting Facility or Transfer Station designated by City.

16 **1.65 TUB(S)**

17 **"Tub(s)"** means City-approved plastic containers for Recyclable Materials with capacity
18 of a minimum of twelve (12) gallons and serviced manually.

19 **1.66 UNACCEPTABLE SPILLAGE**

20 **"Unacceptable Spillage"** means any Refuse, Recyclable, or Compostable Materials
21 spilled or left at established Collection sites by Contractor after Collection, excluding
22 small particles of grass clippings and leaves of the size and volume that may be collected
23 by regular street sweeping operations.

24 **1.67 WHITE GOODS**

25 **"White Goods"** means discarded enamel household appliances of any color, such as
26 refrigerators, stoves, washer/dryers, water heaters, dishwashers, etc., and similar items.

ARTICLE 2.
REPRESENTATIONS AND WARRANTIES
OF THE CONTRACTOR

2.1 CORPORATE STATUS

Contractor is a corporation 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.

2.2 CORPORATE AUTHORIZATION (OR PARTNERSHIP, ASSOCIATION OR JOINT VENTURE 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) has taken all actions required by law, its articles of incorporation, its bylaws, or otherwise, to authorize the execution of this Agreement. The Person signing this Agreement on behalf of Contractor has authority to do so.

2.3 AGREEMENT WILL NOT CAUSE BREACH

To the best of Contractor's knowledge, after reasonable investigation, neither the execution or delivery of this Agreement, nor the performance of this Agreement by Contractor: (i) conflicts with, violates, or results in a breach of any applicable law; or (ii) conflicts with, violates or results in a breach of any term or condition of any judgment, order or decree of any court, administrative 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.

2.4 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 guaranteeing Contractor's performance under this Agreement, which has not been waived by the City in writing.

2.5 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.

1 **2.6 ABILITY TO PERFORM**

2 Contractor possesses the business, professional, and technical expertise to manage,
3 handle, treat, store and dispose of the Refuse, Recyclables, and Compostable Materials, and
4 possesses the equipment, facility, and employee resources required to perform this Agreement.

ARTICLE 3.
TERM OF AGREEMENT

3.1 EFFECTIVE DATE

The effective date of this Agreement shall be July 1, 2001 ("Effective Date").

3.2 CONDITIONS TO EFFECTIVENESS OF AGREEMENT

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

3.2.1 ACCURACY OF REPRESENTATIONS

The representations and warranties made in Article 2 of this Agreement are true and correct on and as of the Effective Date.

3.2.2 ABSENCE OF LITIGATION

There is no litigation pending on the Effective Date in any court challenging the award or execution of this Amendment or seeking to restrain or enjoin its performance.

3.2.3 FURNISHINGS OF INSURANCE AND LETTER OF CREDIT

Contractor has furnished evidence of the insurance and letter of credit required by Article 9.

3.2.4 EFFECTIVENESS OF CITY COUNCIL ACTION

The City's Resolution No. 2001-32, approving this Agreement, shall have become effective pursuant to California law prior to the Effective Date.

3.3 TERM

The Term of this Agreement shall begin July 1, 2001, and end at midnight June 30, 2008, unless extended by City pursuant to Article 3.4.

3.4 OPTION TO EXTEND TERM

The City, at its sole discretion, shall have the option to extend this Agreement, up to thirty-six (36) months after June 30, 2008 (i.e., until June 30, 2011), in periods of at least twelve (12) months each, if the Contractor agrees to such an extension of the Agreement. If the City elects to exercise the option, it shall give written notice of its election, specifying the number of months by which it elects to extend the Term, to the Contractor, one hundred eighty (180) days prior to the initial or extended termination date. Contractor shall return a signed Letter Agreement to the City within 30 days of such written notice by City for the extension to become effective.

ARTICLE 4.
SCOPE OF AGREEMENT

4.1 SCOPE OF AGREEMENT

Subject to Article 4.2, the Franchise granted to Contractor shall be exclusive for Refuse, Recyclable Materials, and Compostable Materials generated in the City, except where otherwise precluded by federal, state, and local laws and regulations.

4.2 LIMITATIONS TO SCOPE

The Franchise for the Collection and Transportation of Refuse and Compostable Materials to a City designated Disposal Site or Composting Facility and Collection and Processing of Recyclable Materials granted to Contractor shall be exclusive except as to the following materials listed in this section. The City permits the operation of buy back Recycling and re-use centers, and this Agreement shall allow business and residential Generators to transport, donate and sell Recyclable Materials to such centers. The Franchise granted the Contractor shall not preclude the categories of Recyclable Materials or other materials listed below from being delivered to and collected and transported by others provided that nothing in this Agreement is intended to or shall be construed to excuse any Person from obtaining any authorization from City, which is otherwise required by law:

A. Other recyclers shall maintain the right to collect Specialty Recyclable Materials, to accept donated Recyclable Materials, and to pay the Generator for Source Separated Recyclable Materials. Specialty Recyclable Materials set out for Collection by other recyclers shall contain no more than 10 percent by weight or volume (whichever is less) residual Refuse commingled in the materials to qualify for the exception under this section. It will be the responsibility of Contractor to provide enforcement of this provision. If Contractor can document that other recyclers are servicing Collection containers that contain less than 90 percent source separated Specialty Recyclable Materials or Compostable Materials, it shall report the location and the name of the recycler to the City along with Contractor's evidence of the violation of the exclusiveness of this Agreement.

B. Recyclable Materials, which are removed from any Premises by the Generator, and which are transported personally by the Owner or Occupant of such Premises (or by his or her employees or a contractor).

C. Recyclable Materials, which are source separated at any Premises by the Generator and donated to youth, civic, or charitable organizations;

D. Containers delivered for Recycling under the California Beverage Container Recycling Litter Reduction Act, Section 14500, et seq., California Public Resources Code;

E. Compostable Materials removed from a Premise by a gardening, landscaping, or tree-trimming contractor as an incidental part of a total service offered by that contractor rather than as a hauling service, and for no additional or separate fee, and if such

contractor delivers the Compostable Materials to a Compostable Container or Composting Facility and does not dispose of the material as Refuse;

F. Temporary Debris Box Service (if not included in this exclusive Agreement by City Council after evaluating Requests for Proposals);

G. Animal waste and remains from slaughterhouse or butcher shops for use as tallow;

H. By-products of sewage treatment, including sludge, sludge ash, grit and screenings; and

I. Hazardous Waste, Infectious Waste, and Designated Waste, regardless of its source.

This grant to Contractor of an exclusive right and privilege to collect and transport Refuse and Compostable Materials and collect and process Recyclable Materials shall be interpreted to be consistent with state and federal laws, now and during the Term of the Agreement, and the scope of this exclusive right shall be limited by applicable state and federal laws with regard to the matters contained in this Agreement. In the event that future interpretations of current law or new laws, regulations, interpretations or trends limit the ability of the City to lawfully provide for the scope of services as specifically set forth herein, Contractor agrees that the scope of the Agreement will be limited to those services and materials which may be lawfully provided and that the City shall not be responsible for any lost profits or losses claimed by Contractor to arise out of limitations of the scope of the Agreement set forth herein. In such an event, it shall be the responsibility of Contractor to minimize the financial impact to other services being provided as much as possible.

4.3 COLLECTION OF CITY FACILITIES AND CITY-SPONSORED EVENTS

Contractor shall collect Refuse, Recyclable Materials, and Compostable Materials from City locations identified in Exhibit A, at any new City facilities which are constructed, leased or purchased by City during the Term of this Agreement and at City-sponsored events identified in Exhibit B, in accordance with the schedule contained therein.

4.4 COLLECTION AND TRANSPORTATION OF SALVAGEABLE MATERIALS TO PROCESSING FACILITY

Contractor shall provide specially designed and painted vehicles for Collection and Transportation of Salvageable Materials to the Processing Facility approved by the City. No Salvageable Materials collected under this Agreement shall be disposed of at a Disposal Site in lieu of diverting the material, without the expressed written approval of the City. If Contractor believes that it cannot re-use or recycle the Salvageable Materials, then it shall prepare a written request for approval to dispose of such material. Such request shall contain the basis for its belief, describe the Contractor's efforts to arrange for the re-use or Recycling of such material, the period required for such Disposal, the incremental costs or cost savings resulting from such Disposal, and any additional information supporting the Contractor's request. The City Council shall consider and inform Contractor in writing of its decision within thirty (30) days. If the City Council approves such request, any difference in the cost of such Disposal from its diversion shall be provided for in an adjustment (either increasing or decreasing) to the Contractor's Payment for

1 Services. Should the City designate another Processing Facility, then Contractor's Payment for
2 Services for the change (either increasing or decreasing Contractor's Payment for Services) in its
3 Transportation and Processing fees.

4 Contractor shall transport to and dispose of all Refuse collected under this Agreement at
5 the Disposal Site designated by the City (currently the Central Landfill) and shall cooperate with
6 the operator of the Disposal Site. If City approves a Disposal Site other than the Central Landfill,
7 then Contractor's Payment for Services for the change shall be adjusted (either increased or
8 decreased).

1 **ARTICLE 5.**
2 **COLLECTION SERVICES**

3
4 **5.1 GENERAL**

5 The work to be done by Contractor pursuant to this Agreement shall include the
6 furnishing of all labor, supervision, equipment, materials, supplies, and all other items necessary
7 to perform the services required. The enumeration and specification of requirements for
8 particular items of labor or equipment shall not relieve Contractor of the duty to furnish all
9 others, whether enumerated or not.

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

16 **5.2 REFUSE SERVICES**

17 **5.2.1 SINGLE-FAMILY RESIDENTIAL REFUSE SERVICE**

18 Contractor shall collect and transport to the Disposal Site designated by City all Refuse
19 from Carts placed at the curb of Single-Family Residences once per week as scheduled.

20 **5.2.2 COMMUNITY CLEAN-UP SERVICES**

21 Contractor shall provide Roll-Off Containers and Collection services for two annual drop-off
22 Community Clean-Up Events, each running for ten (10) consecutive days, including two (2)
23 weekends. The Clean-Up Events are open to all residents of Rohnert Park and shall be scheduled
24 by the City and Contractor during the spring and fall. Contractor is responsible for staging the event
25 at the Rohnert Park Community Stadium, located at 5900 Labath Avenue, Rohnert Park. The event
26 shall be staffed by three (3) Contractor employees, eight (8) hours per day, for the ten (10) days of
27 each event. In addition, Contractor shall be responsible for scheduling appointments upon request,
28 and picking up clean-up or bulky items from the homes of those customers who, due to physical
29 impairment or age, are unable to deliver such items to the event site. Residents must place items for
30 pick up at the curb. Appointments shall be scheduled eight hours per day, on weekdays only, for the
31 entire 10 day period of the Clean-Up Event. City will provide all publicity for clean-up events.

32 Clean-up event materials shall include appliances, old furniture, clean cardboard, newspaper,
33 refrigerators, air conditioners, freezers, clean yard and wood waste, recyclable glass, aluminum,
34 other cans, scrap metal, tires and rubbish. Containers shall be provided to collect each of the
35 materials listed above. Separate containers shall be provided to maximize Recycling and ensure ease
36 of Transportation to appropriate facilities. Contractor shall arrange for re-use collection
37 organizations to be present on site when possible (e.g., Goodwill Industries, Salvation Army,
38 Recycle Town and other such profit and/or not-for-profit groups) to determine what can be re-used,

and to divert reusable materials. Bulky items not acceptable to Re-Use Vendors shall be handled as Refuse.

Contractor staff shall direct traffic flow, keep site clean, hand out educational materials, require separation of Recyclable and Re-usable Materials and closely monitor participants to minimize contamination and maximize Recycling at the site. Containers shall maintain visible labels and signage, and shall be hauled and replaced when full.

The Sonoma County Landfill offers free Disposal to City for the spring event, and charges Disposal fees for the fall event. Contractor may bill City for fall event Disposal costs, passing through actual costs and providing copies of landfill receipts or bills with a summary cost sheet attached.

5.2.3 MULTI-FAMILY COMPLEX REFUSE SERVICE

5.2.3.A MULTI-FAMILY REFUSE CART SERVICE

Contractor shall collect and transport to a Disposal Site designated by City all Refuse from Carts placed at the curb or in Refuse enclosure/area by each Generator within a Multi-Family Complex, not less than once per week as scheduled.

5.2.3.B MULTI-FAMILY REFUSE BIN SERVICE

Contractor shall collect and transport to a Disposal Site designated by City all Refuse from Bins as scheduled with Generator to meet their needs, but not less than once per week.

5.2.4 COMMERCIAL REFUSE SERVICE

5.2.4.A COMMERCIAL REFUSE BIN SERVICE

Contractor shall collect and transport to a Disposal Site designated by City all Refuse from Bins as scheduled with Generator to meet their needs, but not less than once per week.

5.2.4.B COMMERCIAL REFUSE CART SERVICE

Contractor shall collect and transport to a Disposal Site designated by City all Refuse from Carts placed in Refuse enclosure or area by Generator as scheduled with Generator to meet their needs, but not less than once per week.

5.2.5 USED MOTOR OIL COLLECTION

The Contractor shall provide used motor oil collection for Single-Family Residences as part of the Recyclable Materials Curbside Collection program. The Contractor will distribute upon request, to Single-Family Residences, spill-safe containers for the Collection of used motor oil and plastic bags for used oil filters. Contractor shall collect used motor oil and used filters from Single-Family Residences that are placed at the curb. The Contractor shall provide replacement containers and filter bags to participants upon each Collection of oil and/or filters.

Contractor shall safely store oil and used filters collected at its facility, and arrange for these materials to be properly recycled. Contractor shall notify each resident about the oil and filter Recycling program at the start of the program, and provide semi-annual education materials thereafter to promote the program to all Single-Family Residences.

1 **5.3 RECYCLING SERVICES**

2 Contractor shall collect Recyclable Materials as described in Exhibit E for Single-Family
3 Residences and Multi-Family Complexes, and Exhibit F for Commercial Businesses.

4 Contractor shall instruct Single-Family Residences, Multi-Family Complexes (individual
5 residents and/or complex managers as appropriate), and Commercial Businesses as to preparation
6 of materials; the proper placement of Recycling Carts, Tubs, or Bins; and shall notify customers
7 who fail to follow these instructions with notices placed on containers. Repeated contamination
8 of Recyclable Materials shall be reported to City for intervention and billing as Refuse.

9 Contractor shall transport Recyclable Materials to a Processing Facility, process and
10 market the Recyclable Materials. The Recyclable Materials may not be disposed of at a Disposal
11 Site, Transfer Station, or any other location in lieu of Recycling the material without the
12 expressed written approval of the City, as specified in Article 4.4. Contractor shall make every
13 effort to process Recyclable Materials in a manner that produces the highest and best re-use of
14 these materials.

15 **5.3.1 SINGLE-FAMILY RESIDENTIAL RECYCLING SERVICE**

16 Contractor shall collect and deliver to a Processing Facility, process and market
17 Recyclable Materials from Carts placed at the curb by Single-Family Residences. The Contractor
18 shall provide scheduled weekly Recycling Collection service, which shall correspond with the
19 Single-Family Residential Refuse Collection day for each resident.

20 **5.3.2 MULTI-FAMILY COMPLEX RECYCLING SERVICE**

21 All Multi-Family Complexes shall receive Recycling service. Each complex shall have
22 the option of Cart Service described in Article 5.3.2.A, Bin Service described in Article 5.3.2.B,
23 or a combination of both types of service. Contractor shall provide each complex the appropriate
24 level of recycling service that is convenient for tenants and has an adequate number and type of
25 containers needed to service Occupants to reach a minimum of 50 percent diversion. Contractor
26 shall assist complexes by recommending the most convenient and effective locations on site for
27 placement of containers. Contractor shall provide initial and on-going public education services
28 as provided in Article 5.12 for all multi-family complexes.

29 **5.3.2.A MULTI-FAMILY RECYCLING CART SERVICE**

30 Contractor shall collect and deliver to a Processing Facility Recyclable Materials
31 from Carts placed at the curb or in designated Refuse and Recycling area by each resident
32 of Multi-Family Complexes. The Contractor shall provide scheduled weekly Recycling
33 Collection service, which shall correspond with the Multi-Family Complex Refuse
34 Collection day. More frequent collection service shall be provided by Contractor if
35 necessary, to resolve space constraints and to service smaller containers at Multifamily
36 Complexes.

37 **5.3.2.B MULTI-FAMILY RECYCLING BIN SERVICE**

38 Contractor shall collect and deliver to a Processing Facility, process and market
39 Recyclable Materials from Bins placed in designated areas collected as scheduled with
40 Generator to meet 50 percent diversion rate. Recycling Materials shall be collected
41 weekly at a minimum, and more often as needed.

1
2 **5.3.3 COMMERCIAL RECYCLING PROGRAM**

3 The contractor shall collect and deliver to a Processing Facility, process and market
4 Recyclable Materials from Bins or Carts collected as scheduled with the Generator, but at least
5 once a week. The Commercial Business Recycling program shall include four components: (1)
6 commercial Recyclable Materials streams, (2) container sizes and Collection options, (3)
7 sufficient business recycling containers provided to all business locations at no additional charge
8 to divert 50% of commercial refuse at each site and (4) education and Recycling support.

9 **5.3.3.A COMMERCIAL RECYCLABLE MATERIAL STREAMS FOR COLLECTION**

10 Contractor shall provide the following specific commercial Recyclable Materials
11 streams to be collected from City businesses:

- 12 • Cardboard
13 • Office Paper
14 • Mixed paper (including cardboard)
15 • Mixed containers (glass, plastic, aluminum)

16 Descriptions of the specific commercial Recyclable Materials to be collected are
17 provided in Exhibit F.

18 **5.3.3.B CONTAINER SIZES AND COLLECTION OPTIONS**

19 Each account will require Recycling services with various containers and Collection
20 options (e.g., centralized Recycling areas around groups of business, Recyclable Materials
21 Carts near trash locations or specific businesses, or Recyclable Materials Bins where space
22 within a trash enclosure allows). Contractor shall offer smaller Recyclable Materials Bins
23 and Carts to address space constraints and convenience at each site, and shall offer more
24 frequent collection than weekly as required by Generator to adequately service such
25 containers.

26 **5.3.3.C ADEQUATE RECYCLING SERVICES AT EACH COMMERCIAL SITE**

27 Contractor shall provide sufficient containers of varying sizes and Collection options
28 to all of the City's businesses in order to make business Recycling convenient and effective.
29 Contractor shall visit business locations to determine recycling needs and provide a sufficient
30 number of business recycling containers to all business locations at no additional charge to
31 divert 50% of commercial refuse at each site.

32 **5.3.3.D EDUCATION AND RECYCLING SUPPORT**

33 Contractor shall provide initial and on-going public education services as
34 provided in Article 5.12 for all commercial business locations.

35 **5.4 COMPOSTABLE MATERIALS PROGRAM**

36 Contractor agrees to collect and deliver to the local Composting Facility designated by
37 City, Compostable Materials that Generators separate from Refuse in Compostable Containers
38 for Collection. City shall designate the Composting Facility(s) where Compostable Materials

1 shall be delivered. The Processing Facility may process the material as compost or mix the
2 material with bio-solids and process the material as compost.

3 Contractor shall collect Organic Materials from Commercial Businesses separated from
4 Refuse on a separate route(s) and deliver to the local Organic Materials Processing Facility
5 designated by City. City shall designate in writing prior to the Effective Date of this Agreement
6 the Organic Materials Processing Facility where Organic Materials shall be delivered.

7 The City may, at any time, designate a different Processing Facility to receive
8 Compostable Materials or Organic Materials collected under the Agreement. The Contractor
9 shall ensure that the new Processing Facility receives Compostable Materials collected under the
10 Agreement within sixty (60) days of such designation by the City.

11 Contractor shall be entitled to an adjustment (either an increase or decrease) in its
12 compensation for Transportation in accordance with Section 8.8 if changes in the designated
13 Composting Facility result in increased mileage of more than ten (10) miles one way.

14 **5.4.1 SINGLE-FAMILY RESIDENTIAL COMPOSTABLE MATERIALS WEEKLY SERVICE**

15 Contractor shall collect and transport to the Composting Facility designated by City all
16 Compostable Materials collected from Carts placed at the curb by each Single-Family Residence.

17 Contractor shall collect and deliver to a Composting Facility Compostable Materials from
18 Carts placed at the curb of Single-Family Residences. The Contractor shall provide scheduled
19 weekly Collection service, which shall correspond with the Single-Family Residential Refuse
20 Collection day.

21 **5.4.2 MULTI-FAMILY RESIDENTIAL COMPLEX AND COMMERCIAL BUSINESS** 22 **COMPOSTABLE MATERIALS SERVICE**

23 Contractor shall provide Compostable Containers to all Multi-Family Residential
24 Complexes (such as condominiums, mobile home parks and small complexes of two to eight
25 units) that can be serviced by Curbside Refuse and Recycling services, and shall collect and
26 transport to the Composting Facility designated by City all Compostable Materials collected from
27 Carts placed at the curb by each Occupant of such Multi-Family Residential Complex. No extra
28 charge shall apply to such service.

29 Contractor shall, upon request of a Generator, provide Cart or Bin Compostable
30 Containers to larger Multi-Family Residential Complexes and Commercial Businesses, and shall
31 collect and transport to the Composting Facility designated by City all Compostable Materials
32 from Carts or Bins placed in the designated areas for such Multi-Family Residential Complexes
33 and Commercial Businesses.. Contractor shall provide service as scheduled with Generator, but
34 a minimum of weekly Collection service.

35 **5.4.3 CHRISTMAS TREE PICKUP**

36 Christmas trees shall be collected in one of three ways: (1) Residential curbside
37 Collection during a two week period after New Year's Day ; (2) cut up and placed in
38 Compostable Materials Containers on regular Collection day; or (3) the Generator may pay a
39 non-profit organization designated by the City Council to collect the Christmas trees and bring
40 them to the Contractor's facility. Contractor shall accept Christmas trees collected by non-profit

1 organizations at their facility from the following business day after Christmas until the third
2 Monday of January.

3 Christmas trees shall be recycled by Contractor in a manner to count as diversion by the
4 California Integrated Waste Management Board. Trees that are flocked and contain tinsel or
5 other decorations shall be collected separately for Disposal.

6 **5.4.4 CURBSIDE CHRISTMAS TREE COLLECTION**

7 Contractor shall offer to Single-Family Residences and Multi-Family Complex residents
8 Curbside Collection of Christmas trees during a two- (2) week period beginning on the Monday
9 following the first Saturday after New Year's Day. Christmas trees will be collected on the
10 regular Collection day during the designated weeks.

11 **5.5 CITY FACILITIES AND EVENTS COLLECTION**

12 Contractor shall provide Refuse, Recycling Materials and Compostable Materials
13 containers and Collection services for City facilities and City-sponsored events described in
14 Exhibit A and Exhibit B. Compostable Materials services are required only at the Department of
15 Public Works, where all City Compostable Materials are deposited. The services required by this
16 section shall be provided at no charge to the City, but the cost of providing such service shall be
17 an allowable expense under Article 8.

18 **5.6 REMOVAL OF HAZARDOUS WASTE**

19 If Contractor determines that material placed in any container for Collection is Hazardous
20 Waste, Designated Waste, Infectious Waste, or other material that may not legally be disposed of at
21 the Disposal Site or Processing Facility or presents a hazard to the Contractor's employees, the
22 Contractor shall have the right to refuse to accept such material. The Generator shall be contacted
23 by the Contractor and requested to arrange proper Disposal. If the Generator cannot be reached
24 immediately, the Contractor shall, prior to leaving the Premises, leave a tag at least 2" x 6" which
25 lists the phone number for the Sonoma County Waste Management Agency Household Hazardous
26 Waste Program, indicating the reason for refusing to collect the material. If the material could result
27 in imminent danger to people or property, the Contractor shall notify the Rohnert Park Department
28 of Public Safety using the "911" emergency number as soon as possible. The Contractor shall notify
29 the City of any such material left at any Premises for 14 days or more. If the material is delivered to
30 the Disposal Site or a Processing Facility before its presence is detected and the Generator cannot be
31 identified or fails to remove the material after being requested to do so, the Contractor shall arrange
32 for its proper Disposal. The Contractor shall make a good faith effort to recover the cost of Disposal
33 from the Generator, and the cost of this effort, as well as the cost of Disposal shall be chargeable to
34 the Generator. The Contractor shall be entitled to include the costs incurred under this section as an
35 operating expense for purposes of compensation under Article 8 and shall include all sums recovered
36 by it from Generators as "Other Income."

37 **5.7 TRANSPORTATION OF REFUSE, RECYCLABLE MATERIALS AND COMPOSTABLE** 38 **MATERIALS**

39 Contractor shall transport all Refuse and Compostable Materials collected under this
40 Agreement to the Disposal and Processing Facilities designated by the City, and all Recyclable
41 Materials to the City approved Recycling Facility for Processing. Contractor shall maintain
42 accurate records of the quantities of Refuse, Recyclable Materials, and Compostable Materials

1 transported to the Disposal Site, Processing Facility, or Composting Facility and will cooperate
2 with City in any audits, reporting or investigations of such quantities.

3 Contractor shall cooperate with the operator of the Disposal Site and Processing Facilities
4 with regard to operations therein, including, for example, complying with directions from the
5 operator to unload Collection vehicles in designated sorting or Disposal areas, to participate in
6 diversion and Recycling programs, to allow load checking, to properly handle Hazardous Waste,
7 accommodating maintenance operations and construction of new facilities, and cooperating with
8 its Hazardous Waste Exclusion Program.

9 **5.8 PROCESSING OF REFUSE, RECYCLABLE MATERIALS, AND COMPOSTABLE** 10 **MATERIALS**

11 Contractor shall dispose of all Refuse collected under this Agreement at the Disposal Site
12 designated by City. Unless and until City otherwise designates a different Disposal Site in
13 writing, the Disposal Site shall be the Sonoma County Central Landfill.

14 If the Contractor expects, during the Term of this Agreement, to be prevented from
15 delivering Refuse to the Disposal Site designated by the City, it shall notify the City immediately.
16 Contractor shall then identify alternative Disposal Sites and evaluate costs and environmental
17 impacts. Such evaluation shall include the Disposal fee, Transportation cost, routes to site,
18 traffic impacts, other environmental impacts, diversion programs, Recycling facilities, permit
19 status, any known permit enforcement proceedings and any other criteria used by the Contractor
20 in recommending alternative Disposal Sites. It shall then present its recommendations and
21 evaluation of alternatives described above to City. City shall either approve the Contractor's
22 recommended Disposal Sites or designate another Disposal Site in writing. Contractor will
23 thereafter dispose of Refuse at the site designated by the City.

24 Unless and until City otherwise designates a different Recyclable Materials Processing
25 center in writing, the Recyclable Materials Processing center shall be the Timber Cove Recycling
26 Facility on Standish Avenue in Santa Rosa. City reserves the right to redirect Recyclable
27 Materials collected under this Agreement to a Processing Facility determined by the City. If City
28 redirects Recyclable Materials to an alternate Processing Facility, Payment for Services to
29 Contractor shall be adjusted for differences in the cost of Transportation, Disposal, and
30 Processing of the material in accordance with Section 8.8.

31 Unless and until City otherwise designates a different Composting Facility in writing, the
32 Composting Facility shall be Sonoma Compost at the Sonoma County Central Landfill. City
33 reserves the right to redirect Compostable and Organic Materials collected under this Agreement
34 to a Composting Facility determined by the City. If City redirects Compostable and Organic
35 Materials to an alternate Composting Facility, Payment for Services to Contractor shall be
36 adjusted for differences in the cost of Transportation, Disposal, and Processing of the materials in
37 accordance with Section 8.8.

38 **5.9 COLLECTION STANDARDS**

39 **5.9.1 CARE OF PRIVATE PROPERTY**

40 Contractor shall use due care when Handling Refuse, Recyclable Materials, and
41 Compostable Materials Containers. Containers shall not be thrown from trucks, roughly
42 handled, damaged or broken. Containers shall be returned to the Collection point upright, with

lids properly secured. The City may levy fines for repeat occurrences in accordance with Article 11.5 of this Agreement.

Contractor shall ensure that its employees close, and re-lock if applicable, all gates opened by them in making Collections, unless otherwise directed by the Generator, and avoid crossing landscaped areas and climbing or jumping over hedges and fences for any backyard/side-yard service provided to the elderly and/or disabled.

City shall refer Complaints about damage to private property to Contractor. Contractor shall repair all damage to private property caused by its employees, including but not limited to driveways and roads damaged by Contractor's trucks.

5.9.2 LITTER ABATEMENT

A. Minimization of Spills. During Collection, the Contractor shall clean up litter in the immediate area. Contractor shall use due care to prevent Refuse, Recyclable Materials, and Compostable Materials from being spilled or scattered during the Collection or Transportation process. If any Refuse, Recyclable Materials, or Compostable Materials are spilled during Collection, the Contractor shall promptly clean up all spilled materials.

Contractor shall not transfer loads from one vehicle to another on any public street, unless it is necessary to do so because of mechanical failure, hot load (combustion of material in the truck), accidental damage to a vehicle, or unless approved by the City.

B. Cleanup. During Collection, the Contractor shall clean up litter in the immediate vicinity of any Refuse, Recyclable Materials, or Compostable Materials storage area (including the areas where Collection Bins and Roll-Off Containers are delivered for Collection) whether or not Contractor has caused the litter. Each Collection vehicle shall carry a broom and shovel at all times for the purpose of cleaning litter. Cat litter shall be used for liquid spill cleanups. The Contractor shall discuss instances of repeated spillage, not caused by it, directly with the Generator responsible, and shall report such instances to City. In situations where the Contractor has already attempted to do so without success, the City shall attempt to rectify such situations with the Generator.

C. Covering of Loads. Contractor shall cover all open Debris Boxes at pick-up location prior to transport to the Disposal Site.

5.9.3 HOURS OF COLLECTION

Scheduled Collection of Refuse, Recyclable Materials, and Compostable Materials in residential areas may occur only between the hours of 6:00 a.m. and 6:00 p.m., and in commercial areas, only between the hours of 4:00 a.m. and 6:00 p.m. Commercial customers adjacent to residential structures or areas shall not be serviced prior to 6:00 a.m. Should City receive what is in its sole opinion sufficient Complaints from residential customers regarding the 6:00 a.m. start time, City may direct Contractor to schedule Collection from residential areas commencing at 6:30 a.m., and Contractor shall comply with City's direction within five (5) business days.

1 **5.9.4 NOISE**

2 All Collection operations shall be conducted as quietly as possible and shall conform to
3 applicable federal, state, county and City noise level regulations, including the requirement that
4 the noise level during the stationary compaction process not exceed seventy-five (75) decibels at
5 a distance of twenty-five (25) feet at a height of five (5) feet from the Collection vehicle. The
6 City may conduct random checks of noise emission levels to ensure such compliance. The only
7 exception to this noise rule is for back-up buzzers on the trucks that may exceed the 75 decibels
8 at a distance of 25 feet. All Collection vehicles shall comply with U.S. Environmental Protection
9 Agency (EPA) noise emission regulations and other applicable noise control regulations.
10 Contractor shall, within two (2) working days, resolve any Complaints of excessive noise to the
11 satisfaction of the City.

12 **5.9.5 HOLIDAY COLLECTION SCHEDULE**

13 During the week of the holidays shown on Exhibit H, Collection shall be delayed by one
14 day following the holiday, except when the holiday falls on a Saturday or Sunday. The
15 Contractor shall provide at least a two- (2) week notice to all customers regarding the holiday
16 week schedule changes. Contractor shall publish and distribute a holiday schedule to all
17 Generators at least annually.

18 **5.9.6 PERMANENT CHANGES IN SERVICE DAYS**

19 The Collection day may change with prior written approval from the City. Once approved,
20 Cart Service customers shall be notified four (4) weeks prior to any schedule changes to Refuse,
21 Recycling, and Compostable Materials services. A reminder notice to all affected customers shall
22 be sent during the week prior to the change. Contractor will not permit any customer to go more
23 than seven (7) days without service in connection with a Collection schedule change.

24 **5.10 VEHICLES**

25 **5.10.1 GENERAL**

26 Contractor shall provide a fleet of Collection vehicles sufficient in number and capacity to
27 efficiently perform the work required by the Agreement in strict accordance with its terms.
28 Contractor shall have available sufficient back-up vehicles for each type of Collection vehicle
29 used (i.e., side loader, front loader, and roll-off) to respond to Complaints and emergencies.
30 Contractor shall maintain detailed records of the dates, hours, operational costs and material
31 Disposal costs incurred when using spare trucks to service the City. All costs for vehicles used
32 solely to service the City shall be tracked by vehicle number, and records retained for the duration
33 of this Agreement.

34 **5.10.2 SPECIFICATIONS**

35 All vehicles used by Contractor in providing Collection services shall be registered with
36 the California Department of Motor Vehicles. All such vehicles shall have watertight bodies
37 designed to prevent leakage, spillage, or overflow.

1 **5.10.3 VEHICLE IDENTIFICATION**

2 Contractor's name, local telephone number, and a unique vehicle identification number for
3 each vehicle shall be prominently displayed on all vehicles, in letters and numbers no less than
4 two and one-half (2 1/2) inches high. Contractor shall not place the City's logo on its vehicles.
5 Contractor shall not use vehicles identified for use in Rohnert Park in any other jurisdiction
6 without prior approval from the City.

7 **5.10.4 INVENTORY**

8 Contractor shall furnish sufficient equipment to provide all service required under this
9 Agreement. Contractor shall furnish the City a written inventory of all vehicles, including
10 Collection vehicles, used in providing service, and shall update the inventory whenever there is a
11 change in vehicles used for City services, but at a minimum annually. The inventory shall list all
12 vehicles by manufacturer and all equipment by ID number, date of acquisition, type, capacity and
13 depreciable life.

14 **5.10.5 CLEANING AND MAINTENANCE**

15 **A. General.** Contractor shall maintain all of its properties, facilities, and equipment
16 used in providing service under this Agreement in a safe, neat, clean, and operable
17 condition at all times.

18 **B. Cleaning.** Vehicles used in the Collection of Refuse, Recyclable Materials, and
19 Compostable Materials shall be thoroughly washed and thoroughly steam cleaned on a
20 minimum of one (1) time per week or more frequently if necessary so as to present a
21 clean appearance of both the exterior and interior compartment of the vehicle. City may
22 inspect vehicles at any time to determine compliance with sanitation requirements.
23 Contractor shall make vehicles available to the Sonoma County Health Department for
24 inspection, at any frequency it requests.

25 **C. Maintenance.** Contractor shall: (i) inspect each vehicle daily to ensure that all
26 equipment is operating properly and vehicles that are not operating properly shall be
27 taken out of service until they are repaired and do operate properly; and (ii) perform all
28 scheduled maintenance functions in accordance with the manufacturer's specifications
29 and schedule. Contractor shall keep accurate records of all vehicle maintenance, recorded
30 according to date and mileage, and shall make such records available to the City upon
31 request.

32 **D. Repairs.** Contractor shall repair, or arrange for the repair of, all of its vehicles
33 and equipment for which repairs are needed because of accident, breakdown, or any other
34 cause so as to maintain all equipment in a safe and operable condition. If an item of
35 repair is covered by a warranty, Contractor shall obtain warranty performance.
36 Contractor shall maintain accurate records of repair, which shall include the date/mileage,
37 nature of repair, and the signature of a maintenance supervisor that the repair has been
38 properly performed, and shall make such records available to the City upon request.

39 **E. Storage.** Contractor shall arrange to store all vehicles and other equipment in safe
40 and secure location(s) in accordance with City's applicable zoning regulations.

1 **5.10.6 OPERATION**

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

6 **5.11 CONTAINERS**

7 **5.11.1 GENERAL**

8 All Carts, Tubs, Bins, and Roll-Off Containers and Compactors shall be provided to
9 customers as part of services provided by Contractor. Upon termination of the Agreement, the
10 City reserves the right to take ownership of all Carts, Tubs, Bins, Roll-Off Containers and
11 Compactors, or to request Contractor to collect some or all containers.

12 Contractor shall provide containers for storage of Refuse, Recyclable Materials, and
13 Compostable Materials, which shall be designed and constructed to be watertight and prevent the
14 leakage of liquids. All containers with a capacity of one cubic yard or more shall meet applicable
15 federal regulations on Refuse Bin safety and be covered with attached lids. All containers shall
16 be painted standard colors and shall prominently display the name and telephone number of the
17 Contractor. Containers shall be designated with specific colors approved by the City to
18 distinguish between Refuse and Recycling containers. Recycling containers shall include legible
19 Recyclable Materials descriptions or pictograms for easy recognition by customers of the type of
20 Recycling Materials to be deposited therein.

21 **5.11.2 REFUSE CART CONTAINERS**

22 All Refuse Containers shall be gray in color, or another neutral color (other than blue or
23 green) determined by Contractor.

24 **5.11.2.A SINGLE FAMILY RESIDENTIAL REFUSE CART SERVICE**

25 Contractor shall supply each Single Family Residence with a choice of one (1) 20-
26 , 32-, 68-, or 95-gallon (or equivalent size) Cart for the Collection of Refuse. Single-
27 Family Residences may receive multiple Refuse Carts for an additional fee.

28 **5.11.2.B MULTI-FAMILY RESIDENTIAL COMPLEXES REFUSE CART SERVICE**

29 Contractor shall supply each Multi-Family Residential Complex resident with a
30 choice of one (1) 20-, 32-, 68-, or 95-gallon (or equivalent size) Cart for the Collection of
31 Refuse. Multi-Family Residents may receive multiple Refuse Carts for an additional fee.

32 **5.11.2.C SMALL COMMERCIAL GENERATOR CART SERVICE**

33 Contractor shall supply each Small Commercial Generator with one (1) 95-gallon
34 Cart for the Collection of Refuse, upon request. Small Commercial Generators may
35 receive multiple Refuse Carts for an additional fee.

36 **5.11.3 REFUSE BIN CONTAINERS**

37 Contractor shall supply each Bin Service Generator with a choice of size (1 to 8 yard) and
38 number of Bins for the Collection of Refuse. Large quantity Generators shall be offered the

option of selecting a Roll-Off Container or Compactor for Collection of Refuse (for permanent Refuse service only).

5.11.4 RECYCLING CONTAINERS

All Recycling Containers shall be blue in color.

5.11.4.A SINGLE-FAMILY RESIDENTIAL RECYCLING CART SERVICE

Contractor shall supply each Single-Family Residence with a choice of a 68-, or 95-gallon (or equivalent size) Cart for the Collection of Single Stream Recyclable Materials in one Cart.

5.11.4.B MULTI-FAMILY RESIDENTIAL COMPLEXES RECYCLING CART

Contractor shall supply each Multi-Family Residential Complex with a choice of a multifamily recycling bins or 68-, or 95-gallon (or equivalent size) Carts for the Collection of Single Stream Recyclable Materials in one container. Multi-family residents may receive multiple Refuse Carts at no additional fee.

5.11.4.C COMMERCIAL RECYCLING CONTAINERS

Contractor shall supply each Commercial Business with the option of Bin and/or Cart Recycling Service. Bin Service Generators shall have the option of size (1 to 8 yard Bins) and number of Bins for the Collection of Recyclable Materials. Cart Service Generators shall have the option of 95-gallon Carts for the Collection of Recyclable Materials.

5.11.5 COMPOSTABLE MATERIALS CART SERVICE CONTAINERS

All Compostable Material Containers shall be green in color.

5.11.5.A SINGLE-FAMILY RESIDENTIAL COMPOSTABLE MATERIALS CART SERVICE

Contractor shall supply each Single-Family Residence with a 95-gallon Cart for the Collection of Compostable Materials, and additional containers at no extra cost.

5.11.5.B MULTI-FAMILY RESIDENTIAL COMPLEXES COMPOSTABLE MATERIALS CART SERVICE

Contractor shall provide as an optional service 95-gallon (or equivalent size) Carts for the Collection of Compostable Materials. In cases where space constraints in multifamily complexes preclude use of a 95-gallon (or equivalent size) Cart, a 68-gallon (or equivalent size) Cart will be provided.

5.11.6 CLEANING, PAINTING, MAINTENANCE

Contractor shall steam clean and repaint all containers (other than Carts and Tubs) so as to present a clean appearance. All containers shall be maintained in a functional condition. Contractor shall provide the City on an annual basis, a list of Bins and dates that painting and maintenance occurred.

5.11.7 REPAIR AND REPLACEMENT

5.11.7.A BIN, ROLL-OFF CONTAINER, COMPACTOR REPAIR AND REPLACEMENT

Contractor shall repair or replace all containers damaged by Collection operations within a one- (1) week period.

5.11.7.B CART REPAIR REPLACEMENT

Contractor shall replace, not more than once per year without charge, containers that have been stolen or damaged. Additional Cart replacements shall be charged to the Single-Family Residences and Multi-Family Residential Complex residents at a rate approved by the City in writing.

5.11.8 CITY-SPONSORED EVENT CONTAINERS

Contractor shall provide a sufficient number of containers for both Refuse and Recycling at City events.

5.12 EDUCATION

Throughout the Term of the Agreement, and not less than quarterly, Contractor shall provide educational information on waste diversion to Single-Family Residences, Multi-Family Residential Complexes, and Commercial Businesses through media including, but not limited to, newsletters, flyers, brochures, door hangers, notification tags, annual notices and direct contact. Information shall be provided to inform customers about the initial start of service and about the attributes of service that require improvements or changes. Materials printed and distributed shall contain the highest levels of recycled content, with a minimum of 20 percent post-consumer content. Contractor shall provide a Recycling Specialist throughout the term of this Agreement to provide direct contact with residents, businesses, tenants and employees to assist, motivate and educate them about recycling and reuse.

5.12.1 INITIAL EDUCATIONAL START-UP ACTIVITIES

The Contractor shall print and distribute the following before July 1, 2000:

5.12.1.A SINGLE-FAMILY RESIDENTIAL CUSTOMERS

- An initial mailing to residents explaining the transition from the existing program to the new program and including Recycling and diversion education materials.
- A "how-to" brochure/calendar explaining the overall Recyclable and Compostable Materials programs and the materials to be collected.
- Annual notice in the form of door hangers, flyers or mailers describing the specific Collection day and holidays, Christmas tree Collection and clean-up event schedules.

5.12.1.B MULTI-FAMILY COMPLEX CUSTOMERS

- An initial mailing to Owners/property managers and tenants explaining the transition from the existing program to the new program and including Recycling and diversion education materials.
- A "how-to" brochure/calendar explaining the overall Recyclable and Compostable materials programs, contamination issues and the materials to be collected for both Bin and Cart Service types.

- Annual notice in the form of door hangers/flyers/mailers describing the specific Collection day and holidays, Christmas tree Collection and clean-up event schedules.

5.12.1.C COMMERCIAL BUSINESS CUSTOMERS

- An initial distribution to businesses explaining the transition from the existing program to the new program and the Recycling service options provided.
- A “how-to” brochure for business tenants explaining the Recycling programs.

5.12.2 CONTINUING EDUCATIONAL ACTIVITIES

The Contractor shall conduct the following activities on an annual basis throughout the Term of the contract:

5.12.2.A SINGLE-FAMILY RESIDENTIAL CUSTOMERS

- A semi-annual newsletter to be distributed to all residents promoting and explaining the programs and including Recycling education materials.
- Distribution semi-annually, in addition to newsletter, of non-program related information on source reduction, re-use and Recycling (e.g., junk mail reduction, Household Hazardous Waste events, safer alternatives to toxics, grass cycling, composting, recycling of computers, furniture and appliances, used motor oil recycling, etc.).
- The newsletter and all other educational materials shall be reviewed and approved by City staff before printing. City staff will return comments or changes within seven (7) working days of receipt of draft.
- A corrective actions notice that shall be attached to carts in instances where the resident sets out inappropriate or contaminated materials.

5.12.2.B MULTI-FAMILY COMPLEX CUSTOMERS

- A semi-annual newsletter to be distributed to all residents promoting and explaining the programs and including Recycling education materials.
- Distribution semi-annually, in addition to newsletter, of non-program related information on source reduction, re-use and Recycling (e.g., junk mail reduction, Household Hazardous Waste events, safer alternatives to toxics, grass cycling, composting, recycling of computers, furniture and appliances, etc.).
- The newsletter and all other educational materials shall be reviewed and approved by City staff before printing. City staff will return comments or changes within seven (7) working days of receipt of draft.
- Printing and maintaining clear container labels describing the contents that shall be placed in the Recycling Container(s).
- A corrective actions notice that shall be attached to carts or bins in instances of contamination or inclusion of inappropriate materials at complex.

5.12.2.C COMMERCIAL BUSINESS CUSTOMERS

- Contractor shall provide a semi-annual newsletter to be distributed to all businesses promoting and explaining the Recycling programs.
- Contractor shall print and distribute semi-annually, in addition to newsletter, educational materials targeting recycling of commercial waste (office paper, other paper and cardboard).
- Contractor shall print and maintain clear container labels on all bins and carts describing the contents that shall be placed in the Recycling Container(s).
- Contractor shall attend a minimum of four (4) business association groups (e.g., Chambers of Commerce and other such organizations) to educate businesses on the Recycling programs, answer questions, and provide information on signing up businesses for additional recycling services.
- Contractor shall provide a corrective actions notice that shall be attached to carts or bins in instances where the business includes inappropriate materials, has contamination of Recyclables or has inadequate Refuse or Recycling services (overflow/excessive debris).
- Distribution semi-annually, in addition to newsletter, of non-program related information on source reduction, re-use and Recycling (e.g., office paper and cardboard, junk mail reduction, Recycling office furniture, fixtures and equipment).

5.12.3 CITY'S SUPPLEMENTAL EDUCATION

The City will supplement the Contractor's education program by including an annual budget (\$25,000 to \$75,000) to assist in source reduction and Recycling education. The City may hire an educational contractor to conduct additional education to support multi-family and commercial Recycling programs. This annual budget will be added on as a pass-through of diversion fees to the cost presented and will be funded from Refuse rates.

5.12.4 COMPOSTABLE MATERIALS SPECIFICATIONS

Contractor shall prepare and distribute a flyer describing how to prepare Compostable Materials for Collection. Contractor shall print adequate numbers of flyers and other educational materials to distribute to each new customer, and shall distribute flyer to all customers with yard waste service at least annually. Contractor shall instruct Single-Family Residences, Multi-Family Residential Complexes, and Commercial Businesses as to any necessary preparation and description of acceptable Compostable Materials.

5.12.5 RECYCLABLE MATERIALS SPECIFICATIONS

Contractor shall prepare a flyer describing how to prepare Recyclable Materials for Collection. Contractor shall print adequate numbers of flyers and other educational materials to distribute to each new customer, and shall distribute flyer to all customers at least annually.

Contractor shall inform Single-Family Residences, Multi-Family Residential Complexes, and Commercial Businesses as to any contaminants in the Recyclables and describe the acceptable materials that can be included in the Recyclable Materials Containers, by placing notices on containers.

1 **5.12.6 CHRISTMAS TREE**

2 Contractor shall notify all service recipients in writing of the dates, time, and places of all
3 Christmas tree Collections. Notices shall be distributed on or before December 23 each year.

4 **5.12.7 RECYCLING VISITS AND EDUCATION**

5 Contractor shall visit designated and interested businesses. Annually, the City and
6 Contractor will select a minimum of 100 businesses and 100 multifamily complexes in Rohnert
7 Park to be visited throughout the year to assist in the development of source reduction, re-use,
8 and Recycling programs. Visits shall include, but are not limited to waste, diversion, and source
9 reductions analysis; research of markets for specialized materials generated by company; and
10 assistance in internal collection and training efforts of tenants or employees. For a period of six
11 (6) months after visiting, providing training and/or implementing new recycling services in
12 selected businesses and multifamily complexes, Contractor shall conduct monthly inspections and
13 shall report to City quarterly by submitting findings describing Disposal and diversion before the
14 visit and changes of Disposal and diversion after the visit and program implementation.

15 **5.12.7.A INITIAL COMMERCIAL BUSINESS AND MULTI-FAMILY RESIDENTIAL**
16 **COMPLEX RECYCLING VISITS**

17 Contractor shall provide a qualified full time Recycling Specialist (staff
18 person/consultant) for at least a three month start-up period commencing July 1, 2001, to
19 assist Multi-Family Residential Complexes and Commercial Businesses to develop
20 effective Recycling programs and determine the material streams, container sizes, and
21 Collection options to be provided. Prior to September 30, 2001, the Recycling Specialist
22 will meet with each multi-family and business account and assist in determining the most
23 cost effective Recycling program to achieve 50 percent diversion. The Recycling
24 Specialist will work to establish Recycling program recommendations for Commercial
25 Businesses and Multi-Family Residential Complexes. Meetings with property Owners
26 and businesses may be required to determine the most appropriate services for their site.
27 Contractor shall provide initial "how to" recycle training to tenants and employees

28 The City will contract with a separate educational consultant to assist the
29 Contractor in working with property Owners to effectively develop and implement their
30 Recycling plan and to provide on-going recycling education to tenants and employees.

31 **5.12.7.B....CONTINUING RECYCLING EDUCATION**

32 The Contract shall, commencing on October 1, 2001, provide a qualified Recycling
33 Specialist to provide ongoing Recycling education to new accounts, Commercial Businesses,
34 Multi-Family Residential Complexes, and Single-Family Residences. The Recycling
35 Specialist shall devote a minimum of eight (8) hours per week, or 416 hours per year solely
36 to the City throughout the term of the contract.

37 Direct educational contact with businesses, employees, property managers and
38 tenants is the first priority for the use of required time. The Recycling Specialist activities
39 shall also include, but are not limited to, speaking at the Chamber of Commerce events,
40 attending community events, offering Recycling education in the schools, conducting

1 Recycling training classes throughout the year, assisting multi-family building Owners in
2 adding or changing services, and conducting other Recycling education functions. The
3 Recycling Specialist shall devote approximately four (4) hours per week on average to these
4 activities stated above for Multi-Family Residential Complexes, and shall visit a minimum of
5 100 complexes annually.

6 The Recycling Specialist shall also work with Commercial Businesses to encourage
7 Recycling services. The Recycling Specialist shall be available to businesses and new
8 accounts throughout the Term of the contract for approximately four (4) hours per week. A
9 minimum of 100 of the commercial Generators, including all new accounts, in the City shall
10 be visited annually to receive one-on-one education about Recycling and assistance with
11 implementing some type of Recycling program. The goal is to reduce waste and increase
12 Recycling. In subsequent years, businesses previously visited will require follow-up visits to
13 determine if any improvements on current or additional diversion programs are necessary.
14 Visits shall include, but not be limited to, waste diversion and source reduction analysis;
15 research of markets for specialized materials generated by the company; as well as assistance
16 in internal collection and training efforts. Quarterly reports with results shall be submitted to
17 the City. Targeted businesses will be determined with City staff each year.

18 **5.13 PERSONNEL**

19 **5.13.1 GENERAL**

20 Contractor shall furnish such qualified drivers, mechanical, supervisory, customer
21 service, clerical, and other personnel as may be necessary to provide the services required by this
22 Agreement in a safe and efficient manner.

23 **5.13.2 DRIVER QUALIFICATIONS**

24 All drivers shall be trained and qualified in the operation of waste Collection vehicles and
25 must have in effect a valid license, of the appropriate class, issued by the California Department
26 of Motor Vehicles.

27 **5.13.3 SAFETY TRAINING**

28 Contractor shall provide suitable ongoing operational and safety training for all of its
29 employees who utilize or operate vehicles or equipment for Collection of Refuse, Recyclable
30 Materials, or Compostable Materials or who are otherwise directly involved in such Collection.
31 Contractor shall train its employees involved in Collection to identify, and not to collect,
32 Designated Waste, Hazardous Waste, or Infectious Waste.

33 **5.13.4 NO GRATUITIES**

34 Contractor shall not permit its employees to demand or solicit, directly or indirectly, any
35 additional compensation or gratuity from members of the public for the Collection of Refuse,
36 Recyclable Materials, and Compostable Materials under this Agreement.

37 **5.13.5 EMPLOYEE CONDUCT AND COURTESY**

38 Contractor shall use its best efforts to assure that all employees present a neat appearance
39 and conduct themselves in a courteous manner. Contractor shall regularly train its employees in
40 customer courtesy, shall prohibit the use of loud or profane language, and shall instruct
41 Collection crews to perform the work as quietly as possible. If any employee is found not to be

1 courteous, to be driving in a dangerous or reckless manner, or not to be performing services in
2 the manner required by this Agreement, Contractor shall take all appropriate corrective measures.

3 **5.13.6 UNIFORMS**

4 All employees of the Contractor performing field service under this Agreement shall be
5 dressed in clean uniforms with employee's name or numbered badge which also shows
6 Contractor's name thereon at all times while engaged in the work; and no portion of this uniform
7 may be removed while working.

8 **5.13.7 PROVISION OF FIELD SUPERVISION**

9 Contractor shall designate at least one qualified employee as supervisor of field
10 operations. The field supervisor will devote at least 50 percent (50%) of his or her time in the
11 field checking on Collection operations, including responding to Complaints.

12 **5.13.8 CUSTOMER SERVICE REPRESENTATIVES**

13 The customer service representatives shall be trained on specific Rohnert Park service
14 requirements, a minimum of once per quarter. A Rohnert Park information sheet shall be
15 provided to each customer service representative for easy reference to Rohnert Park
16 requirements, services, container sizes and current rates. Information sheet, training agenda, and
17 associated documentation shall be forwarded to the City each quarter after the training.

18 **5.13.9 CUSTOMER SERVICE/BILLING LIAISON**

19 Contractor shall designate one (1) qualified employee and one (1) alternative to serve as
20 customer service/billing liaison to the City. The liaison will be available during business hours
21 to coordinate billing, customer service, and operational issues with the City.

22 **5.14 STREET SWEEPING SERVICES**

23 Contractor shall provide weekly sweeping of all streets, island gutters, and noses, as well
24 as the bi-weekly sweeping of all City bike paths and public parking lots. Refer to Exhibit I for
25 listings of streets, bike paths, and public parking lots.

26 **5.14.1 GENERAL STREET SWEEPING REQUIREMENTS**

27 **A.** Contractor shall supply street sweeping equipment, including all parts and
28 accessories. Contractor shall be solely responsible for the licensing, operation,
29 maintenance, and repairs of its street sweeping equipment. Contractor shall clean and
30 maintain equipment as described in Article 5.10.5, Cleaning and Maintenance.

31 **B.** Cleaning shall be carried out at a facility provided by the Contractor. No waste
32 water from cleaning shall be deposited in City streets or at a City facility. In the event that
33 water is accidentally discharged during the normal course of street sweeping, Contractor
34 shall sweep effected area immediately to prevent the discharge from draining to City
35 storm drains and into creeks.

36 **C.** Equipment must be equipped with an efficient water spray system for dust control,
37 and the spray system must be maintained in good operating condition.

38 **D.** Equipment must be property registered and insured in accordance with the motor
39 vehicle laws of the State of California.

40 **E.** All equipment used by the Contractor shall be kept in a neat and clean appearance,
41 maintained in top mechanical condition and properly adjusted, from an operational

standpoint and from a safety standpoint. All sweepers shall be equipped with an operational rotating amber dome light and flashing lights.

F. A sufficient supply of spare brooms and other parts shall be readily available to ensure the timely and continuous fulfillment of this Agreement.

G. Equipment must be capable of removing litter, leaves, and debris.

H. Equipment must conform to all federal, state, and local safety and environmental regulations. The City may conduct random checks to insure compliance.

I. Vehicles must be equipped with dual gutter brooms and one suction head capable of sweeping at a minimum a nine-foot path and smaller equipment capable of sweeping bike paths five (5) to eight (8) feet wide.

J. Equipment operators are required to have the proper licenses to operate the equipment.

5.14.2 HOURS OF STREET SWEEPING

Street sweeping in residential areas may occur, only between the hours of 6:00 a.m. and 6:00 p.m., and in commercial areas, only between the hours of 2:00 a.m. and 6:00 p.m. or as otherwise posted.

5.14.3 HOLIDAYS

During the week of the holidays shown on Exhibit H, street sweeping shall be delayed by one day following the holiday, except when the holiday falls on a Saturday or Sunday.

5.14.4 CITY OBLIGATIONS

A. The City will provide adequate hydrant access throughout the City for filling water spray systems.

B. The City will provide and maintain an adequate Disposal Site for dumping debris picked up by the Contractor. The Contractor shall dump street sweeping debris picked up by the Contractor at the City corporation yard located at 600 Enterprise Drive.

5.14.5 CONTRACTOR OBLIGATIONS

A. The Contractor will provide fuel and maintenance for street sweeping equipment.

B. The Contractor must have a supervisor or foreman available to direct street sweeping operations.

5.15 CONTINGENCY PLAN

Contractor shall submit to City on or before the Effective Date, a written contingency plan demonstrating Contractor's arrangements to provide uninterrupted service during mechanical breakdowns, and in case of natural disaster or other emergencies.

5.16 CITY-DIRECTED CHANGES

City may direct Contractor to perform additional services (including new diversion programs [e.g., food waste composting], billing services, etc.) or modify the manner in which it performs existing services. Pilot programs and innovative services, which may entail new Collection methods, targeted routing, different kinds of services and/or new requirements for

1 Generators are included among the kinds of changes, which City may direct. Contractor shall be
2 entitled to an adjustment in its compensation in accordance with Section 8.8 for providing such
3 additional or modified services but not for the preparation of its proposal.

4 Contractor shall present, within 30 days of a request to do so by City, a proposal to
5 provide additional or expanded diversion services. At a minimum, the proposal shall contain a
6 complete description of the following:

7 **A.** Collection methodology to be employed (equipment, manpower, etc.).

8 **B.** Equipment to be utilized (vehicle number, types, capacity, age, etc.).

9 **C.** Labor requirements (number of employees by classification).

10 **D.** Type of materials containers to be utilized.

11 **E.** Provision for program publicity/education/marketing.

12 **F.** Estimated diversion to be achieved by volume or weight as applicable.

13 Five-year projection of the financial results of the program's operations in an operating
14 statement format including documentation of the key assumptions underlying the projections and
15 the support for those assumptions, giving full effect to the savings or costs to existing services.

16 Contractor acknowledges and agrees that City may permit other Persons besides
17 Contractor to provide additional Refuse and diversion services not otherwise contemplated. If
18 Contractor and City cannot agree on terms and conditions of such services in one hundred twenty
19 (120) days from the date when City first requests a proposal from Contractor to perform such
20 services, Contractor acknowledges and agrees that City may permit Persons other than Contractor
21 to provide such services.

ARTICLE 6.
OTHER RELATED SERVICES AND
STANDARDS

6.1 BILLING

The City shall establish rates, at its sole discretion, for the types of service provided, as well as bill and collect revenues from customers at those rates.

The City shall prepare, mail, and collect payments for all Refuse and Recycling service bills, and shall provide customer service for all account setups and billing-related matters. Initially, bills for Single-Family Residences service shall be mailed every other month (in odd months) in advance of the provision of service. During the Term of this Agreement, the City may bill in arrears and, if so, shall meet with the Contractor and attempt to mitigate the effect of such change. Bills for Multi-Family Complexes and Commercial Business service shall be mailed to customers every other month (in even months) in the arrears of the provision of service.

City will incur expenses for providing billing services such as salaries and benefits for customer service and accounting staff, office expense, equipment, supplies and other out-of-pocket expenses. These costs include, but are not limited to, providing all customer account setups, billing related telephone and in person customer service, billing of all Refuse and Recycling accounts, cash receipts processing, posting of all change of service tickets to accounts, maintaining accounts receivable records, all phases of collections, expensing of any unpaid bad debts, printing Recycling education materials, and other billing/customer service related expenses (billing service, billing postage, phone expenses, office supplies, computer lease and supplies and administration of this Agreement). These expenses will be determined and included in establishing rates for Refuse Collection pursuant to Section 8.12.260 of the Rohnert Park Municipal Code, and shall be deducted by City monthly from customer revenues billed prior to payment to Contractor for services from the remaining customer revenues.

6.1.1 SERVICE BILLING TICKETS

Contractor shall maintain numbered billing tickets for additional fee services, such as, but not limited to, extra pickups, changes in service, Bin swaps, special pickups, or other related service requirements. Service billing tickets shall be forwarded to the City, no less than on a weekly basis. Each ticket or group of tickets (with ticket numbers identified) shall be approved with an authorized signature confirming service was delivered and date of change to ensure proper billing.

6.1.2 REVIEW OF BILLINGS

Contractor shall review City's Billings to customers under Section 6.1 against route and service level records. The purpose of the review is to determine that the amount which the City is billing each customer is correct in terms of the level of service (i.e., frequency of Collection, size of container, location of container) being provided to such customer by Contractor. Contractor shall review customer accounts not less than annually, unless City shall direct Contractor to do so semi-annually. For exceptions found, Contractor shall verify their records

1 with drivers to confirm actual service being provided. Contractor shall submit to City a written
2 report on that review, noting any and all exceptions needing correction, by the first day of July,
3 commencing July 1, 2002. The intent of this section is for the City to receive reports on an
4 annual basis that will cover the entire list of customers. The scope of the review and the
5 Contractor's work plan shall be submitted to the City for approval no later than May 1, 2002.
6 The City reserves the right to perform this review itself or through use of an agent.

7 **6.2 GENERAL**

8 Contractor shall maintain such accounting, statistical and other records related to its
9 performance under this Agreement as shall be necessary to develop the financial statements and
10 other reports required by this Agreement. Also, Contractor agrees to conduct data collection,
11 information and record keeping, and reporting activities needed to comply with and to meet the
12 reporting and program management needs of Contractor and AB 939 and other federal and state
13 and local laws and regulations and the requirements of this Agreement. To the extent, such
14 requirements are set out in this and other articles of this Agreement, they shall not be considered
15 limiting or necessarily complete. In particular, this article is intended to only highlight the
16 general nature of records and reports and their minimum content and is not meant to
17 comprehensively define what the records and reports are to be and their content. Further, with
18 the written direction or approval of Contractor, the records and reports to be maintained and
19 provided by Contractor in accordance with this and other articles of the Agreement shall be
20 adjusted in number, format, or frequency.

21 **6.3 RECORDS**

22 **6.3.1 GENERAL**

23 Contractor shall maintain records required to conduct its operations, to support requests it
24 may make to City, and to respond to requests from City. Adequate record security shall be
25 maintained to preserve records from events that can be reasonably anticipated such as a fire,
26 theft, and earthquake. Electronically maintained data/records shall be protected and backed up.

27 Contractor agrees that the accounting and other records of any and all companies
28 conducting operations addressed in the Agreement shall be provided or made available to City
29 and its agents and/or representatives during normal business hours. Contractor shall allow and
30 permit City or City representative to audit its accounting records and all other records required by
31 this Agreement, and to meet with Contractor personnel to verify data. Contractor shall cooperate
32 to the fullest extent with City during such an audit process.

33 **6.3.2 MAINTENANCE OF FINANCIAL AND OPERATIONAL RECORDS**

34 **A. General.** In order to effectuate the periodic rate review contemplated by Article
35 8.0, it is necessary for Contractor to maintain accurate, detailed financial and operational
36 information in a consistent format and to make such information available to the City in a
37 timely fashion.

38 **B. Contractor's Accounting Records.** Contractor shall maintain accurate and
39 complete accounting records containing the underlying financial and operating data
40 relating to and showing the basis for computation of all costs associated with providing
41 services under this Agreement. The accounting records shall be prepared in accordance

1 with Generally Accepted Accounting Principles (GAAP) consistently applied. The
2 purpose, method of calculation and support for all cost allocations shall be documented
3 and maintained.

4 **C. Inspection of Records.** The City, its auditors and other agents, shall have the
5 right, during regular business hours, to conduct unannounced on-site inspections of the
6 records and accounting systems of Contractor and to make copies of any documents it
7 deems relevant to this Agreement.

8 **D. Retention of Records.** Unless otherwise herein required, Contractor shall retain
9 all records and data required to be maintained by this Agreement for at least five (5) years
10 after the expiration of this Agreement.

11 Records and data required to be maintained that are specifically directed to be
12 retained shall be retrieved by Contractor and made available to the City.

13 Records and data required to be maintained that are not specifically directed to be
14 retained that are, in the sole opinion of the City, material to the rate review or to a
15 determination of the Contractor's performance under this Agreement, shall be retrieved by
16 Contractor and made available to the City upon request.

17 Records and data required to be maintained that are not specifically directed to be
18 retained and that are not material to a rate review and/or not required for the
19 determination of the Contractor's performance do not need to be retrieved by Contractor.
20 In such a case, however, the City may make reasonable assumptions regarding what
21 information is contained in such records and data, and such assumption(s) shall be
22 conclusive in whatever action the City takes.

23 **6.3.3 REFUSE RECORDS**

24 Records shall be maintained by Contractor for City relating to:

25 **A.** Service recipient services.

26 **B.** Weight and volume by type (e.g., Refuse, Recyclable Materials, and Compostable
27 Materials). Where possible, information is to be separated among Single-Family
28 Residences, Multi-Family Complexes, Commercial Businesses, and City-event services.

29 **C.** Routes.

30 **D.** Facilities, equipment and personnel used.

31 **E.** Facilities and equipment operations, maintenance and repair.

32 **F.** Disposal and Processing Facility weight tickets for Refuse, Recyclable Materials,
33 and Compostable Materials.

34 Contractor shall maintain records of all Refuse, Recyclable Materials, and Compostable
35 Materials collected in the City for the period of this Agreement plus five (5) years after its
36 termination. Records shall be in chronological and organized form, and readily and easily
37 interpreted. In the event City requests, Contractor shall provide all records of all Refuse,
38 Recyclable Materials, and Compostable Materials to City within thirty (30) days of discontinuing
39 service.

1 **6.3.4 RECYCLABLE MATERIALS AND COMPOSTABLE MATERIALS COLLECTION SERVICE**
2 **RECORDS**

3 Records shall be maintained by Contractor that relate to:

4 A. Recyclable Materials and Compostable Materials Collection participation
5 especially as related to determining participation and set-out rates and implementing
6 programs to increase existing participation and to expand diversion (names, addresses,
7 contacts made, etc.);

8 B. Recyclable Materials and Compostable Materials sales value;

9 C. Weight of material by type; and

10 D. End-use markets.

11 **6.3.5 TRANSFER AND DISPOSAL RECORDS**

12 Contractor shall maintain records of transfer, Disposal and Processing of all Refuse,
13 Recyclable Materials, and Compostable Materials collected by Contractor for the period of this
14 Agreement plus five (5) years after its termination. Records shall be in chronological and
15 organized form and readily and easily interpreted. In the event City requests, Contractor shall
16 provide all records of transfer and Disposal or Processing of all Refuse, Recyclable Materials,
17 and Compostable Materials collected by Contractor within thirty (30) days of discontinuing
18 service.

19 **6.3.6 EQUIPMENT RECORDS**

20 Contractor shall maintain equipment records, which show the date purchased, useful life
21 of asset, depreciation method and amount, financing method and rate. For vehicles,
22 records shall include gas, oil, maintenance and repair by vehicle number. Cost allocations
23 and methods will be documented and explained. Repair history, if applicable, for the
24 following types of assets:

25 A. Vehicles used exclusively for servicing City

26 B. Spare vehicles shared with other jurisdictions

27 C. Equipment

28 D. Containers purchased for City services

29 E. Furniture and fixtures

30 **6.3.7 OTHER PROGRAMS' RECORDS**

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

33 A. Plans, tasks, and milestones; and

34 B. Accomplishments in terms such as dates, activities conducted, quantities of
35 products used, produced or distributed, and numbers of participants and responses.

36 **6.3.8 CERCLA DEFENSE RECORDS**

37 City views the ability to defend against Comprehensive Environmental Response,
38 Compensation and Liability Act (CERCLA), and related litigation as a matter of great
39 importance. For this reason, the City regards the ability to prove where Refuse collected in the

City was taken for transfer or Disposal, as well as where it was not taken, to be matters of concern. Contractor shall maintain, retain, and preserve records, which can establish where Refuse collected in the City was disposed (and therefore establish where it was not). This provision shall survive the expiration of the period during which Collection services are to be provided under this Agreement. Contractor shall maintain these records for a minimum of ten (10) years. Contractor shall provide these records to City in an organized and indexed manner rather than destroying or disposing of them.

6.3.9 CUSTOMER SERVICE RECORDS

Contractor shall maintain records for City related to:

- A. Number of calls received;
- B. Length of time to answer and time on hold;
- C. Categories (missed pickups, extra pickups, complaints, damage, compliments, etc.) of calls;
- D. Individual call and resolution log (including initial call date and resolution date);
- E. Training records;
- E. New Recycling account log and increased Recycling services.

6.4 REPORTS

6.4.1 GENERAL

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

- 1) Determine and set rates and evaluate the financial efficacy of operations;
- 2) Evaluate past and expected progress towards achieving the Contractor's diversion goals and objectives;
- 3) Determine needs for adjustment to programs; and
- 4) Evaluate recipient service and Complaints.

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

Monthly reports shall be submitted within thirty (30) calendar days after the end of the reporting month. Quarterly reports shall be submitted within forty-five (45) calendar days after the end of the report quarter. Annual reports shall be submitted before April 1, following the reporting year.

1 All reports shall be submitted to:

2 City of Rohnert Park
3 6750 Commerce Boulevard
4 Rohnert Park, CA 94928
5 Attention: Assistant City Manager
6

7 **6.4.2 MONTHLY REPORTS**

8 Reports shall be presented to show the following information. Refer to Exhibit K,
9 Sample Monthly/Quarterly Data Reporting Form. The attribution of tonnage data to customer
10 types, as described below, shall be done in accordance with Exhibit L.

11 **A. Refuse Services.** Provide total tonnage by Single-Family Residences, Multi-
12 Family Complexes, and Commercial Businesses.

13 **B. Recyclable Materials Services.** Provide tonnage by Single-Family Residences,
14 Multi-Family Complexes, and Commercial Businesses.

15 **C. Compostable Materials Service.** Provide tonnage by Single-Family Residences,
16 Multi-Family Complexes, and Commercial Businesses.

17 **D. Customer Service**

18 1) Provide number of customer calls by category (e.g., missed pickups, extra
19 pickups, other complaints, scheduled cleanups, damage claims, compliments, etc.)

20 2) Provide number of resolved calls and number of unresolved calls (over
21 five [5] days). Provide explanations on unresolved calls.

22 3) Provide number of new Recycling accounts for Single-Family Residences,
23 Multi-Family Complexes, and Commercial Businesses.

24 4) Provide number of increases to Recycling Services (new service, larger or
25 additional containers for single-family, multi-family and commercial accounts)

26 **6.4.3 QUARTERLY REPORTS**

27 Reports shall be presented to show the following information by each month's data in the
28 reported quarter and include a quarterly average. In addition, each quarterly report shall show the
29 past four (4) quarters average for data comparison (the first three quarters of the Agreement shall
30 only include the available quarterly information.) Refer to Exhibit K, Sample Monthly/Quarterly
31 Data Reporting Form. The attribution of data to customer types, as described below, shall be
32 done in accordance with Exhibit L.

33 **A. Refuse Services**

34 1) Quarterly summary of monthly report.

35 2) Accounts collected by service type. Include number of accounts and
36 number of total yards for Bin Service.

37 3) Refuse tonnage by Disposal Site.

1 **B. Recyclable Materials Services**

- 2 1) Quarterly summary of monthly report.
- 3 2) Accounts collected by service type. Include number of accounts and
- 4 number of total yards for Bin Service.
- 5 3) Participation percentage by service type (number of accounts actually
- 6 serviced/number of accounts scheduled for service).
- 7 4) Tonnage by Recyclable Materials commodities and service type.

8 **C. Compostable Materials Service**

- 9 1) Quarterly summary of monthly report.
- 10 2) Accounts collected by service type. Include number of accounts and
- 11 number of total yards for Bin Service.
- 12 3) Participation percentage by service type (number of accounts actually
- 13 serviced/number of accounts scheduled for service).
- 14 4) Tonnage.

15 **D. Customer Service**

- 16 1) Quarterly summary of monthly report, Article 6.4.2.
- 17 2) Customer Service overview sheet, training agenda, and other training
- 18 supplements provided at the quarterly customer service meeting.

19 **E. Community Cleanup/Bulky Item/Christmas Tree Services.** Provide tonnage

20 by service (Cleanup, Bulky Item, and Christmas Tree Collection Services). Include the

21 following information:

- 22 1) Disposal tonnage.
- 23 2) Diversion tonnage.
- 24 3) Number of stops serviced by a third party Re-Use Vendor.
- 25 4) Number of containers and exchanges for community cleanup.

26 **F. Education Quarterly Activities**

- 27 1) Provide materials and total numbers distributed.
- 28 2) Provide dates, times, and group names of meetings attended.
- 29 3) Provide dates, times, and Commercial Business and Multi-Family
- 30 Complexes contacted.

31 **G. Notification Activities.** Provide a listing and sample of all notices, newsletters,

32 publications activities that were conducted during the quarter.

33 **H. Pilot and New Programs.** For each pilot and/or new program, provide activity

34 related and narrative reports on goals and milestones and accomplishments. Describe

1 problems encountered, actions taken, and any recommendations to facilitate progress.
2 Describe vehicles, personnel, and equipment utilized for each program.

3 **I. Summary Assessment.** Provide a summary assessment of the overall Refuse,
4 Recyclable Materials, and Compostable Materials program from Contractor's perspective
5 relative to financial and physical status of program. The physical status is to relate to
6 how well the program is operating for efficiency, economy, and effectiveness relative to
7 meeting all the goals and objectives of this Agreement including particularly the
8 Contractor's diversion goals. Provide recommendations and plans to improve. Highlight
9 significant accomplishments and problems.

10 **6.5 ANNUAL REPORTS**

11 **6.5.1 ANNUAL REPORT REQUIREMENTS**

12 The annual report shall be in the form of the quarterly reports and shall provide the same
13 type of information as required pursuant to Article 6.4.3 of this Agreement, summarized for the
14 preceding four quarters. In addition, Contractor's and Related Party entities' annual financial
15 reports/statements shall be included. The annual report shall also include a complete inventory
16 of equipment used to provide all services, and a list of Contractor's officers and members of its
17 board of directors.

18 **6.5.2 FINANCIAL INFORMATION**

19 Within 120 days after the close of each fiscal year, Contractor shall deliver to the City
20 four (4) copies of the audited consolidated financial statements and profit and loss statements of
21 Contractor operations under this Agreement for the Contractor's preceding fiscal year. If the
22 Contractor provides services not provided for under this Agreement, then its financial statements
23 shall include a supplemental combining schedule showing Contractor's results of operations,
24 including the specific revenues and expenses in connection with the operations provided for in
25 this Agreement separate from other operations included in such financial statements. The
26 financial statements and footnotes shall be prepared in accordance with Generally Accepted
27 Accounting Principles (GAAP) consistently applied and fairly reflecting the results of operation
28 and Contractor's financial condition. Annual financial statements shall be audited in accordance
29 with Generally Accepted Auditing Standards (GAAS) by a Certified Public Accountant (CPA)
30 licensed (in good standing) to practice public accounting in the State of California as determined
31 by the State of California Department of Consumer Affairs Board of Accountancy, and that the
32 CPA opinion on Contractor's annual financial statements shall be unqualified, and that the
33 supplemental schedule be prepared on a compiled basis.

34 **6.5.3 RELATED PARTY ENTITIES**

35 Because financial transaction between Related Party companies may not be "arm's length," it is
36 important to the City to ensure that such transactions are necessary and reasonable. Contractor
37 agrees that all financial transactions with all Related Party entities shall be approved in advance
38 in writing by City and disclosed annually (coinciding with Contractor's annual audited financial
39 statements referred to in this Section 6.5.2) to the City in a separate disclosure letter to the City.
40 This letter shall include, but not be limited to, the following information: A general description
41 of the nature of each transaction, or type of (for many similar) transactions, as applicable. Such
42 description shall include for each (or similar) transaction the amounts, specific Related Party

entity, basis of amount (how amount was determined), and description of the allocation methodology used to allocate any common costs. Amounts shall be reconciled to the Related Party entity disclosures made in Contractor's annual audited financial statements referred to in this section.

Contractor intends to obtain those services from those related parties identified below and City hereby approves these transactions:

<u>Service</u>	<u>Related Party</u>
Processing and Marketing of Recyclables	Timber Cove Recycling

Exhibit N contains the initial basis for payments to the Related Parties for the services described above and the method by which those payments may be adjusted during the Term of this Agreement.

Prior to Contractor entering into other Related Party transactions, the Contractor shall seek and receive approval from the City describing the nature of the services and the basis for payments to the Related Party. Unless agreed to in writing and in advance, any costs from Related Parties shall be disallowed.

6.5.4 OPERATIONAL INFORMATION

A. Routes by Service Type

- 1) Number of routes per day
- 2) Types of vehicles
- 3) Crew size per route
- 4) Number of full time equivalent (FTE) routes
- 5) Number of accounts per route
- 6) Total hours per service type
- 7) Average cost per route

B. Personnel

- 1) Organizational chart
- 2) Job classifications and number of employees (e.g., administrative, customer service representatives, drivers, supervisors, educational staff)
- 3) Wages by job classification
- 4) Number of full time equivalents (FTE) positions for each job classification
- 5) Number of hours per job classification

C. Productivity Statistics

- 1) Number of accounts per service type
- 2) Number of set-outs per service type
- 3) Tons per route per day

D. Maintenance

- 1) Average cost per service type

E. Operational Changes

- 1) Number of routes

- 2) Staffing
 - 3) Supervision
 - 4) Collection services
- F. Equipment**
- 1) Usage of vehicles for City – City vehicles and spares
 - 2) Equipment inventory for City
 - 3) Container inventory

6.5.5 HISTORICAL DATA (TO BE COMPLETED DURING RATE APPLICATION YEARS)

Provide the following historical data for each service type:

- A. Customer levels and subscription levels
- B. Refuse tonnage
- C. Diversion tonnage
- D. Revenues by type
- E. Material revenues for Recyclable Materials by program type

6.5.6 VARIANCE ANALYSIS (TO BE COMPLETED DURING RATE APPLICATION YEARS)

Provide the following variance analysis for each service type. For any variances greater than 5 percent (5%) annually, Contractor shall provide sufficient rational to support variance.

- A. Current year to each of the prior years of Agreement.
- B. Current year to each of the future projected years.

6.5.7 ALLOCATIONS (TO BE COMPLETED DURING RATE APPLICATION YEARS)

- A. Provide a concise general explanation of the various allocation methodologies used for each rate application line item.
- B. Provide specific examples of each type of allocation used showing how an entry is reported in the general ledger (GL) and agrees to the rate application.
- C. Provide a statement indicating whether there have been any changes in allocation methods used since the last rate application. If any allocation methods have changed clearly identify those changes and the reason for the change.

6.5.8 PROJECTIONS (TO BE COMPLETED DURING RATE APPLICATION YEARS)

- A. Provide support for the basis for projected revenues by type and expenses by line item; clearly indicate the supporting calculations and assumptions.
- B. Provide support for the basis for projected tonnage; clearly indicate the supporting calculations and assumptions.

6.6 DIVERSION PROGRAMS

Contractor shall, by implementing in a timely and effective manner the diversion, education and other required programs or actions required by this Agreement, comply with the diversion requirements for Rohnert Park of the California Integrated Waste Management Act of 1989 (Act) (California Public Resources Code Section 40000 et seq.) to attain 50 percent (50%) diversion of Refuse from Disposal into landfills by the end of the year 2003. Contractor shall meet with the City quarterly, or more or less frequently upon City's request, to describe the progress of each active diversion program. Contractor shall document the results of the programs on a monthly basis, including at a minimum the tonnage diverted by material type, the end use or

processor of the diverted materials and the cost per ton for transporting and Processing each type of material and other such information requested by the Contractor and/or City necessary to evaluate the performance of each program.

At each meeting, the City and Contractor shall have the opportunity to revise the program based on mutually agreed upon terms. The City shall have the right to terminate a program if in its sole discretion, the Contractor is not cost-effectively achieving the program's goals and objectives. Prior to such termination, the City shall meet and confer with the Contractor for a period of up to ninety (90) days to resolve the City's concerns. Thereafter, the City may utilize a third party, paid for by a reduction of Contractor's Payment for Services, to perform these services if the City reasonably believes the third party can improve on Contractor's performance and/or cost. Notwithstanding these changes, Contractor shall continue the program during the meet and confer period and, thereafter, until the third party takes over the program.

6.7 RIGHT TO INSPECT RECORDS

The City shall have the right to inspect or review the income tax returns, payroll tax reports, specific documents or records required pursuant to this Agreement, or any other similar records or reports of the Contractor that City Manager or City Council shall deem, in their sole discretion, necessary to evaluate annual reports, rate review applications provided for in this Agreement, and the Contractor's performance provided for in this Agreement. City shall attempt to maintain the confidentiality of the records and information provided in this paragraph, consistent with the necessity of supporting any recommendations to the City Council. Should City receive a Public Records Act request for this information, it shall notify Contractor and Contractor may take whatever legal action may be available to it to prevent these documents and this information from becoming public.

6.8 INSPECTION BY CITY

The designated representatives of the City shall have the right to observe and review Contractor operations and enter its place(s) of business for the purposes of such observation and review at all reasonable hours with reasonable notice.

6.9 PUBLIC/CUSTOMER SERVICE AND ACCESSIBILITY

6.9.1 OFFICE LOCATION

Contractor shall maintain a business office in the City, or such other location as the City approves, for purposes of carrying out its obligations under this Agreement, such approval not being unreasonably withheld. If the office is located outside of the City, Contractor must ensure that telephone calls to it from locations within the City are billed as "local calls" by all telephone companies.

6.9.2 OFFICE HOURS

Contractor's office shall be open to the public from 8 a.m. to 5 p.m. Monday through Friday. The office may be closed on Saturdays, Sundays, and designated holidays as described in Exhibit H.

1 **6.9.3 AVAILABILITY OF REPRESENTATIVES**

2 A representative of the Contractor shall be available from 8 a.m. to 5 p.m. Monday
3 through Friday to communicate with the public in person and by telephone. A message machine
4 shall be available for residents to leave a message during non-business hours. Calls shall be
5 returned within twenty-four (24) hours, and messages left on Friday, Saturday, or Sunday shall be
6 returned no later than the end of the next business day.

7 **6.9.4 TELEPHONE**

8 Contractor shall maintain a telephone system in operation at its office from 8 a.m. to 5
9 p.m. Contractor shall install telephone equipment sufficient to handle the volume of calls
10 typically experienced on the busiest days. If Generators are unable with reasonable effort to
11 reach Contractor's office by phone, or are subject to waiting time "on hold" of more than two (2)
12 minutes prior to reaching a customer service representative, City may require that Contractor
13 install additional telephone lines or hire additional customer service representatives. Penalties
14 may be levied for repetitive Complaints regarding waiting time longer than two (2) minutes in
15 accordance with Article 11.5. The phone system shall have the capability of transferring
16 incoming calls to the City billing department and allow for the City billing department to transfer
17 calls back to the Contractor's customer service center.

18 Customers will call one number for all issues related to Refuse, Recyclable Materials, and
19 Compostable Material services. The Contractor shall handle all calls regarding services
20 including, but not limited to, missed pickups, Complaints, changes in services, Bin repair, and
21 other such service-related issues. The City billing department will handle all calls regarding
22 billing, account setup, and changes in ownership issues.

23 **6.10 CUSTOMER CONTACTS**

24 Contractor shall be responsible for the prompt and courteous attention to, and prompt and
25 reasonable resolution of, all Generator contacts. Contractor shall record in a separate log all
26 contacts, noting the name and address of contact, date and time of contact, nature of contact
27 issue, and nature and date of resolution. The Contractor shall retain this contact log for the Term.
28 In addition, Contractor shall compile a summary statistical table of the contact log, satisfactory to
29 the City, and submit the table to City each quarter.

30 Contractor shall respond to all contact issues from Generators within twenty-four (24)
31 hours, weekends and holidays excluded. In particular, if a contact issue involves a failure to
32 collect Refuse from a Premises, required by this Agreement, Contractor shall collect the Refuse
33 in question within such 24-hour period, provided it has been delivered for Collection in
34 accordance with the Rohnert Park Municipal Code Chapter 8.12.

35 **6.11 TITLE TO REFUSE**

36 Once Refuse, Recyclable Materials, and/or Compostable Materials are placed in
37 containers and properly placed at the Collection location, ownership and the right to possession
38 shall transfer directly from the Generator to Contractor by operation of this Agreement. Subject
39 to Contractor's objective to meet the AB 939 diversion goals and City's right to direct Contractor
40 to process and dispose of Refuse at a particular licensed site or to dispose of Refuse at a
41 particular licensed Disposal Site, Contractor is hereby granted the right to retain, recycle, process,
42 dispose of, and otherwise use such Refuse, or any part thereof, in any lawful fashion or for any

1 lawful purpose desired by Contractor. Subject to the provisions of this Agreement, Contractor
2 shall have the right to retain any benefit resulting from its right to retain, recycle, process, dispose
3 of, or re-use the Refuse, which it collects. Refuse, or any part thereof, which is deposited at a
4 Disposal Site, transformation site, Transfer Station, or Processing Facility shall become the
5 property of the Owner or operator of the facility, once deposited there by Contractor. City may
6 obtain ownership or possession of Refuse placed for Collection upon written notice of its intent
7 to do so; however, nothing in this Agreement shall be construed as giving rise to any inference
8 that City has such ownership or possession unless such written notice has been given to
9 Contractor.

10 **6.12 NON-DISCRIMINATION**

11 Contractor shall not discriminate in the provision of service or the employment of persons
12 engaged in performance of this Agreement on account of race, color, religion, sex, age, physical
13 handicap, or medical condition in violation of any applicable federal or state law.

14 **6.13 REPORT OF ACCUMULATION OF REFUSE; UNAUTHORIZED DUMPING**

15 Contractor shall direct its drivers to note (1) the addresses of any Premises at which they
16 observe that Refuse, Recyclable Materials, and Compostable Materials is accumulating and is not
17 being delivered for Collection; and (2) the address, or other location description, at which Refuse
18 has been dumped in an apparently unauthorized manner. Contractor shall deliver the address or
19 description to City within five (5) working days of such observation.

ARTICLE 7.
FRANCHISE FEE, AB 939 AND OTHER
FEES

7.1 FRANCHISE FEE

In consideration of the rights provided Contractor herein, Contractor shall pay to City 10 percent of Gross Revenues derived by Contractor from services provided in City under this Agreement. This fee may be adjusted by City by resolution. Such adjustment shall be reflected in the rates that the City charges and collects from Generators.

The Franchise Fee shall be included in Refuse rates set by the City Council and shall be deducted by City monthly from revenues received from customers, prior to payment to Contractor for services from the remaining customer revenues. With each monthly remittance to Contractor for services, City shall provide a detailed statement showing Gross Revenues billed and the calculation of the Franchise Fee amount retained by City.

7.2 AB 939 COMPLIANCE AND DIVERSION FEE

The City has incurred expenses for preparing, adopting, and implementing the Source Reduction and Recycling and Household Hazardous Waste Elements (SRRE and HHWE, respectively) required by AB 939. City has and will continue to incur expenses for implementing the programs in the SRRE and HHWE, other diversion and education programs the City deems necessary for compliance and continued administration of this Agreement. These expenses will be determined, included in Refuse rates set by the City Council and deducted monthly by City from customer revenues billed prior to payment to Contractor for services from the remaining customer revenues. This fee will be reviewed annually and may be adjusted, if necessary, to reflect changes in City costs for AB 939 compliance programs. Any such adjustment shall be reflected in the rates that the City charges and collects from Generators.

7.3 OTHER FEES

The City shall reserve the right to set "other" fees, as it deems necessary. The amount, time and method of payment, and adjustment process will be set similar to Section 7.1 or 7.2 above.

7.4 ADJUSTMENT TO FEES

City may adjust the amount of the fees annually, if necessary, to recover its costs for Refuse-related services and programs. Such adjustment shall be reflected in the rates that the City charges and collects from Generators.

ARTICLE 8.
CONTRACTOR'S PAYMENT FOR
SERVICES

8.1 GENERAL

City shall establish rates for Refuse Collection pursuant to Section 8.12.260 of the Rohnert Park Municipal Code. City shall establish rates at an amount reasonably estimated to produce revenues sufficient to provide payment to the Contractor as provided for in this Article 8. Contractor shall be paid ("Contractor's Payment for Services") for Collection services described in Article 5, from the Gross Revenues received from customers by the City, at rates established by the City Council. Payment for Services shall be the full, entire and complete payment due to the Contractor pursuant to this Agreement for all labor, equipment materials and supplies, taxes, insurance, bonds overhead, operations profit, and all other things necessary to perform all Collection Services required by this Agreement in the manner and at the times prescribed.

Payment for Services to be disbursed to Contractor during any rate year shall be the lesser of Gross Revenues received by City less City costs (as prescribed in Articles 6, 7 and 8) for that fiscal year, or the Maximum Allowable Payment for Services for that rate year. Maximum Allowable Payment for Services means the maximum amount that may be disbursed to Contractor for each fiscal year, and is determined as set forth in this Article 8, Sections 8.2 through 8.5 for each specific rate year. Payment for Services shall be calculated as described in the following examples and disbursed to Contractor each month on the tenth (10th) day of the month, or the next succeeding business day if the tenth of the month falls on a weekend or City holiday, for services performed in the previous month.

Calculation of August 10th Payment for Services:

1) Gross Revenues received by City during the month of July 2001.....	\$278,411
2) Less City Costs (from Articles, 6, 7 and 8).....	<u>\$ 47,330</u>
3) Available for Disbursement to Contractor	\$231,081
4) Maximum Allowable Payment for Services for Rate Year One	\$2,855,000
5) Less Previous Disbursements to Contractor	\$ -0-
6) Funds Remaining to Be Disbursed to Contractor	\$2,855,000
7) Funds Disbursed to Contractor (the lesser of Lines 3 or 6)	\$231,081

1 Calculation of July 10th Payment for Services:

2	1)	Gross Revenues received by City during the month	
3		of June 2002.....	\$285,976
4	2)	Less City Costs (from Articles 6, 7 and 8).....	\$ 48,616
5	3)	Available for Disbursement to Contractor.....	\$237,360
6	4)	Maximum Allowable Payment for Services	
7		for Rate Year One	\$2,855,000
8	5)	Less Previous Disbursements to Contractor	\$2,798,432
9	6)	Funds Remaining to Be Disbursed to Contractor	\$56,568
10	7)	Funds Disbursed to Contractor	
11		(the lesser of Lines 3 and 6).....	\$56,568

12 Alternative Calculation of July 10th Payment for Services:1)Gross Revenues received by
13 City during the month

14		of June 2002.....	\$264,490
15	2)	Less City Costs (from Articles, 6, 7 and 8).....	\$ <u>44,963</u>
16	3)	Available for Disbursement to Contractor.....	\$219,527
17	4)	Maximum Allowable Payment for Services for	
18		Rate Year One.....	\$2,855,000
19	5)	Less Previous Disbursements to Contractor	\$2,593,697
20	6)	Funds Remaining to Be Disbursed to Contractor	\$261,303
21	7)	Funds Disbursed to Contractor	
22		(the lesser of Lines 3 and 6).....	\$219,527

23 **8.1.1 CONTRACTOR'S PAYMENT FOR SERVICES**

24 The Contractor's Maximum Allowable Payment for Services calculated for each Rate
25 Year pursuant to this Article 8 shall not be adjusted, except as provided for in Sections 8.1.2 for
26 new construction or demolition of existing structures or as provided for in Section 8.8 or for
27 Extra services as provided for in Section 8.1.2.D.

28 **8.1.2 ADJUSTMENTS TO CONTRACTOR'S MAXIMUM ALLOWABLE PAYMENT FOR**
29 **SERVICES**

30 City shall increase Contractor's Maximum Allowable Payment for Services to give effect
31 to additional accounts being serviced by the Contractor from new construction and shall reduce
32 the Contractor's Maximum Allowable Payment to give effect to accounts being reduced from
33 those serviced by the Contractor from demolition, and for Extra services, in accordance with this
34 Section 8.1.2.

35 At least annually, on July 1 of each year (and more frequently, should the Payment for
36 Services to be disbursed to Contractor be limited by the Maximum Allowable Payment for

Services [as opposed to the amounts received by the City less City Costs]), the City shall recalculate the Contractor's Maximum Allowable Payment for Services in accordance with the following procedures:

A. Residential, Commercial and Multi-Family Cart Accounts

1) City shall identify each residential, commercial and multi-family cart account added to or subtracted from the customer base, due to construction or demolition, subsequent to July 1 of the previous year.

2) City shall determine the annual account equivalency for each account identified in "1)" above, by adding the number of months of new or eliminated service and dividing by 12. For example, if 260 residential accounts were added for six (6) months each, then the additional annual accounts would be 130 ($260 * 6 = 1,560 / 12$); and, if 30 residential accounts were each eliminated for three (3) months, then the reduced accounts would be 7.5 ($30 * 3 = 90 / 12$); and the net annual additional accounts would be 122.5 ($130 - 7.5$).

3) City shall multiply the net annual account equivalency by the average annual direct cost of all residential customers as determined in Exhibit O-1 and the results shall be added to or subtracted from the Contractor's Maximum Allowable Payment for Services. For example, the net annual additional residential accounts of 122.5 would be multiplied by the average annual cost of \$62.45 resulting in an addition of \$7,650 ($122.5 * \62.45) to the Contractor's Maximum Allowable Payment for Services.

B. Commercial and Multi-Family Bin Accounts

1) City shall identify each commercial and multifamily Bin account and size and frequency of service added to or subtracted from the customer base, due to construction or demolition, subsequent to July 1 of the previous year.

2) City shall determine the annual account equivalency for each account identified in "1)" above, by adding the number of months of new or eliminated service and dividing by 12. For example, if 16 commercial bin accounts were added for six (6) months each, then the additional annual accounts would be 8 ($16 * 6 = 96 / 12$); and, if four (4) commercial Bin accounts were each eliminated for three (3) months, then the reduced accounts would be 1 ($4 * 3 = 12 / 12$); and the net annual additional accounts would be 7 ($8 - 1$).

3) City shall multiply the net annual account equivalency by the average annual direct cost plus profit of all commercial bin customers as determined in Exhibit O-2 and the results shall be added to or subtracted from the Contractor's Maximum Allowable Payment for Services. For example, the net annual additional commercial Bin accounts of seven (7) accounts serviced three (3) times per week or 21 stops per week would be multiplied by the average annual direct cost of \$152 resulting in an addition of \$3,194 ($21 * \152) to the Contractor's Maximum Allowable Payment for Services.

1 4) City shall then multiply the net annual yardage equivalency by the average
2 tons per yard/year and the cost per ton as determined in Exhibit O-2 and the
3 results shall be added to or subtracted from the Contractor's Maximum Allowable
4 Payment for Services. For example, the net annual additional commercial Bin
5 accounts of seven (7), if they were all 3-yard bins collected three (3) times per
6 week would result in 63 cubic yards per week and at 2.72 tons per year per yard,
7 this totals 171.4 tons per year which, when multiplied by \$46.75 per ton results in
8 an addition of \$8011 to the Contractor's Maximum Allowable Payment for
9 Services.

10 5) The sum of 3 and 4 above would result in the addition of a total of \$11,205
11 to the Contractor's Maximum Allowable Payment for Services.

12 **C. Commercial Roll-Off/Compactor Accounts**

13 1) City shall identify each commercial and multi-family Bin account by
14 container type (can, Bin or permanent roll-off box) account and size and
15 frequency of service added to or subtracted from the customer base, due to
16 construction or demolition, subsequent to July 1.

17 2) City shall determine the annual account equivalency for each account
18 identified in "A" above, by adding the number of months of new or eliminated
19 service and dividing by 12. For example, if twelve 20-yard commercial roll-off
20 accounts were added for six (6) months each, then, the additional annual accounts
21 would be 6 ($12 * 6 = 72 / 12$); and, if one 20-yard roll-off account was eliminated
22 for 12 months, then, the reduced accounts would be 1 ($1 * 12 = 12 / 12$); and the
23 net annual additional accounts would be 5 ($6 - 1$).

24 3) City shall multiply the net annual account equivalency by the average
25 annual direct cost plus profit of all commercial roll-off customers as determined in
26 Exhibit O -3 and the results shall be added to or subtracted from the Contractor's
27 Maximum Allowable Payment for Services. For example, the net annual
28 additional commercial roll-off accounts of five (5) would be multiplied by the
29 average annual direct cost of \$1,487 resulting in an addition of \$7,435 ($5 *$
30 $\$1,487$) to the Contractor's Maximum Allowable Payment for Services.

31 4) City shall then multiply the net annual yardage equivalency by the average
32 tons per yard/year and the cost per ton as determined in Exhibit O-3 and the
33 results shall be added to or subtracted from the Contractor's Maximum Allowable
34 Payment for Services. For example, the net annual additional commercial roll-off
35 accounts of five (5), if they were all 20-yard Debris Boxes collected once per
36 week would result in 100 cubic yards per week and at 2.34 yards per yard per year
37 this totals 234 tons per year which, when multiplied by \$46.75 per ton results in
38 an addition of \$10,940 to the Contractor's Maximum Allowable Payment for
39 Services.

40 5) The sum of 3 and 4 above would result in the addition of a total of
41 \$18,375 to the Contractor's Maximum Allowable Payment for Services.

1 **D. Extra Services**

- 2 1) City shall identify and set fees and charges for all Extra services that shall
3 include City costs (from Articles 6, 7 and 8).
4 2) City shall identify revenues received from customers.
5 3) City shall add the amount received, less City costs (from Articles 6, 7 and
6 8), to the Contractor's Maximum Allowable Payment for Services.

7 **8.2 PAYMENT FOR SERVICES IN RATE YEARS ONE AND TWO**

8 Except as provided in Sections 8.1.2 and 8.8 of this Agreement, Payments for Services
9 provided for in this Section 8.2 shall be fixed for both years and shall not be increased to reflect
10 increases in costs above those anticipated by Contractor, nor decreased to reflect decreases in
11 costs below those anticipated by Contractor.

12 **8.2.1 CONTRACTOR'S MAXIMUM ALLOWABLE PAYMENT FOR SERVICES IN RATE YEAR**
13 **ONE**

14 For the initial twelve (12) months of this Agreement (Rate Year One from July 1, 2001 to
15 June 30, 2002), Contractor's Payment for Services shall be an amount equal to the Gross
16 Revenues received from customers by the City at the rates established pursuant to Section
17 8.12.260 of the Rohnert Park Municipal Code, less the sum of (i) the amount necessary to
18 reimburse the City for providing billing services under this Agreement; and (ii) any and all fees
19 imposed pursuant to Article 7 of this Agreement, including but not limited to the Franchise Fee
20 in Section 7.1, but in no event shall the Contractor's Payment for Services for Rate Year One
21 exceed \$2,855,502, except as provided for in Sections 8.1.2 and 8.8.

22
23 **8.2.2 CONTRACTOR'S MAXIMUM ALLOWABLE PAYMENT FOR SERVICES IN RATE YEAR**
24 **Two**

25 For the second twelve (12) months of this Agreement (Rate Year Two from July 1, 2002
26 to June 30, 2003), Contractor's Payment for Services shall be an amount equal to the Gross
27 Revenues received from customers by the City at the rates established pursuant to Section
28 8.12.260 of the Rohnert Park Municipal Code, less the sum of (i) the amount necessary to
29 reimburse the City for providing billing services under this Agreement; and (ii) any and all fees
30 imposed pursuant to Article 7 of this Agreement, including but not limited to the Franchise Fee
31 in Section 7.1, but in no event shall the Contractor's Payment for Services for Rate Year Two
32 exceed \$2,944,311, except as provided for in Sections 8.1.2 and 8.8..

33 **8.3 PAYMENT FOR SERVICES FOR RATE YEAR THREE**

34 **8.3.1 CONTRACTOR'S APPLICATION**

35 By December 1, 2002, Contractor shall submit an Application for Payment for Services
36 for Rate Year Three (July 1, 2003 to June 30, 2004). This Application shall be based on the
37 audited financial statements required by Section 6.5.2 for Rate Year One and shall reflect
38 Contractor's forecast of its expenses for Rate Years Two and Three.

1 The Application shall be submitted in the same format and shall calculate Contractor's
2 Payment for Services in the same manner, as that described in Section 8.3.2 below. Contractor
3 shall assemble, provide, and submit such information that is necessary to support the
4 assumptions made by Contractor with regard to the assumptions underlying the forecast.

5 Contractor shall provide all information requested by the City as part of its review of the
6 Application including, but not limited to, all information from Related Parties requested by the
7 City regarding any transactions between Contractor and any related party entity pertaining to
8 Contractor's performance under this Agreement.

9 **8.3.2 DETERMINATION OF CONTRACTOR'S PAYMENT FOR SERVICES**

10 The City, or its representative (who may act on behalf of City in its review of the
11 Application), will review the Application for compliance with this Agreement, mathematical
12 accuracy, logical consistency, and reasonableness.

13 Contractor's Payment for Services for Rate Year Three (from July 1, 2003 to June 30,
14 2004) shall be an amount equal to the Gross Revenues received from customers by the City, at
15 rates established pursuant to Section 8.12.260 of the Rohnert Park Municipal Code, less the sum
16 of (i) the amount necessary to reimburse City for providing billing and some customer services
17 under this Agreement; and (ii) any and all fees imposed pursuant to Article 7 of this Agreement,
18 including but not limited to the Franchise Fee described in Section 7.1, but in no event shall
19 Contractor's Payment for Services exceed the Maximum Allowable Payment of Services for Rate
20 Year Three.

21 The Maximum Allowable Payment for Services for Rate Year Three (July 1, 2003 to June
22 30, 2004) shall be equal to the sum of Forecasted Annual Cost of Operations, plus Profit, plus
23 Forecasted Pass Through Expense, less Forecasted Gross Revenue from the Sale of Recyclable
24 Materials, calculated as set forth below:

25 A. Forecasted Annual Cost of Operations for Rate Year Three – The Forecasted
26 Annual Cost of Operations consists of the sum of:

- 27 • Forecasted Labor-Related Costs
- 28 • Forecasted Vehicle-Related Costs
- 29 • Forecasted Other Costs
- 30 • Forecasted Depreciation Expense

31 B. The basis for determining these forecasted costs and expenses are as follows:

32 1) **Determine Actual Costs.** Contractor's audited financial statement will be
33 reviewed to determine Contractor's costs and expense for each of the forgoing
34 categories during the fiscal year ended June 30, 2002.

35 2) **Adjust Actual Costs.** The City shall adjust the actual costs as follows: (1)
36 to exclude any non-allowable costs set out below; (2) to exclude and/or reduce
37 any costs which were not reasonably and necessarily incurred in the performance
38 of the services to City provided in accordance with this Agreement; (3) to add
39 costs that Contractor has demonstrated to the City to be necessary in order to
40 provide service to additional customers due to growth; and (4) to adjust for
41 changes in costs due to a City-approved Interim Compensation Adjustment as
42 described in Section 8.8 that will carry forward into the following rate year.

Costs, which are non-allowable, consist of the following:

- a) Labor and equipment costs for personnel and vehicles greater in number than included in Contractor's proposal.
- b) Payments to directors and/or Owners of Contractor, unless paid as reasonable compensation for services actually rendered.
- c) Promotional advertising, entertainment and travel expenses (above \$10,000 annually in total), unless authorized in advance by the City.
- d) Payments to repair damage to property of third parties or the City for which Contractor is legally liable.
- e) Fines or penalties of any nature.
- f) Liquidated damages assessed under Section 11.5 of this Agreement.
- g) Federal or state income taxes.
- h) Charitable or political donations.
- i) The amount (if any) of rental or lease charges for Collection vehicles which is greater than the cost of acquisition, plus interest costs, of the vehicles depreciated over the seven- (7) year Term of the Agreement.
- j) Attorneys' fees and other expenses incurred by Contractor in any court proceeding in which the City and Contractor are adverse parties, unless Contractor is the prevailing party in such proceeding.
- k) Attorneys' fees and other expenses incurred by Contractor arising from any act or omission which occurs during the Term of this Agreement.
- l) Attorneys' fees and other expenses incurred by Contractor in any court proceeding in which Contractor's own negligence, violation of law or regulation, or wrong doing are in issue and occasion, in whole or in part, the attorneys' fees and expenses claimed; and attorneys' fees and expenses incurred by Contractor in a court proceeding in which the legal theory or statute providing a basis of liability against Contractor also provides for separate potential liability for the City derived from the action of its citizens or rate payers (such as in a CERCLA lawsuit) unless the Contractor is found not liable in such claims and such claims arise from acts or occurrences within the Term of the Agreement.
- m) Payments to Related Parties (including parent companies) for products or services (including corporate overhead) in excess of cost to the Related Party for those products or services, or overhead costs not related to or unnecessary to providing City services required in this Agreement.
- n) Goodwill.
- o) Unreasonable profit sharing distributions.
- p) Interest charged by parent company, if any, on principal in excess of actual costs advanced to Contractor, or for principal unnecessary to providing City services required by this Agreement, or at an

- 1 interest rate in excess of the parent companies costs of capital per
2 its audited financial statements
- 3 q) Labor, vehicle, equipment, overhead and administrative costs or
4 cost allocations for providing services to other jurisdictions.
- 5 r) Depreciation calculated over a period of time shorter than the
6 actual expected useful life of the asset, or by using a rate, method
7 or useful life, which is unreasonable or does not conform to
8 Generally Accepted Accounting Principles (GAAP).
- 9 s) Any costs or cost allocations for salaries, benefits, supplies,
10 computer services, accounting or legal services, postage, telephone,
11 office expense or other expenses related to customer billing,
12 processing of payments, posting of billing service changes and
13 extra charges to customer accounts, maintaining accounts
14 receivable records, collections, or billing related customer service.
- 15 t) Unreasonable overhead charges by parent company.
- 16 u) Unreasonable profits.
- 17 v) Disposal expense for tonnage disposed of at the Disposal Site (and
18 not including Recycled or Compostable Materials) beyond 20,858
19 tons per year, other than that directly resulting from the net
20 addition of accounts in the City subsequent to the commencement
21 date of this Agreement.
- 22 w) The charges from Related Parties not approved in writing in
23 advance by City.
- 24 3) The costs resulting from these adjustments described above are the:
- 25 • Allowed Labor-Related Costs
- 26 • Allowed Vehicle-Related Costs
- 27 • Allowed Other Costs
- 28 • Allowed Depreciation Expense
- 29 4) Allowed costs of operations for the fiscal year ending June 30, 2002, will
30 be multiplied by the change in the appropriate indices compiled and published by
31 the United States Department of Labor, Bureau of Labor Statistics, as described
32 below:
- 33 a) Labor-Related Costs will be forecasted for the rate year ending
34 June 30, 2004 by (1) multiplying the Allowed Labor-Related Costs by 1
35 plus the percentage change in the "San Francisco-Oakland-San Jose
36 Metropolitan Area Consumer Price Index [Urban Wage Earners; 1982-84
37 = 100]" between the monthly index most recently published prior to
38 submission of the Request for Adjustment of Compensation and the
39 corresponding monthly index published twelve (12) months earlier, and
40 (2) multiplying the result of step one by the same percentage change used
41 in step one. The result is the Forecasted Labor-Related Costs for the third
42 rate year.

b) Vehicle-Related Costs will be forecasted for the rate year ending June 30, 2002 by (1) multiplying the Allowed Vehicle-Related Costs by one (1) plus the percentage change in the "San Francisco-Oakland-San Jose Metropolitan Area Consumer Price Index [Urban Wage Earners; 1982-84 = 100]" between the monthly index most recently published prior to submission of the Request for Adjustment of Compensation and the corresponding monthly index published twelve (12) months earlier, and (2) multiplying the result of step one by the same percentage change used in step one. The result is the Forecasted Vehicle-Related Costs for the third rate year.

c) Other Costs will be forecasted for the rate year ending June 30, 2004 by (1) multiplying the Allowed Other Related Costs by one (1) plus the percentage change in the "San Francisco-Oakland-San Jose Metropolitan Area Consumer Price Index [Urban Wage Earners; 1982-84 = 100]" between the monthly index most recently published prior to submission of the Request for Adjustment of Compensation and the corresponding monthly index published twelve (12) months earlier, and (2) multiplying the result of step one by the same percentage change used in step one. The result is the Forecasted Other Costs for the third rate year.

d) Depreciation Expense will be calculated by dividing the actual purchase price or the then current value of the assets described in Contractor's proposal, by seven (7) years, except for buildings and improvements that shall be divided by 25 years. The result is the Forecasted Depreciation Expense for the third rate year.

5) The sum of Forecasted Labor-Related Costs, Forecasted Vehicle-Related Costs, Forecasted Other Costs, and Forecasted Depreciation Expense shall equal the "Projected Annual Costs of Operations for Rate Year Three."

6) Profit. Profit for Rate Year Three shall be calculated by dividing the Forecasted Annual Cost of Operations for Rate Year Three by 0.93__ and subtracting the Forecasted Annual Costs of Operations for Rate Year Three from the dividend.

7) Pass-Through Expenses for Rate Year Three. The Forecasted Pass-Through Expense consists of the sum of:

a) Forecasted Interest Expense. The annual Forecasted Interest Expense for Rate Year Three through the Term of this Agreement shall be \$188,683.

b) Disposal Expense. The annual Forecasted Disposal Expense shall be calculated by using the projected tons to be disposed by the Disposal rate approved by the Sonoma County Board of Supervisors for the Sonoma County Central Landfill, or the approved rates for an alternate Disposal Site designated by the City in writing.

c) Forecasted Regulatory Fees. The Forecasted Regulatory Fees for Rate Year Three shall be calculated in accordance with the appropriate

methodology for the relevant fees using forecasted Rate Year Three values.

8) Forecasted Revenue from the Sale of Recyclable Materials. The Forecasted Revenue from the Sale of Recyclable Materials shall equal the actual revenue received from the sale of Recyclable Materials during the previous fiscal year.

8.3.3 CONTRACTOR'S MAXIMUM ALLOWABLE PAYMENT FOR SERVICES IN RATE YEAR THREE

Contractor's Maximum Allowable Payment for Services for Rate Year Three (from July 1, 2003 to June 30, 2004) shall be an amount equal to the Gross Revenues received from customers by the City, at rates established pursuant to Section 8.12.260 of the Rohnert Park Municipal Code, less the sum of (i) the amount necessary to reimburse City for providing billing and some customer services under this Agreement, and (ii) any and all fees imposed pursuant to Article 7 of this Agreement, including but not limited to the Franchise Fee described in Section 7.1, Contractor's Payment for Services shall not exceed the Maximum Allowable Payment of Services for Rate Year Three (as determined in Article 8.3.2), which shall include any adjustments provided for in Article 8.1.2.

8.4 CONTRACTOR'S PAYMENT FOR SERVICES FOR RATE YEARS FOUR THROUGH EIGHT

8.4.1 CONTRACTOR'S MAXIMUM ALLOWABLE PAYMENT FOR SERVICES FOR RATE YEAR FOUR

Contractor's Payment for Services for Rate Year Four (from July 1, 2004 to June 30, 2005) shall be an amount equal to the Gross Revenues received from customers by the City, at rates established pursuant to Section 8.12.260 of the Rohnert Park Municipal Code, less the sum of (i) the amount necessary to reimburse City for providing billing and some customer services under this Agreement; and (ii) any and all fees imposed pursuant to Article 7 of this Agreement, including but not limited to the Franchise Fee described in Section 7.1, but in no event shall Contractor's Payment for Services exceed the Maximum Allowable Payment of Services for Rate Year Four, which shall include any adjustments provided for in Sections 8.1.2 and 8.8.

The Maximum Allowable Payment for Services for Rate Year Four (July 1, 2004 to June 30, 2005) shall be the sum of (1) Forecasted Annual Cost of Operations Excluding Disposal Costs for Rate Year Four; and (2) Forecasted Annual Cost of Disposal for Rate Year Four, less Forecasted Gross Revenue from the Sale of Recyclable Materials for Rate Year Four. Each of these amounts shall be calculated as follows:

A. Forecasted Annual Cost of Operations Excluding Disposal Costs for Rate Year Four. Forecasted Annual Cost of Operations Excluding Disposal Costs shall be calculated by subtracting Disposal costs for Rate Year Three (as determined by the rate review) from the Maximum Allowable Payment for Services for Rate Year Three (as determined by Article 8, Section 8.3.2) and multiplying the result by 1 plus 80 percent (80%) of the percentage change in the "San Francisco-Oakland-San Jose Metropolitan Area Consumer Price Index [Urban Wage Earners; 1982-84 = 100]" between the monthly index in February 2002 and February 2003.

1 **B. Forecasted Annual Cost of Disposal for Rate Year Four.** Disposal fee
2 increases, if any, for the Sonoma County Landfill are determined and approved by the
3 Sonoma County Board of Supervisors each June, and implemented mid-fiscal year at the
4 landfill on each January 1. Forecasted Annual Cost of Disposal for Rate Year Four shall
5 be the sum of (1) 50 percent (50%) of the Disposal tonnage for Rate Year Three (as
6 determined in Section 8.3.2) multiplied by the Disposal rate approved by the Sonoma
7 County Board of Supervisors for calendar year 2004, and (2) 50 percent (50%) of the
8 Disposal tonnage for Rate Year Three (as determined in Article 8, Section 8.3.2)
9 multiplied by the Disposal rate approved by the Sonoma County Board of Supervisors for
10 calendar year 2005.

11 **C. Forecasted Revenue from the Sale of Recyclable Material.** The Forecasted
12 Revenue from the Sale of Recyclable Materials shall equal the actual revenue received
13 from the sale of Recyclable Materials during the previous fiscal year.

14 **8.4.2 CONTRACTOR'S MAXIMUM ALLOWABLE PAYMENT FOR SERVICES FOR RATE YEAR**
15 **FIVE**

16 Contractor's Payment for Services for Rate Year Five (from July 1, 2005 to June 30,
17 2006) shall be an amount equal to the Gross Revenues received from customers by the City, at
18 rates established pursuant to Section 8.12.260 of the Rohnert Park Municipal Code, less the sum
19 of (i) the amount necessary to reimburse City for providing billing and some customer services
20 under this Agreement; and (ii) any and all fees imposed pursuant to Article 7 of this Agreement,
21 including but not limited to the Franchise Fee described in Section 7.1, but in no event shall
22 Contractor's Payment for Services exceed the Maximum Allowable Payment of Services for Rate
23 Year Five, which shall include any adjustments provided for in Sections 8.1.2 and 8.8.

24 The Maximum Allowable Payment for Services for Rate Year Five (July 1, 2005 to June
25 30, 2006) shall be the sum of (1) Forecasted Annual Cost of Operations Excluding Disposal
26 Costs for Rate Year Five; and (2) Forecasted Annual Cost of Disposal for Rate Year Five, less
27 Forecasted Gross Revenue from the Sale of Recyclable Materials for Rate Year Five. Each of
28 these amounts shall be calculated as follows:

29 **A. Forecasted Annual Cost of Operations Excluding Disposal Costs for Rate**
30 **Year Five.** Forecasted Annual Cost of Operations Excluding Disposal Costs shall be
31 calculated by subtracting Disposal costs for Rate Year Four (as determined by Section
32 8.4.1.B) from the Maximum Allowable Payment for Services for Rate Year Four (as
33 determined by Section 8.4.1) and multiplying the result by 1 plus 80 percent (80%) of the
34 percentage change in the "San Francisco-Oakland-San Jose Metropolitan Area Consumer
35 Price Index [Urban Wage Earners; 1982-84 = 100]" between the monthly index in
36 February 2004 and February 2005.

1 **B. Forecasted Annual Cost of Disposal for Rate Year Five.** Disposal fee
2 increases, if any, for the Sonoma County Landfill are determined and approved by the
3 Sonoma County Board of Supervisors each June, and implemented mid-fiscal year at the
4 landfill on each January 1. Forecasted Annual Cost of Disposal for Rate Year Five shall
5 be the sum of (1) 50 percent (50%) of the Disposal tonnage for Rate Year Four (as
6 determined by Section 8.4.1.B) multiplied by the Disposal rate approved by the Sonoma
7 County Board of Supervisors for calendar year 2004, and (2) 50 percent (50%) of the
8 Disposal tonnage for Rate Year Four multiplied by the Disposal rate approved by the
9 Sonoma County Board of Supervisors for calendar year 2005.

10 **C. Forecasted Revenue from the Sale of Recyclable Material.** The Forecasted
11 Revenue from the Sale of Recyclable Materials shall equal the actual revenue received
12 from the sale of Recyclable Materials during the previous fiscal year.

13 **8.4.3 CONTRACTOR'S MAXIMUM ALLOWABLE PAYMENT FOR SERVICES FOR RATE YEAR**
14 **SIX**

15 By December 1, 2005, Contractor shall submit an Application for Payment for Services
16 for Rate Year Six (July 1, 2006 to June 30, 2007). This Application shall be based on the audited
17 financial statements for Rate Year Four and shall reflect Contractor's forecast of its expenses, and
18 expenses to date, for Rate Year Five.

19 The Application shall be submitted in the same format and shall calculate Contractor's
20 Payment for Services in the same manner, as that described in Section 8.3.2. Contractor shall
21 assemble, provide, and submit such information that is necessary to support the assumptions
22 made by Contractor with regard to the assumptions underlying the forecast.

23 Contractor shall provide all information requested by the City as part of its review of the
24 Application including, but not limited to, all information from related parties requested by the
25 City regarding any transactions between Contractor and any Related Party entity pertaining to
26 Contractor's performance under this Agreement.

27 The City, or its representative (who may act on behalf of City in its review of the
28 Application), will review the Application for compliance with this Agreement, mathematical
29 accuracy, logical consistency, and reasonableness.

30 Contractor's Payment for Services for Rate Year Six (from July 1, 2006 to June 30, 2007)
31 shall be an amount equal to the Gross Revenues received from customers by the City, at rates
32 established pursuant to Section 8.12.260 of the Rohnert Park Municipal Code, less the sum of (i)
33 the amount necessary to reimburse City for providing billing and some customer services under
34 this Agreement; and (ii) any and all fees imposed pursuant to Article 7 of this Agreement,
35 including but not limited to the Franchise Fee described in Section 7.1, but in no event shall
36 Contractor's Payment for Services exceed the Maximum Allowable Payment of Services for Rate
37 Year Six, which shall include any adjustments provided for in Sections 8.1.2 and 8.8.

38 The Maximum Allowable Payment for Services for Rate Year Six (July 1, 2006 to June
39 30, 2007) shall be equal to the sum of Forecasted Annual Cost of Operations, plus Profit, plus
40 Forecasted Pass Through Expense, less Forecasted Gross Revenue from the Sale of Recyclable
41 Materials, calculated as set forth in Section 8.3.2.

1 **8.4.4 CONTRACTOR'S MAXIMUM ALLOWABLE PAYMENT FOR SERVICES FOR RATE YEAR**
2 **SEVEN**

3 Contractor's Payment for Services for Rate Year Seven (from July 1, 2007 to June 30,
4 2008) shall be an amount equal to the Gross Revenues received from customers by the City, at
5 rates established pursuant to Section 8.12.260 of the Rohnert Park Municipal Code, less the sum
6 of (i) the amount necessary to reimburse City for providing billing and some customer services
7 under this Agreement; and (ii) any and all fees imposed pursuant to Article 7 of this Agreement,
8 including but not limited to the Franchise Fee described in Section 7.1, but in no event shall
9 Contractor's Payment for Services exceed the Maximum Allowable Payment of Services for Rate
10 Year Seven, which shall include any adjustments provided for in Sections 8.1.2 and 8.8.

11 The Maximum Allowable Payment for Services for Rate Year Seven (July 1, 2007 to
12 June 30, 2008) shall be the sum of (1) Forecasted Annual Cost of Operations Excluding Disposal
13 Costs for Rate Year Seven; and (2) Forecasted Annual Cost of Disposal for Rate Year Seven, less
14 Forecasted Gross Revenue from the Sale of Recyclable Materials for Rate Year Seven. Each of
15 these amounts shall be calculated as follows:

16 **A. Forecasted Annual Cost of Operations Excluding Disposal Costs for Rate**
17 **Year Seven.** Forecasted Annual Cost of Operations Excluding Disposal Costs shall be
18 calculated by subtracting Disposal costs for Rate Year Six (as determined by Section
19 8.4.3) from the Maximum Allowable Payment for Services for Rate Year Six (as
20 determined by Section 8.4.3) and multiplying the result by 1 plus 80 percent (80%) of the
21 percentage change in the "San Francisco-Oakland-San Jose Metropolitan Area Consumer
22 Price Index [Urban Wage Earners; 1982-84 = 100]" between the monthly index in
23 February 2006 and February 2007.

24 **B. Forecasted Annual Cost of Disposal for Rate Year Seven.** Disposal fee
25 increases, if any, for the Sonoma County Landfill are determined and approved by the
26 Sonoma County Board of Supervisors each June, and implemented mid-fiscal year at the
27 landfill on each January 1. Forecasted Annual Cost of Disposal for Rate Year Eight shall
28 be the sum of (1) 50 percent (50%) of the Disposal tonnage for Rate Year Seven (as
29 determined by Section 8.4.4) multiplied by the Disposal rate approved by the Sonoma
30 County Board of Supervisors for calendar year 2007, and (2) 50 percent (50%) of the
31 Disposal tonnage for Rate Year Six multiplied by the Disposal rate approved by the
32 Sonoma County Board of Supervisors for calendar year 2008.

33 **C. Forecasted Revenue from the Sale of Recyclable Material.** The Forecasted
34 Revenue from the Sale of Recyclable Materials shall equal the actual revenue received
35 from the sale of Recyclable Materials during the previous fiscal year.

36 **8.5 PAYMENT FOR SERVICES FOR THE EXTENSION PERIOD**

37 Article 3, Section 3.4 of this Agreement provides the City an option, at its sole discretion,
38 to extend this Agreement in twelve-month increments for up to a period of thirty-six (36) months
39 after June 30, 2008. In the event that the City elects to extend the contract for some or all of the
40 allowable extension period, and the Contractor agrees to such an extension, Contractor's Payment
41 for Services for period of the extension shall be calculated in the following manner:

1 **8.5.1 CONTRACTOR'S MAXIMUM ALLOWABLE PAYMENT FOR SERVICES FOR RATE YEAR**
2 **EIGHT**

3 Contractor's Payment for Services for Rate Year Eight (from July 1, 2008 to June 30,
4 2009) shall be an amount equal to the Gross Revenues received from customers by the City, at
5 rates established pursuant to Section 8.12.260 of the Rohnert Park Municipal Code, less the sum
6 of (i) the amount necessary to reimburse City for providing billing and some customer services
7 under this Agreement; and (ii) any and all fees imposed pursuant to Article 7 of this Agreement,
8 including but not limited to the Franchise Fee described in Section 7.1, but in no event shall
9 Contractor's Payment for Services exceed the Maximum Allowable Payment of Services for Rate
10 Year Eight, which shall include any adjustments provided for in Sections 8.1.2 and 8.8.

11 The Maximum Allowable Payment for Services for Rate Year Eight (July 1, 2008 to June
12 30, 2009) shall be the sum of (1) Forecasted Annual Cost of Operations Excluding Disposal
13 Costs for Rate Year Eight; and (2) Forecasted Annual Cost of Disposal for Rate Year Eight, less
14 Forecasted Gross Revenue from the Sale of Recyclable Materials for Rate Year Eight. Each of
15 these amounts shall be calculated as follows:

16 **A. Forecasted Annual Cost of Operations Excluding Disposal Costs for Rate**
17 **Year Eight.** Forecasted Annual Cost of Operations Excluding Disposal Costs shall be
18 calculated by subtracting Disposal costs for Rate Year Seven (as determined by Section
19 8.4.4) from the Maximum Allowable Payment for Services for Rate Year Seven (as
20 determined by Section 8.4.4) and multiplying the result by 1 plus 80 percent (80%) of the
21 percentage change in the "San Francisco-Oakland-San Jose Metropolitan Area Consumer
22 Price Index [Urban Wage Earners; 1982-84 = 100]" between the monthly index in
23 February 2007 and February 2008.

24 **B. Forecasted Annual Cost of Disposal for Rate Year Eight.** Disposal fee
25 increases, if any, for the Sonoma County Landfill are determined and approved by the
26 Sonoma County Board of Supervisors each June, and implemented mid-fiscal year at the
27 landfill on each January 1. Forecasted Annual Cost of Disposal for Rate Year Eight shall
28 be the sum of (1) 50 percent (50%) of the Disposal tonnage for Rate Year Seven (as
29 determined by Section 8.4.4) multiplied by the Disposal rate approved by the Sonoma
30 County Board of Supervisors for calendar year 2008, and (2) 50 percent (50%) of the
31 Disposal tonnage for Rate Year Seven multiplied by the Disposal rate approved by the
32 Sonoma County Board of Supervisors for calendar year 2009.

33 **C. Forecasted Revenue from the Sale of Recyclable Material.** The Forecasted
34 Revenue from the Sale of Recyclable Materials shall equal the actual revenue received
35 from the sale of Recyclable Materials during the previous fiscal year.

36 **8.5.2 CONTRACTOR'S MAXIMUM ALLOWABLE PAYMENT FOR SERVICES FOR RATE YEAR**
37 **NINE**

38 By December 1, 2008, Contractor shall submit an Application for Payment for Services
39 for Rate Year Nine (July 1, 2009 to June 30, 2010). This Application shall be based on the
40 audited financial statements for Rate Year Seven and shall reflect Contractor's forecast of its
41 expenses, and expenses to date, for Rate Year Eight.

1 The Application shall be submitted in the same format and shall calculate Contractor's
2 Payment for Services in the same manner, as that described in Section 8.3.2. Contractor shall
3 assemble, provide, and submit such information that is necessary to support the assumptions
4 made by Contractor with regard to the assumptions underlying the forecast.

5 Contractor shall provide all information requested by the City as part of its review of the
6 Application including, but not limited to, all information from Related Parties requested by the
7 City regarding any transactions between Contractor and any Related Party entity pertaining to
8 Contractor's performance under this Agreement.

9 The City, or its representative (who may act on behalf of City in its review of the
10 Application), will review the Application for compliance with this Agreement, mathematical
11 accuracy, logical consistency, and reasonableness.

12 Contractor's Payment for Services for Rate Year Nine (from July 1, 2009 to June 30,
13 2010) shall be an amount equal to the Gross Revenues received from customers by the City, at
14 rates established pursuant to Section 8.12.260 of the Rohnert Park Municipal Code, less the sum
15 of (i) the amount necessary to reimburse City for providing billing and some customer services
16 under this Agreement; and (ii) any and all fees imposed pursuant to Article 7 of this Agreement,
17 including but not limited to the Franchise Fee described in Section 7.1, but in no event shall
18 Contractor's Payment for Services exceed the Maximum Allowable Payment of Services for Rate
19 Year Nine, which shall include any adjustments provided for in Sections 8.1.2 and 8.8.

20 The Maximum Allowable Payment for Services for Rate Year Nine (July 1, 200-96 to
21 June 30, 2010) shall be equal to the sum of Forecasted Annual Cost of Operations, plus Profit,
22 plus Forecasted Pass Through Expense, less Forecasted Gross Revenue from the Sale of
23 Recyclable Materials, calculated as set forth in Section 8.3.2.

24 **8.5.3 CONTRACTOR'S MAXIMUM ALLOWABLE PAYMENT FOR SERVICES FOR RATE YEAR**
25 **TEN**

26 Contractor's Payment for Services for Rate Year Ten (from July 1, 2010to June 30, 2011)
27 shall be an amount equal to the Gross Revenues received from customers by the City, at rates
28 established pursuant to Section 8.12.260 of the Rohnert Park Municipal Code, less the sum of (i)
29 the amount necessary to reimburse City for providing billing and some customer services under
30 this Agreement; and (ii) any and all fees imposed pursuant to Article 7 of this Agreement,
31 including but not limited to the Franchise Fee described in Section 7.1, but in no event shall
32 Contractor's Payment for Services exceed the Maximum Allowable Payment of Services for Rate
33 Year Ten, which shall include any adjustments provided for in Sections 8.1.2 and 8.8.

34 The Maximum Allowable Payment for Services for Rate Year Ten (July 1, 2010 to June
35 30, 2011) shall be the sum of (1) Forecasted Annual Cost of Operations Excluding Disposal
36 Costs for Rate Year Ten; and (2) Forecasted Annual Cost of Disposal for Rate Year Ten, less
37 Forecasted Gross Revenue from the Sale of Recyclable Material for Rate Year Ten. Each of
38 these amounts shall be calculated as follows:

39 **A. Forecasted Annual Cost of Operations Excluding Disposal Costs for Rate**
40 **Year Ten.** Forecasted Annual Cost of Operations Excluding Disposal Costs shall be

1 calculated by subtracting Disposal costs for Rate Year Nine (as determined by Section
2 8.5.2) from the Maximum Allowable Payment for Services for Rate Year Nine (as
3 determined by Section 8.5.2) and multiplying the result by 1 plus 80 percent (80%) of the
4 percentage change in the "San Francisco-Oakland-San Jose Metropolitan Area Consumer
5 Price Index [Urban Wage Earners; 1982-84 = 100]" between the monthly index in
6 February 2009 and February 2010.

7 **B. Forecasted Annual Cost of Disposal for Rate Year Ten.** Disposal fee
8 increases, if any, for the Sonoma County Landfill are determined and approved by the
9 Sonoma County Board of Supervisors each June, and implemented mid-fiscal year at the
10 landfill on each January 1. Forecasted Annual Cost of Disposal for Rate Year Ten shall
11 be the sum of (1) 50 percent (50%) of the Disposal tonnage for Rate Year Nine (as
12 determined by Section 8.5.2) multiplied by the Disposal rate approved by the Sonoma
13 County Board of Supervisors for calendar year 2010, and (2) 50 percent (50%) of the
14 Disposal tonnage for Rate Year Nine multiplied by the Disposal rate approved by the
15 Sonoma County Board of Supervisors for calendar year 2011.

16 **C. Forecasted Revenue from the Sale of Recyclable Material.** The Forecasted
17 Revenue from the Sale of Recyclable Materials shall equal the actual revenue received
18 from the sale of Recyclable Materials during the previous fiscal year.

19 **8.6 SCHEDULE**

20 The Contractor shall submit its Application on or before January 1 of the year preceding
21 Rate Year Three, Rate Year Six, and Rate Year Nine if Agreement is extended to that year. The
22 request shall contain audited financial statements including supplemental schedules as described
23 in 8.3.1 for the Contractor's Fiscal Year ending June 30 of that year. The City shall use its best
24 efforts to make the adjustment effective by July 1 of the following year. However, the City shall
25 not make any retroactive adjustments to compensate for any delay in calculating Contractor's
26 Payment for Services to the extent resulting from the failure of Contractor to submit its request
27 by January 1 and/or to respond promptly and completely to requests of the City for information
28 related to any of the calculations required by this section or from appeals of the determination to
29 the City which extends the process of determination.

30 **8.7 INTERIM COMPENSATION ADJUSTMENT**

31 In the event the City directs the Contractor to change its operations in accordance with
32 Sections 4.2 and Article 5.0 of this Agreement or in the event of an extraordinary or
33 unanticipated event not within the control of the Contractor, including a change in law, an
34 adjustment in the Disposal fee component due to a new or increased/decreased governmental tax,
35 surcharge, assessment or fee, and such event materially affects Contractor's Payment for Services
36 as determined by the City, then the Contractor or the City may submit a request for an interim
37 Payment for Services adjustment. In such case, Contractor shall prepare a complete Application
38 in accordance with Section 8.3.1, unless otherwise agreed to by the City.

ARTICLE 9.
INDEMNITY, INSURANCE, FAITHFUL
PERFORMANCE

9.1 HAZARDOUS SUBSTANCE INDEMNIFICATION

Contractor shall defend with counsel selected by City and indemnify, protect and hold harmless, the City, its officers, directors, employees, volunteers, and agents (collectively, "City") from and against all claims, damages (including but not limited to special, consequential, natural resources, and punitive damages), injuries, costs, (including without limit any and all response, remediation, and removal costs), losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties, and expenses (including without limit attorneys' expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity [collectively, "Damages"]), or any kind whatsoever paid, incurred or suffered by, or asserted against City, arising from or attributable to the acts or omissions of Contractor whether or not negligent or otherwise culpable, in connection with or related to the performance of this Agreement, including without limit damages arising from or attributable to any operations, repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure, post-closure, or other plan (regardless of whether undertaken due to governmental action) concerning any Hazardous Substance or Hazardous Waste or other waste collected under this Agreement. This indemnity afforded City shall only be limited to exclude coverage for intentional wrongful acts and sole negligence of City, and as provided below. The foregoing indemnity is intended to operate as an Agreement pursuant to §107(e) of the Comprehensive Environmental Response, Compensation and Liability Act, CERCLA, 42 USC. §9607(e) and California Health and Safety Code §25364, to defend, protect, hold harmless, and indemnify City from liability. This provision is in addition to all other provisions in this Agreement and is intended to survive the end of the Term of this Agreement. Nothing in this paragraph shall prevent City from seeking indemnification or contribution from Persons or entities other than Contractor for any liabilities incurred by City or the Contractor. As determined in the sole discretion of the City, Contractor shall be required to secure, from its parent company, the indemnification required by this section.

9.2 AB 939 INDEMNIFICATION

Contractor shall, by implementing in a timely and effective manner, the diversion, education and other required programs or actions required by this Agreement, comply with the diversion requirements for Rohnert Park of the California Integrated Waste Management Act of 1989 (Act) (California Public Resources Code Section 40000 et seq.) to attain 50 percent diversion of Refuse from disposal into landfills by the end of the year 2003. In addition to all other relief provided Contractor and City under this Agreement, Contractor agrees to defend, indemnify, and hold harmless, the City, its officers, directors, employees, volunteers, and agents from and against all fines and/or penalties imposed by the California Integrated Waste Management Board for operations during the Term of this Agreement in the event the source reduction and Recycling goals or any other requirement of the Act are not met by the Contractor with respect to the waste stream collected under this Agreement and such failure is due to the

1 failure of Contractor to meet its obligations under this Agreement and/or for delays in providing
2 information that prevents Contractor or City from submitting reports required by AB 939 in a
3 timely manner.

4 **9.3 PROPOSITION 218 INDEMNIFICATION**

5 Contractor shall indemnify, defend and hold harmless, the City, its officers, directors,
6 employees, agents and volunteers (collectively, "Indemnity"), from and against all claims,
7 damages, injuries, costs, including demands, debts, liens, liabilities, causes of action, suits, legal
8 or administrative proceedings, interest fines, charges, penalties and expenses (including
9 reasonable attorneys' and expert witness fees, expenditures for investigation and administration),
10 and costs of any kind whatsoever paid, imposed upon, endured, or suffered by or assessed against
11 the Indemnity resulting in any form from the City's setting of rates for service under this
12 Agreement or in connection with the application of California Constitution, Article XIIC and
13 Article XIID to the imposition, payment or collection of rates and fees.

14 **9.4 INSURANCE**

15 **9.4.1 MINIMUM SCOPE OF INSURANCE**

16 Coverage shall be at least as broad as:

17 **A.** Insurance Services Office form number CG 0001 covering Commercial General
18 Liability or Comprehensive General Liability Insurance.

19 **B.** Insurance Services Office form number CA 0001 covering Automobile Liability,
20 code 1 "any auto" and endorsement form if applicable.

21 **C.** Workers' Compensation insurance as required by the Labor Code of the State of
22 California and Employer's Liability insurance.

23 **D.** Employee Blanket Fidelity Bond.

24 **9.4.2 MINIMUM LIMITS OF INSURANCE**

25 Contractor shall maintain limits no less than:

26 **A.** Comprehensive General Liability: \$10,000,000 combined single limit per
27 occurrence for bodily injury, personal injury and property damage.

28 **B.** Automobile Liability: \$10,000,000 combined single limit per accident for bodily
29 injury and property damage.

30 **C.** Workers' Compensation and Employer's Liability: Workers' Compensation limits
31 of the statutory level required by the Labor Code of the State of California and
32 Employer's Liability limits of \$1,000,000 per accident.

33 **D.** Employee Blanket Fidelity Bond in the amount of \$50,000 per employee,
34 covering dishonesty, forgery, alternation, theft, disappearance, and destruction (inside or
35 outside).

36 **9.4.3 DEDUCTIBLES AND SELF-INSURED RETENTIONS**

37 Any deductibles or self-insured retentions must be declared to and approved by the City.
38 At the option of the City, either (1) the insurer shall reduce or eliminate such deductibles or self-
39 insured retentions as respects the City, its officials, and employees; or (2) the Contractor shall

procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

9.4.4 OTHER INSURANCE PROVISIONS

The policies are to contain, or be endorsed to contain, the following provisions:

A. General Liability and Automobile Liability Coverage

1) The City, its officials, employees, and volunteers are to be covered as additional insureds as respects (1) liability arising out of activities performed by or on behalf of the Contractor; (2) products and completed operations of the Contractor; (3) Premises owned, leased or used by the Contractor; or (4) automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees, or volunteers.

2) The Contractor's insurance coverage shall be primary insurance as respects the City, its officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

3) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officials, employees, or volunteers.

4) Coverage shall state that the Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

B. Workers' Compensation and Employer's Liability Coverage. The insurer shall agree to waive all rights of subrogation against the City, its officials, employees, and volunteers for losses arising from work performed by the Contractor for the City.

C. All Coverages. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

9.4.5 ACCEPTABILITY OF INSURERS

With the exception of Workers' Compensation Insurance covered by State Fund, the insurance policies required by this section shall be issued by an insurance company or companies authorized to do business in the State of California and with a rating in the most recent edition of Best's Insurance Reports of size category VII or larger and a rating classification of "A" or better.

9.4.6 VERIFICATION OF COVERAGE

Contractor shall furnish Contractor's insurance agent a copy of these specifications and City approved endorsement, and direct the agent to provide the City with certificates of insurance and with original endorsements affecting coverage required by this clause. The endorsements shall be submitted to City on forms (Exhibit N) provided by the City or on other forms that conform to the City's requirements and are approved the City. Issuance of documentation indicates the Contractor's insurance complies with these provisions. The certificates and endorsements for each insurance policy are to be signed by a Person authorized by that insurer to

1 bind coverage on its behalf. The certificates and endorsements are to be received and approved
2 by the City before work commences. The City reserves the right to require complete, certified
3 copies of all required insurance policies and endorsements at any time.

4 **9.4.7 REQUIRED ENDORSEMENTS**

5 **A.** The Workers' Compensation policy shall contain an endorsement in substantially
6 the following form:
7

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

11 City Manager
12 City of Rohnert Park
13 6750 Commerce Boulevard
14 Rohnert Park, CA 94928"

15 **B.** The Commercial General Liability Business and Automobile Liability policies
16 shall contain endorsements in substantially the following form:

17 **1)** "Thirty (30) days' prior written notice shall be given to the City of Rohnert
18 Park in the event of cancellation, reduction in coverage, or non-renewal of this
19 policy. Such notice shall be sent to:

20 City Manager
21 City of Rohnert Park
22 6750 Commerce Boulevard
23 Rohnert Park, CA 94928

24 **2)** "The City of Rohnert Park, its officers, employees, and agents are
25 additional insureds on this policy." The City requires form CG 20 10 11 85.

26 **3)** "This policy shall be considered primary insurance as respects any other
27 valid and collectible insurance maintained by the City of Rohnert Park, including
28 any self-insured retention or program of self-insurance, and any other such
29 insurance shall be considered excess insurance only.

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

37 **9.4.8 DELIVERY OF PROOF OF COVERAGE**

38 Simultaneously with the execution of this Agreement, Contractor shall furnish the City
39 certificates of each policy and endorsements of insurance required hereunder, in form and
40 substance satisfactory to City. Such certificates shall show the type and amount of coverage,
41 effective dates and dates of expiration of policies, and shall have all required endorsements. If

1 the City requests, copies of each policy, together with all endorsements, shall also be promptly
2 delivered to City.

3 Renewal certificates and endorsements shall be furnished annually to City on renewal
4 date to demonstrate maintenance of the required coverage throughout the Term.

5 **9.4.9 OTHER INSURANCE REQUIREMENTS**

6 **A.** In the event any services are delegated to a subcontractor, the Contractor shall
7 require such subcontractor to provide statutory Workers' Compensation insurance and
8 Employer's Liability insurance for all of the subcontractor's employees engaged in the
9 work in accordance with Article 5.0. The liability insurance required by Article 9.4.2
10 shall cover all subcontractors or the subcontractor must furnish evidence of insurance
11 provided by it meeting all of the requirements of this Article 9.4.

12 **B.** The Contractor shall comply with all requirements of the insurers issuing policies.
13 The carrying of insurance shall not relieve Contractor from any obligation under this
14 Agreement. If any claim is made by any third person against the Contractor or any
15 subcontractor on account of any occurrence related to this Agreement, the Contractor
16 shall promptly report the facts in writing to the insurance carrier and to the City.

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

21 The Commercial, General, and Automobile Liability insurance required by
22 Section 9.4.2 shall be written on an "occurrence," rather than a "claims made" basis, if
23 such coverage is obtainable. If it is not obtainable, Contractor must arrange for a 36-
24 month "tail coverage" to protect the City from claims filed after the expiration or
25 termination of this Agreement relating to incidents, which occurred prior to such
26 expiration or termination.

27 **9.5 FAITHFUL PERFORMANCE**

28 Simultaneously with the execution of this Agreement, Contractor shall provide the City a
29 set-aside irrevocable letter of credit in a form acceptable to the City, payable to the City, securing
30 the Contractor's faithful performance of its obligations under this Agreement. The principal sum
31 of the letter of credit shall be One Million Dollars (\$1,000,000).

ARTICLE 10.
CITY'S RIGHT TO PERFORM SERVICE

10.1 GENERAL

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

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

Contractor further agrees that in such event:

A. It will fully cooperate with City in transfer of possession of property to the City for City's use.

B. It will, if City so requests, keep in good repair and condition all of such property, provide all motor vehicles with fuel, oil, and other service, and provide such other service as may be necessary to maintain said property in operational condition.

C. City may immediately engage all or any personnel necessary or useful for the Collection and Transportation of Refuse, Recyclable Materials, or Compostable Materials including, if City so desires, employees previously or then employed by Contractor, Contractor further agrees, if City so requests, to furnish City the services of any or all management or office personnel employed by Contractor whose services are necessary or useful for Refuse, Recyclable Materials, or Compostable Materials Collection and Transportation operations and for the billing and collection of fees for these services.

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

1 If the interruption or discontinuance of service is caused by any of the reasons listed in
2 Section 11.6, the City shall pay to Contractor the reasonable rental value of the equipment and
3 facilities, possession of which is taken by the City, for the period of the City's possession, if any,
4 which extends beyond the period of time for which City has rendered bills in advance of service,
5 for the class of service involved.

6 Except as otherwise expressly provided in the previous paragraph, the City's exercise of
7 its rights under this Article 10 (1) does not constitute a taking of private property for which
8 compensation must be paid; (2) will not create any liability on the part of City to Contractor; and
9 (3) does not exempt Contractor from the indemnity provisions of Article 9, which are meant to
10 extend to circumstances arising under this section, provided that Contractor is not required to
11 indemnify City against claims and damages arising from the sole negligence of City officers,
12 employees and agents in the operation of Collection vehicles during the time the City has taken
13 possession of such vehicles.

14 **10.2 DURATION OF CITY'S POSSESSION**

15 City has no obligation to maintain possession of Contractor's property and/or continue its
16 use in collecting and transporting Refuse, Recyclable Materials, or Compostable Materials for
17 any period of time and may, at any time, in its sole discretion, relinquish possession to the
18 Contractor.

19 The City's right to retain temporary possession of Contractor's property, and to provide
20 Refuse Collection services, shall continue until Contractor can demonstrate to the City's
21 satisfaction that it is ready, willing, and able to resume such services or 180 days, whichever
22 occurs first.

ARTICLE 11.
DEFAULT AND REMEDIES

11.1 EVENTS OF DEFAULT

Each of the following shall constitute an event of default ("Event of Default") hereunder:

A. Contractor fails to perform its obligations under this Agreement, or future amendment to this Agreement, and (1) if the failure or refusal of Contractor to perform services as described in Section 5.2, Refuse Service; Section 5.3, Recycling Services; Section 5.4, Compostable Materials Program; or Section 5.5, City Facilities and Event Collection, as required by this Agreement, is not cured within two (2) business days after receiving notice from the City specifying the breach; or (2) in the case of any other breach of the Agreement, the breach continues for more than thirty (30) calendar days after written notice from the City for the correction thereof, provided that where such breach cannot be cured within such thirty- (30) day period, Contractor shall not be in default of this Agreement if Contractor shall have commenced such action required to cure the particular breach within ten (10) calendar days after such notice, and it continues such performance diligently until completed.

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

C. There is a seizure or attachment (other than a pre-judgment attachment) of, or levy affecting possession on, the operating equipment of Contract, including without limit its vehicles, maintenance, or office facilities, or any part thereof of such proportion as to substantially impair Contractor's ability to perform under this Agreement and which cannot be released, bonded, or otherwise lifted within forty-eight (48) hours excluding weekends and holidays.

D. Contractor files a voluntary petition for debt relief under any applicable bankruptcy, insolvency, debtor relief, or other similar law now or hereafter in effect, or shall consent to the appointment of or taking of possession by a receiver, liquidator, assignee (other than as a part of a transfer of equipment no longer useful to Contractor or necessary for this Agreement), trustee (other than as security for an obligation under a deed of trust), custodian, sequestrator (or similar official) of the Contractor for any part of Contractor's operating assets or any substantial part of Contractor's property, or shall make any general assignment for the benefit of Contractor's creditors, or shall fail generally to pay Contractor's debts as they become due or shall take any action in furtherance of any of the foregoing.

E. A court having jurisdiction shall enter a decree or order for relief in respect of the Contractor, in any involuntary case brought under any bankruptcy, insolvency, debtor relief, or similar law now or hereafter in effect, or Contractor shall consent to or shall fail to oppose any such proceeding, or any such court shall enter a decree or order appointing

1 a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the
2 Contractor or for any part of the Contractor's operating equipment or assets, or orders the
3 winding up or liquidation of the affairs of Contractor.

4 **F.** Contractor fails to provide reasonable assurances of performance as required
5 under Section 11.7.

6 **G.** Contractor delivers Refuse to a Disposal Site or Compostable Materials to a
7 Composting Facility other than the specific facilities designated by City, unless
8 Contractor receives written notice from City of a permanent change in designated facility,
9 or City has expressly directed Contractor in writing to temporarily transport Refuse or
10 Compostable Materials to an alternate site due to an inability of City designated facility to
11 accept materials.

12 **11.2 RIGHT TO TERMINATE UPON DEFAULT**

13 Upon a default by Contractor, the City shall have the right to terminate this Agreement
14 upon a further ten (10) days notice, but without the need for any hearing, suit or legal action.

15 **11.3 POSSESSION OF PROPERTY UPON TERMINATION**

16 In the event of termination for default, the City shall have the right to take possession of
17 any and all of Contractor's land, equipment, and other property used or useful in the Collection
18 and Transportation of Refuse, Recyclable Materials, or Compostable Materials and the billing
19 and collection of fees for these services and to use such property. The City shall have the right to
20 retain the possession of such property until other suitable arrangements can be made for the
21 provision of Refuse, Recyclable Materials, or Compostable Materials Collection services, which
22 may include the award of an Agreement to another company. If the City retains possession
23 thereof after the period of time for which Contractor has already been paid by means of bills
24 issued in advance of providing service for the class of service involved, the Contractor shall be
25 entitled to the reasonable rental value of such property (which shall be offset against any
26 damages due the City for the Contractor's default).

27 **11.4 CITY'S REMEDIES CUMULATIVE; SPECIFIC PERFORMANCE**

28 The City's right to terminate the Agreement under Section 11.2 and to take possession of the
29 Contractor's properties under Section 11.3 are not exclusive, and the City's termination of the
30 Agreement shall not constitute an election of remedies. Instead, they shall be in addition to any and
31 all other legal and equitable rights and remedies, which the City may have, including the City's right
32 to recovery on the faithful performance bond (described in Section 9.5 of this Agreement) in the
33 Event of Default.

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

38 **11.5 LIQUIDATED DAMAGES**

39 **11.5.1 GENERAL**

40 The Contractor finds, and Contractor agrees, that as of the time of the execution of this
41 Agreement, it is impractical, if not impossible, to reasonably ascertain the extent of damages

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

13 **11.5.2 SERVICE PERFORMANCE STANDARDS; LIQUIDATED DAMAGES FOR FAILURE TO**
14 **MEET STANDARDS**

15 The parties further acknowledge that consistent, reliable Refuse, Recyclable Materials,
16 and Compostable Materials Collection service is of utmost importance to City and that City has
17 considered and relied on Contractor's representations as to its quality of service commitment in
18 awarding the Agreement to it. The parties further recognize that some quantified standards of
19 performance are necessary and appropriate to ensure consistent and reliable service and
20 performance. The parties further recognize that if Contractor fails to achieve the performance
21 standards, or fails to submit required documents in a timely manner, City and its residents will
22 suffer damages and that it is and will be impractical and extremely difficult to ascertain and
23 determine the exact amount of damages which City will suffer. Therefore, without prejudice to
24 Contractor's right to treat such non-performance as an Event of Default under this Section 11.5.2,
25 the parties agree that the following liquidated damage amounts represent a reasonable estimate of
26 the amount of such damages considering all of the circumstances existing on the date of this
27 Agreement, including the relationship of the sums to the range of harm to City that reasonably
28 could be anticipated and the anticipation that proof of actual damages would be costly or
29 impractical.

30 Contractor agrees to pay (as liquidated damages and not as a penalty) the amounts set
31 forth in the Schedule of Performance Adjustments, Exhibit G.

32 City may determine the occurrence of events giving rise to liquidated damages through
33 (1) the observation of its own employees or representative, or (2) investigation of customer
34 Complaints.

35 Liquidated damages will only be assessed after Contractor has been given the opportunity
36 but failed to rectify the damages as described in this Agreement. Prior to assessing liquidated
37 damages, City shall give Contractor notice of its intention to do so. The notice will include a
38 brief description of the incident(s)/non-performance. City may review (and receive copies at
39 Contractor's expense) all information in the possession of Contractor relating to incident(s)/non-
40 performance. Contractor may, within ten (10) days after receiving the notice, request a meeting
41 with City. Contractor may present evidence in writing and through testimony of its employees
42 and others relevant to the incident(s)/non-performance. City will provide Contractor with a
43 written explanation of its determination on each incident(s)/non-performance prior to authorizing
44 the assessment of liquidated damages. The decision of the City Council shall be final.

1 **11.5.3 AMOUNT**

2 City may assess liquidated damages for each calendar day or event, as appropriate, that
3 Contractor fails to abide by the terms and provisions of this Agreement.

4 **11.5.4 TIMING OF PAYMENT**

5 Contractor shall pay any liquidated damages assessed by City within ten (10) days after
6 they are assessed. If they are not paid within the ten- (10) day period, City may proceed against
7 the letter of credit required by the Agreement or order the termination of the Agreement granted
8 by this Agreement, or both.

9 **11.6 EXCUSE FROM PERFORMANCE**

10 The parties shall be excused from performing their respective obligations hereunder in the
11 event they are prevented from so performing by reason of floods, earthquakes, other "acts of
12 God," war, civil insurrection, riots, acts of any government (including judicial action), and other
13 similar catastrophic events which are beyond the control of and not the fault of the party claiming
14 excuse from performance hereunder. Labor unrest, including but not limited to strike, work
15 stoppage or slowdown, sick-out, picketing, or other concerted job action conducted by
16 Contractor's employees or directed at Contractor is not an excuse from performance and
17 Contractor shall be obligated to continue to provide service notwithstanding the occurrence of
18 any or all of such events. In the case of labor unrest or job action directed at a third party over
19 whom Contractor has no control, the inability of Contractor to make Collections due to the
20 unwillingness or failure of the third party to provide reasonable assurance of the safety of
21 Contractor's employees while making Collections or to make reasonable accommodations with
22 respect to container placement and point of delivery, time of Collection, or other operating
23 circumstances to minimize any confrontation with pickets or the number of Persons necessary to
24 make Collections shall, to that limited extent, excuse performance and provided further that the
25 foregoing excuse shall be conditioned on Contractor's cooperation in making Collection at
26 different times and in different locations.

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

30 In the event that either party validly exercises its rights under this section, the parties
31 hereby waive any claim against each other for any damages sustained thereby.

32 The partial or complete interruption or discontinuance of Contractor's services caused by
33 one or more of the events described in this article shall not constitute a default by Contractor
34 under this Agreement. Notwithstanding the foregoing, however, (1) the existence of an excuse
35 from performance will not affect the City's rights under Section 10.1; and (2) if Contractor is
36 excused from performing its obligations hereunder for any of the causes listed in this section for
37 a period of thirty (30) days or more, other than as the result of third party labor disputes where
38 service cannot be provided for reasons described earlier in this section, the City shall
39 nevertheless have the right, in its sole discretion, to terminate this Agreement by giving ten (10)
40 days' notice, in which case the provisions of Section 11.3 will apply.

1 **11.7 RIGHT TO DEMAND ASSURANCES OF PERFORMANCE**

2 If Contractor (1) is the subject of any labor unrest including work stoppage or slowdown,
3 sick-out, picketing, or other concerted job action; (2) appears in the reasonable judgment of City
4 to be unable to regularly pay its bills as they become due; or (3) is the subject of a civil or
5 criminal judgment or order for violation of an environmental law, and the City Manager believes
6 in good faith that Contractor's ability to perform under the Agreement has thereby been placed in
7 substantial jeopardy, the City may, at its option and in addition to all other remedies it may have,
8 demand from Contractor reasonable assurances of timely and proper performance of this
9 Agreement, in such form and substance as the City Manager believes in good faith is reasonably
10 necessary in the circumstances to evidence continued ability to perform under the Agreement. If
11 Contractor fails or refuses to provide satisfactory assurances of timely and proper performance in
12 the form and by the date required by City, such failure or refusal shall be an Event of Default for
13 purposes of Section 11.1.

ARTICLE 12.
OTHER AGREEMENTS OF THE PARTIES

12.1 RELATIONSHIP OF PARTIES

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

12.2 COMPLIANCE WITH LAW

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

12.3 GOVERNING LAW

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

12.4 JURISDICTION

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

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

12.5 GUARANTY OF CONTRACTOR'S PERFORMANCE

The letter of credit described in Section 9.5 in a form acceptable to the City shall guarantee Contractor's performance of this Agreement. The Guaranty is being provided concurrently with Contractor's execution of this Agreement.

12.6 ASSIGNMENT

Neither party shall assign its rights nor delegate or otherwise transfer its obligations under this Agreement to any other Person without the prior written consent of the other party. Any such assignment made without the consent of the other party shall be void and the attempted assignment shall constitute a material breach of this Agreement.

1 For purposes of this section, "assignment" shall include but not be limited to (i) a sale,
2 exchange, or other transfer of substantially all of Contractor's assets dedicated to service under
3 this Agreement to a third party; (ii) a sale, exchange, or other transfer of 10 percent (10%) or
4 more of the outstanding common stock of Contractor or parent company or holding company to a
5 Person other than a direct family member or trust that exclusively benefits family members; (iii)
6 any reorganization, consolidation, merger, recapitalization, stock issuance or re-issuance, voting
7 trust, pooling agreement, escrow arrangement, liquidation or other transaction to which
8 Contractor, parent company, or holding company or any of its shareholders is a party which
9 results in a change of ownership or control of 10 percent (10%) or more of the value or voting
10 rights in the stock of Contractor or a parent company, or holding company; and (iv) any
11 combination of the foregoing (whether or not in related or contemporaneous transactions) which
12 has the effect of any such transfer or change of ownership. For purposes of this section, the term
13 "proposed assignee" shall refer to the proposed transferee(s) or other successor(s) in interest
14 pursuant to the assignment.

15 Contractor acknowledges that this Agreement involves rendering a vital service to City's
16 residents and businesses, and that City has selected Contractor to perform the services specified
17 herein based on (1) Contractor's experience, skill and reputation for conducting its Refuse
18 management operations in a safe, effective and responsible fashion, at all times in keeping with
19 applicable waste management laws, regulations and good waste management practices, and (2)
20 Contractor's financial resources to maintain the required equipment and to support its indemnity
21 obligations to City under this Agreement. City has relied on each of these factors, among others,
22 in choosing Contractor to perform the services to be rendered by Contractor under this
23 Agreement.

24 If Contractor requests City's consideration of and consent to an assignment, City may
25 deny or approve such request in its complete discretion. No request by Contractor for consent to
26 an assignment need be considered by City unless and until Contractor has met the following
27 requirements:

28 **A)** Contractor shall undertake to pay City its reasonable expenses for attorneys' fees
29 and investigation costs necessary to investigate the suitability of any proposed assignee,
30 and to review and finalize any documentation required as a condition for approving any
31 such assignment;

32 **B)** Contractor shall furnish City with audited financial statements of the proposed
33 assignee's operations for the immediately preceding three (3) operating years;

34 **C)** Contractor shall furnish City with satisfactory proof that (i) the proposed assignee
35 has at least ten (10) years of Refuse management experience on a scale equal to or
36 exceeding the sale of operations conducted by Contractor under this Agreement; that (ii)
37 in the last five (5) years, the proposed assignee has not suffered any citations or other
38 censure from any federal, state or local contractor having jurisdiction over its waste
39 management operations due to any significant failure to comply with federal, state, or
40 local waste management laws and that the assignee has provided the City with a complete
41 list of such citations and censures; that (iii) the proposed assignee has at all times
42 conducted its operations in an environmentally safe and conscientious fashion; that (iv)
43 the proposed assignee conducts its Refuse management practices in accordance with

1 sound waste management practices in full compliance with all federal, state and local
2 laws regulating the Collection and Disposal of waste, including Hazardous Waste as
3 identified in Title 22 of the California Code of Regulations; and (v) of any other
4 information required by City to ensure the proposed assignee can fulfill the terms of this
5 Agreement in a timely, safe and effective manner.

6
7 Under no circumstances shall any proposed assignment be considered by City if
8 Contractor is in default at any time during the period of consideration.

9 Should City grant the proposed assignment, it is expressly understood that there shall be
10 no increase in costs to the services provided of any kind resulting directly or indirectly from the
11 assignment or the acquisition of the Contractor.

12 **12.7 SUBCONTRACTING**

13 Contractor shall not engage any subcontractors for Collection, Processing, or Disposal of
14 Refuse, Recyclable Materials, and Compostable Materials without the prior written consent of
15 the City.

16 **12.8 BINDING ON SUCCESSORS**

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

19 **12.9 TRANSITION TO NEXT CONTRACTOR**

20 At the point of transition, Contractor will take direction from the City and subsequent
21 Contractor(s) to assist in an orderly transition, which will include Contractor providing route lists
22 and billing information. Contractor will not be obliged to sell Collection vehicles to the next
23 Contractor. Depending on Contractor's circumstances at the point of transition, the Contractor at
24 its option may enter into negotiations with the next Contractor to sell (in part or all) Collection
25 vehicles.

26 In connection therewith, Contractor acknowledges that the provisions of Public Resources
27 Code Sections 49520-49523 have no application to this Agreement and agrees, to the extent such
28 sections may have application, to waive whatever rights they may afford.

29 **12.10 PARTIES IN INTEREST**

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

33 **12.11 WAIVER**

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

1 **12.12 CONTRACTOR'S INVESTIGATION**

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

4 **12.13 CONDEMNATION**

5 The City fully reserves the rights to acquire the Contractor's property utilized in the
6 performance of this Agreement by purchase or through the exercise of the right of eminent
7 domain.

8 **12.14 NOTICE**

9 All notices, demands, requests, proposals, approvals, consents, and other communications
10 which this Agreement requires, authorizes, or contemplates all, except as provided in Section
11 10.1, be in writing and shall either be personally delivered to a representative of the parties at the
12 address below or be deposited in the United States mail, first class postage prepaid, addressed as
13 follows:
14
15

16 If to City: City Manager
17 City of Rohnert Park
18 6750 Commerce Boulevard
19 Rohnert Park, CA 94928
20

21
22 If to Contractor: Rick Powell, President
23 Rohnert Park Disposal, Inc
24 P.O. Box 1916
25 Santa Rosa, CA 95402
26

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

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

31 **12.15 REPRESENTATIVES OF THE PARTIES**

32 References in this Agreement to the "City" shall mean the City Council and all actions to
33 be taken by the City shall be taken by the City Council except as provided below. The City
34 Council may delegate, in writing, authority to the City Manager, the Director of the Department
35 of Public Works and/or to other City officials and may permit such officials, in turn, to delegate
36 in writing some or all of such authority to subordinate officers. The Contractor may rely upon
37 actions taken by such delegates if they are within the scope of the authority properly delegated to
38 them.

39 The Contractor shall, by the Effective Date, designate in writing a responsible officer who
40 shall serve as the representative of the Contractor in all matters related to the Agreement and
41 shall inform the City in writing of such designation and of any limitations upon his or her

1 authority to bind the Contractor. The City may rely upon action taken by such designated
2 representative as actions of the Contractor unless they are outside the scope of the authority
3 delegated to him/her by the Contractor as communicated to City.

4 **12.16 CITY FREE TO NEGOTIATE WITH THIRD PARTIES**

5 The City may investigate all options for the Collection and Disposal of Refuse after the
6 expiration of the Term. Without limiting the generality of the foregoing, the City may solicit
7 proposals from Contractor and from third parties for the provision of Collection services,
8 Disposal services, Recycling services, Compostable Materials Collection and composting, and
9 any combination thereof, and may negotiate and execute Agreements for such services which
10 will take effect upon the expiration or earlier termination under Section 11.2 of this Agreement
11 and/or the Recycling Agreement.

12 **12.17 STATEMENTS AND SUPPLEMENTAL INFORMATION**

13 The Contractor has submitted supplemental information dated February 8, 2001, limiting
14 the cost of disposal tonnage to 20,858 tons per year and during its interview on January 8, 2001,
15 and any other information submitted to the City supplementary thereto, on which the City has
16 relied in awarding this Agreement to Contractor and entering into this Agreement, does not
17 contain any untrue statement of a material fact nor omit to state a material fact necessary in order
18 to make the statements made, in light of the circumstances in which they were made, not
19 misleading.

ARTICLE 13.
MISCELLANEOUS AGREEMENTS

13.1 ENTIRE AGREEMENT

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

13.2 SECTION HEADINGS

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

13.3 REFERENCES TO LAWS

All references in this Agreement to laws shall be understood to include such laws as they may be subsequently amended or recodified, unless otherwise specifically provided.

13.4 INTERPRETATION

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

13.5 AMENDMENT

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

13.6 SEVERABILITY

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

13.7 COUNTERPARTS

This Agreement may be executed in counterparts each of which shall be considered an original.

13.8 EXHIBITS

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

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

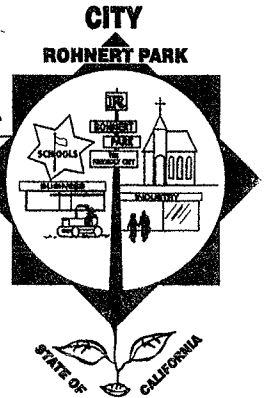
1
2
3 ATTEST:

4
5 City CLERK

6
7 By Judy Hauff
8 Deputy City Clerk
9

City OF ROHNERT PARK ("City")

By Joe DeLacruz
Mayor



10
11
12 APPROVED AS TO FORM:

13
14 Petey Prance
15
16 City Attorney
17

18
19 APPROVED AS TO FORM:

20
21 Albert Bianchi
22 Contractor's Attorney
23

Rick Powell

24
25 By: Rick Powell
26 Name: Rick Powell
27 Title: President
28

29 By: Peggy Pronzini
30 Name: Peggy Pronzini
31 Title: Secretary

EXHIBIT A
CITY SERVICE LOCATIONS

Contractor shall provide containers and collection of Refuse, Recyclable Materials and Compostable Materials for all City Facilities. Servicing of all City Facilities shall be provided at no additional charge to the City, as costs for these services are included in the Contractor's bid and compensation. Exhibit A-1 lists City Facilities to be serviced. If the City purchases, builds or disposes of any facilities during the term of this Agreement, such facilities shall be added or deleted from City facilities to be serviced by Contractor, with no change in payment, upon notification of Contractor by City.

Exhibit A-1. lists the current containers and frequency of service being provided City by Waste Management as of the date of signing of this Agreement. The level of recycling services to be provided City facilities by Contractor effective July 1, 2001 and thereafter, shall be adjusted to provide sufficient recycling capacity at all facilities to divert at least 50% of the City facilities waste stream. Contractor shall regularly evaluate and monitor City collection needs and provide employee education to maximize diversion.

CURRENT SERVICES PROVIDED TO CITY FACILITIES

[illegible]

**** Public Works Corp Yard has 4 Roll-off Boxes, 2 for Refuse and 2 for Yard Waste**

EXHIBIT B

CITY-SPONSORED EVENTS

EXHIBIT B

FOUNDERS' DAY EVENT

City of Rohnert Park Community Participation Event

Held Annually In Late September On A Saturday Selected By City

Contractor shall provide the following for the Founders' Day Event:

- One (1) roll-off box for the collection of refuse
- A large container to collect the recyclable containers collected from Alicia Park.
- Eight (8) 96-gallon (or equivalent) wheeled carts for the collection of horse dropping on the parade route.
- Ten (10) cardboard trash receptacles for the collection of trash.
- Ten (10) cardboard recycling receptacles with a cover and labeling for the collection of beverage containers.

Contractor will provide above materials the Friday before the event and collect all refuse and recycling from designated containers on Monday morning.

OTHER EVENTS

Contractor shall provide appropriately sized containers or roll-off boxes for both refuse and recycling at other public participation events which may be subsequently scheduled by the City during the term of the contract.

EXHIBIT C
REFUSE RATES

As of the effective date of this Agreement, the refuse rates in effect are as shown in the following Exhibit.

EXHIBIT C-1

REFUSE AND RECYCLABLE MATERIAL RATES

RESIDENTIAL TRASH COLLECTION RATES – ROHNERT PARK DISPOSAL

EFFECTIVE 07-01-01

20-GALLON TRASH CONTAINER	1 MONTH RATE	2 MONTH RATE
	\$ 7.00	\$ 14.00
32-GALLON TRASH CONTAINER	1 MONTH RATE	2 MONTH RATE
	\$ 9.36	\$ 18.72
68-GALLON TRASH CONTAINER	1 MONTH RATE	2 MONTH RATE
	\$ 12.19	\$ 24.38
95-GALLON TRASH CONTAINER	1 MONTH	2 MONTH RATE
	\$ 18.68	\$ 37.36

Extra Trash	\$ 5.00/per bag
Contaminated Yard Waste	\$15.00/per container
Change in Trash Container	\$ 5.00/per request (first time each fiscal year is free)

COMMERCIAL TRASH COLLECTION RATES – ROHNERT PARK DISPOSAL

Container Size	Collections/week	Cost/Month	Bi-Monthly Cost
32-GAL. CART	1 Time Per Week	\$ 10.40/unit or business	\$ 20.80
68-GAL. CART	1 Time Per Week	\$ 13.55/unit or business	\$ 27.10
95-GAL. CART	1 Time Per Week	\$ 20.75/unit or business	\$ 41.50
1-1/2 YARD BIN	1 Time Per Week	\$ 98.25	\$ 196.50
2 YARD BIN	1 Time Per Week	\$ 128.70	\$ 257.40
3 YARD BIN	1 Time Per Week	\$ 184.65	\$ 369.30
3 YARD BIN	2 TIMES PER WEEK	\$ 272.70	\$ 545.40
3 YARD BIN	3 Times Per Week	\$ 362.50	\$ 725.00
3 YARD BIN	4 Times Per Week	\$ 447.15	\$ 894.30
3 YARD BIN	5 Times Per Week	\$ 535.25	\$ 1,070.50
3 YARD BIN	6 Times Per Week	\$ 624.95	\$ 1,249.90
4 YARD BIN	1 Time Per Week	\$ 218.55	\$ 437.10
4 YARD BIN	2 Times Per Week	\$ 337.05	\$ 674.10
4 YARD BIN	3 Times Per Week	\$ 447.15	\$ 894.30
4 YARD BIN	4 Times Per Week	\$ 564.10	\$ 1,128.20
4 YARD BIN	5 Times Per Week	\$ 677.55	\$ 1,355.10
4 YARD BIN	6 Times Per Week	\$ 787.60	\$ 1,575.20
6 YARD BIN	1 Time Per Week	\$ 254.15	\$ 508.30
6 YARD BIN	2 Times Per Week	\$ 421.80	\$ 843.60
6 YARD BIN	3 Times Per Week	\$ 550.55	\$ 1,101.10
6 YARD BIN	4 Times Per Week	\$ 699.60	\$ 1,399.20
6 YARD BIN	5 Times Per Week	\$ 846.90	\$ 1,693.80
6 YARD BIN	6 Times Per Week	\$ 996.00	\$ 1,992.00

EXHIBIT C-2

MOBILE HOME PARKS

	1 MONTH RATE
ADULTS ONLY	\$ 8.55/each Occupied Unit
Not Restricted to Adults Only	\$ 10.40/each Occupied Unit

SPECIAL COLLECTION

A special collection of rubbish shall consist of any collection not included with the established monthly rate and shall include any bulky items which cannot be placed within the regularly used collection receptacle.

SPECIAL COLLECTION	\$ 14.75/Cubic Yard or Fraction thereof.
--------------------	--

COMMERCIAL COMPACTOR

1 TIME PER WEEK	\$ 46.75/Cubic Yard
More than 1 Time per Week	Rate Negotiated between Business & Contract Agent

FREE SERVICE TO THE CITY

ALL CITY-OWNED FACILITIES	Free
PUBLIC BUS STOPS	Free

Where a complete bin is not regularly utilized, the rate may be adjusted with the consent of the City. Where a type of bin service is provided for which no rate is provided by resolution, a comparable rate may be established by the Contract Agent with the written consent of the City Manager.

All business conducted in a residence must pay the business rate for all solid waste, rubbish and refuse handled.

The Contract Agent shall make available bins for the collection of solid waste, rubbish and refuse to all business establishments and apartment houses, when requested by the owners or required by the City.

The City shall have the right to require that apartment houses, condominiums, planned developments and other multi-family residential units utilize bins for the collection of solid waste, rubbish and refuse.

EXHIBIT D
ANNUAL CLEANUPS

EXHIBIT D

ANNUAL CLEANUPS

Contractor shall set up and staff two annual ten day Community Clean-Up Events scheduled by City and Contractor. One event shall be held in the spring (usually April) and one in the fall (October or November). Contractor shall accept the items listed below and shall provide re-use areas and recycling containers for Recyclable Materials. Containers shall be exchanged in a timely manner when full and recycled or disposed of.

Re-use (when possible)

- Furniture, appliances (refrigerators, freezers, or air conditioners)
- Clothes, toys, and other re-usable items

Contractor shall arrange with re-use profit and not-for-profit organization(s) to collect reusable items.

Recycling

- Clean cardboard
- Newspapers
- Compostable Materials
- Wood Waste
- Recyclable container materials (e.g., glass, plastic, aluminum)
- Scrap metals
- Tires

Refuse

- Materials that cannot be re-used or recycled shall be disposed of as Refuse, and transported to the Sonoma County Central Landfill.
- Sonoma County Landfill offers 10 days of free disposal to the City for Community Clean-Up, which is used for free disposal of materials collected at spring Community Clean-Up. There are no disposal fees charged for spring Community Clean-Up.
- Sonoma County Landfill charges disposal fees for fall Community Clean-Up. Contractor may pass through disposal costs to City by billing City and providing landfill charge slips.

EXHIBIT E

RESIDENTIAL RECYCLABLE MATERIALS TO BE COLLECTED (SINGLE-FAMILY RESIDENCES AND MULTI-FAMILY COMPLEXES)

EXHIBIT E

RESIDENTIAL RECYCLABLE MATERIALS TO BE COLLECTED (SINGLE-FAMILY RESIDENCES AND MULTI-FAMILY COMPLEXES)

The Single Stream Mixed Recyclable Materials shall include:

PAPER MATERIALS

- | | |
|------------------------|------------------|
| • Newspaper | • Post-it Notes |
| • Corrugated cardboard | • Catalogs |
| • Mixed paper | • Manuals |
| • Junk mail | • Colored Paper |
| • Phone books | • Stationary |
| • Magazines | • Shredded Paper |
| • Office Paper | • NCR Paper |
| • Computer paper | |
| • Envelopes | |

PAPER CARTONS/BOXES/BAGS

- Paper Egg Cartons
- Brown Paper Cartons
- Milk & Soy Milk Cartons
- Juice Cartons
- Cereal Boxes
- Shoe Boxes
- Cracker/Snack Boxes
- Tissue Boxes
- Frozen Food Boxes
- Paper Grocery Bags

METAL

- Aluminum cans
- Metal cans
- Empty aerosol cans
- Lids from Jars

GLASS

- Beer, Wine and Liquor Bottles
- Other Glass Food and Beverage Containers
- Jars

PLASTIC

- Plastic containers (1-7)
- Plastic Water and Beverage Bottles
- Milk containers
- Laundry Product Bottles
- Shampoo Bottles

USED MOTOR OIL AND FILTERS SHALL BE COLLECTED SEPARATELY

EXHIBIT F

COMMERCIAL RECYCLABLE MATERIALS TO BE COLLECTED

EXHIBIT F

COMMERCIAL RECYCLABLE MATERIAL STREAMS

CLEAN CARDBOARD BINS/CARTS

- Old corrugated cardboard (OCC)

MIXED PAPER MATERIALS BINS/CARTS

- | | |
|------------------------|--|
| • White Ledger Paper | • Craft Paper |
| • Colored Ledger Paper | • Computer Paper |
| • Mixed Office Paper | • Possible OCC in mix for more effective routing |

MIXED (SINGLE STREAM) RECYCLING BINS/CARTS

PAPER MATERIALS:

- | | |
|------------------------|---------------------------|
| • Newspaper | • Phone books |
| • Corrugated cardboard | • Magazines |
| • Mixed paper | • File Folders |
| • Colored Paper | • Paper Egg Cartons |
| • Computer Paper | • Brown Paper Cartons |
| • Envelopes | • Milk & Soy Milk Cartons |
| • Post-it Notes | • Juice Cartons |
| • Catalogs | • Cereal Boxes |
| • Manuals | • Shoe Boxes |
| • Stationary | • Cracker/Snack Boxes |
| • Shredded Paper | • Tissue Boxes |
| • NCR Paper | • Frozen Food Boxes |
| • Junk mail | • Paper Grocery Bags |

METAL MATERIALS:

- | | |
|-----------------|----------------------|
| • Aluminum cans | • Empty aerosol cans |
| • Metal cans | • Lids from Jars |

GLASS MATERIALS:

- | | |
|---------------------------------|--|
| • Beer, Wine and Liquor Bottles | • Other Glass Food and Beverage Containers |
| • Jars | |

PLASTIC MATERIALS:

- Plastic containers (1-7)
- Plastic Water and Beverage Bottles
- Milk containers

EXHIBIT G
SCHEDULE FOR PERFORMANCE ADJUSTMENTS
[LIQUIDATED DAMAGES]

EXHIBIT G

SCHEDULE FOR PERFORMANCE ADJUSTMENTS LIQUIDATED DAMAGES FOR FAILURE TO MEET STANDARDS

COLLECTION RELIABILITY

1	For each failure to notify the appropriate authorities of reportable quantities of Hazardous Waste per Article 5.6:	\$500.00
2	For failure to maintain the collection schedule on the scheduled day (unless non-collection was warranted pursuant to this Agreement):	\$25.00/can
3	For each failure over five (5) annually to commence service to a new customer within four (4) working days after order received and account number established:	\$150.00
4	For each failure over fifteen (15) annually to collect refuse, recyclable materials or compostable materials which has been properly set out for collection from an established service recipient account on the scheduled collection day and not collected within a period described in this Agreement:	\$75.00
5	For each failure to collect refuse, recyclable materials or plant materials which has been properly set out for collection, from the same service recipient on two (2) consecutive scheduled pickups:	\$50.00
6	For each failure to prepare for or properly conduct special collections as described in Article 5.2.:	\$250.00

COLLECTION QUALITY

7	For each occurrence over five (5) annually of unreasonable leaking or spilling Solid Waste or Recyclable Materials and failure to pick up or clean up such material immediately:	\$300.00
8	For each occurrence over twelve (12) annually of failure to replace cans in original position, upright, with lids in or on cans:	\$150.00
9	For each failure over twenty-four (24) annually of not closing gate, crossing planted areas or other damage to private property:	\$300.00
10	For each occurrence over five (5) annually of collecting Refuse, Recyclable Materials, and Plant Materials during unauthorized hours:	\$300.00
11	For each occurrence over twelve (12) of excessive noise assessed based on random checks of Contractor's equipment in accordance with Article 5.9.4:	\$300.00
12	For each failure over twelve (12) annually of not tagging containers which are left:	\$150.00
13	For each occurrence over five (5) annually of failure to clean collection vehicles one time per week, as described in Article 5.10.5B:	\$150.00
14	For each failure to power wash public Solid Waste and recyclable materials receptacles, lids and metal liners twice a year:	\$150.00/can
15	For each occurrence over five (5) annually of damage to property that is not repaired in 30 days:	\$250.00

REPORTING

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

16	Monthly Reports:	\$100.00/day
17	Quarterly Reports:	\$200.00/day
18	Semi-Annual Reports:	\$300.00/day
19	Annual Reports:	\$300.00/day
20	Failure to report any complaint or request on customer telephone call log:	\$50.00/incident

EXHIBIT G PAGE 2**CUSTOMER RESPONSIVENESS**

21	For each occurrence of unreasonably discourteous behavior:	\$500.00
22	For each failure to respond to and initiate a remedy to a complaint within eight (8) working hours after notification by the City:	\$300.00
23	For each failure to answer the telephone or answering machine during the hours specified in Article 6.10.3:	\$300.00
24	For each failure to respond to service requests/calls within 24 hours as specified in Article 6.10.3:	\$300.00
25	For each failure to collect missed collections in a timely manner:	\$300.00
26	For each occurrence over five (5) annually for complaints regarding waiting on hold for more than two (2) minutes as specified in Article 6.10.4:	\$150.00

EDUCATION RESPONSIBILITIES

Failure to distribute any required public educational materials, failure to provide a Recycling Specialist working solely on City public education tasks for the specified number of days or hours, or failure to complete specific tasks in accordance with the duties and time schedule prescribed in Article 5, shall result in the following Performance Adjustments:

27	For each day of failure during the initial three month period from July 1, 2001, to September 30, 2001, to provide a full time education coordinator (8 hours per work day, 40 hours per week) solely for City of Rohnert Park delivering all the required multifamily and commercial public education services specified in Article 5:	\$200.00/day
28	For each day of failure, October 1, 2001 and thereafter, to provide eight (8) hours per week of Recycling Specialist time devoted solely to City of Rohnert Park public education and/or failure to deliver all the ongoing commercial and multifamily public education services specified in Article 5:	\$300.00/day
29	For failure to initially notify each Single Family Residence about the used oil and filter Recycling program, and/or each failure to provide semi-annual education materials on used oil recycling to all Single Family Residences:	\$300.00/for each event
30	For each failure to distribute required quarterly education materials or semi-annual newsletters to all Single Family Residences, Commercial/Multifamily building owners, Multifamily Tenants and Commercial Businesses:	\$500.00/for each event
31	For each failure to distribute required initial education materials or "how to recycle" brochures to all Single Family Residences, Commercial/Multifamily building owners, Multifamily Tenants and Commercial Businesses per Article 5:	\$500.00/for each event
32	For failure to visit at least 100 Commercial Generators annually and provide one-on-one recycling education, technical aid or help in achieving 50% diversion:	\$15.00 per business

MISCELLANEOUS

33	Failure to perform any of the obligations set forth in this Agreement not specifically stated above and not corrected or proceeding in good faith to correct within twenty-four (24) hours upon 24 hour Notification by City:	\$150.00/for each
----	---	-------------------

In placing Designee's initials at the places provided, each party specifically agrees to the performance adjustments stated above and the fact that each party has had ample opportunity to consult with legal counsel and obtain an explanation of liquidated damage provisions at the time Agreement was made.

Contractor

City

Initial Here: _____

Initial Here: _____

EXHIBIT H
CONTRACTOR HOLIDAY LIST

EXHIBIT H
CONTRACTOR HOLIDAY LIST

Holidays Contractor's Office May Be Closed:

- New Year's Day
- Presidents Day
- Memorial Day
- Fourth of July
- Labor Day
- Thanksgiving Day
- Christmas Day

Holidays Delivery Service May Be Observed:

- New Year's Day
- Fourth of July
- Labor Day
- Thanksgiving Day
- Christmas Day

Some commercial accounts may require Collection on the observed holidays.

EXHIBIT I

STREET SWEEPING MAPS AND SCHEDULES

City of Rohnert Park

PUBLIC WORKS DEPARTMENT

TO: All Personnel	DATE: April 24, 2001
FROM: Karen Schlesinger, Secretary Schedule - Timed Streets	SUBJECT: Street Sweeping

MONDAY SCHEDULE: (TIMED STREETS)

6am to 10am: Seed Farm Drive from Enterprise south to Santa Alicia

WEDNESDAY SCHEDULE: (TIMED STREETS)

8 am to 11am: Country Club Drive from Golf Course to Fairway
6 am to 11am: Santa Cruz Way from Country Club to San Benito
6 am to 11am: Golf Course Drive from 1000 to 1031 south side
6 am to 11am: Eleanor Ave from 1000 to 1018 north side
6 am to 11am: Emily Ave north of Eleanor
9 am to 11am: Joanne Court
9 am to 11am: Kirsten Court

THURSDAY SCHEDULE: (TIMED STREETS)

9 am to 11am: Civic Center Drive from Country Club to San Simeon
9 am to 11am: Copeland Creek Drive between Country Club Drive and Cedar Circle
9 am to 11am: Beverly Drive from Bonnie Ave to East Cotati
9 am to 11am: Country Club Drive from Copeland Creek to Civic Center
7 am to 11am: Cristobal Road (6 signs) 4/24/01

FRIDAY SCHEDULE: (TIMED STREETS)

8 am to 11am: West Side: Boris Court - from Southwest Blvd to Santa Barbara Drive
8 am to 11am: East Side: Boris Court - from Southwest Blvd to Santa Barbara Drive
6 am to 11am: Avram Ave - in front of Sonoma Villas
8 am to 11am: Adrian Drive - from Southwest Blvd., to College View Drive

BIKE PATHS: Every other week - beginning 1/28/99

"DAILY" STREET SWEEPING SCHEDULE

MONDAYS: F section, and commercial areas
TUESDAYS: H, G, J, sections, and islands in commercial areas
WEDNESDAYS: D, E, S, sections
THURSDAYS: C, L, M, R, sections and east-B section
FRIDAYS: A section and west-B section

RPDPW:w.streetsweepsch.01
4/24/01:ks

EXHIBIT J Bike Ways Map

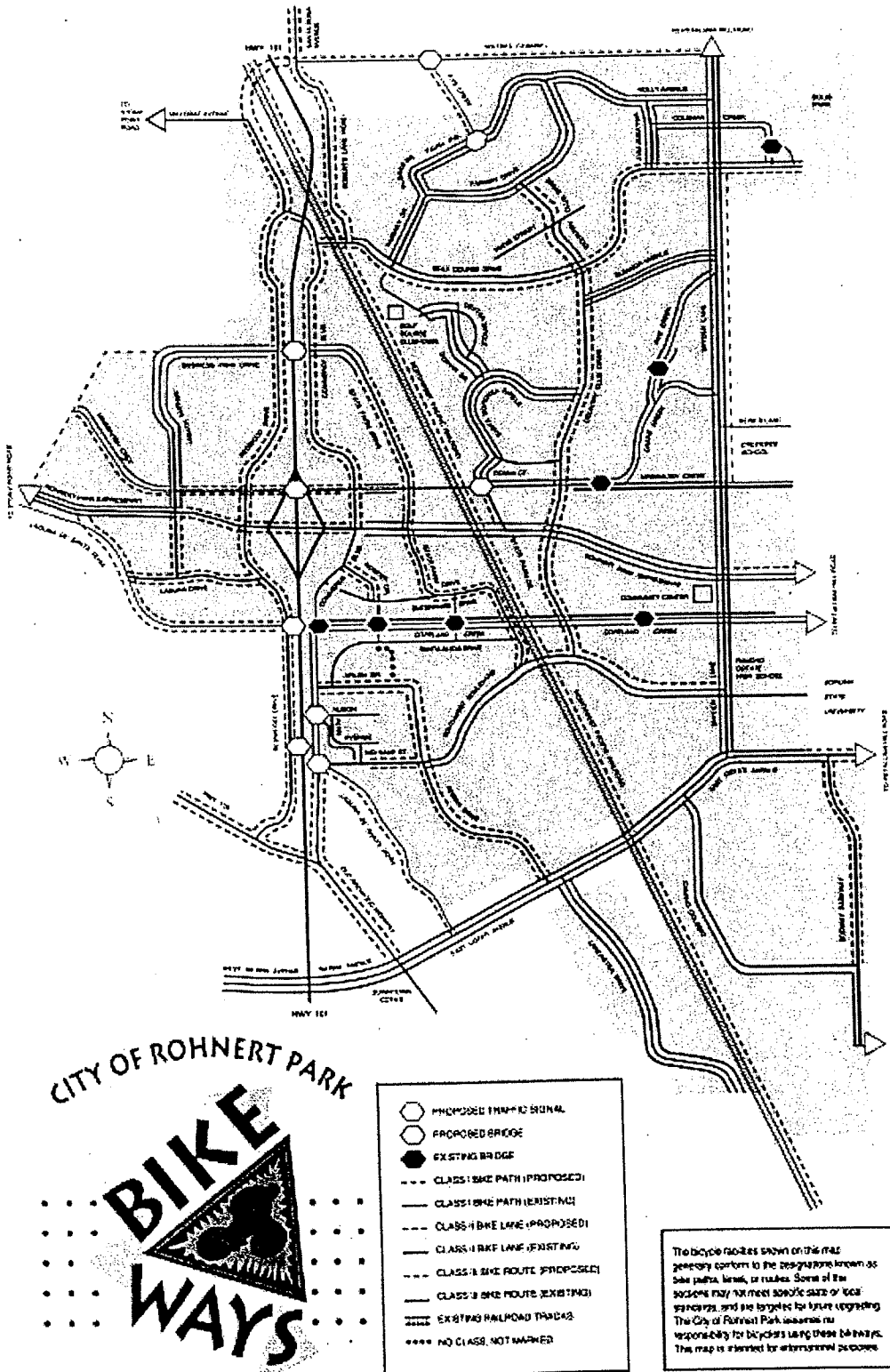


EXHIBIT J

NOTARY'S CERTIFICATION

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No. 5907

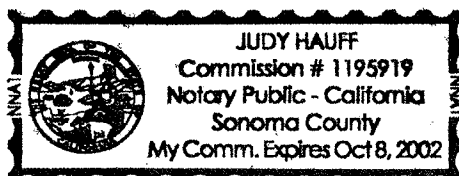
State of California

County of Sonoma

On June 19, 2001 before me, Judy Hauff, Notary Public,
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared Rick Powell,
NAME(S) OF SIGNER(S)

☐ personally known to me - **OR** - ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Judy Hauff
SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- ☐ INDIVIDUAL
☐ CORPORATE OFFICER

TITLE(S)

- ☐ PARTNER(S) ☐ LIMITED
☐ GENERAL

- ☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

DESCRIPTION OF ATTACHED DOCUMENT

Final Agreement Between the
 City of Rohnert Park & Rohnert Park
 Disposal, Incorporated

TITLE OR TYPE OF DOCUMENT

Eighty-four (84)

NUMBER OF PAGES

June 19, 2001

DATE OF DOCUMENT

None at this time and date for this
 document by this notary.

SIGNER(S) OTHER THAN NAMED ABOVE

EXHIBIT K

SAMPLE MONTHLY/QUARTERLY DATA REPORTING FORM

Design of Data Reporting Forms is not complete as of the Effective Date of this Agreement. Contractor and City will work together to mutually determine the design and number of forms required to most efficiently meet the reporting requirements in this Agreement. City shall have final authority and approval over content and number of forms.

Upon completion of Sample Monthly/Quarterly Reporting Forms, copies will be attached to this Exhibit K

EXHIBIT L

ALLOCATION METHODOLOGY FOR REPORTING OF TONNAGE DATA

EXHIBIT L

ALLOCATION METHODOLOGY FOR REPORTING OF TONNAGE DATA

Tons will be allocated as required under the contract by calculating contracted service volumes by service type and multiplying the calculated percentage by type by the total tons being allocated.

Example

Front-Loader Route

Multi-Family Bins:	50 Yards per Month/"Contracted"
Commercial Bins:	<u>200</u> Yards per Month/"Contracted"
Total	250 Yards per Month/"Contracted"
Total Tons	80 Disposed by Front-Loaders
Multi-Family	20% (50 Yards/250 Yards) x 80 Tons = 16
Commercial	80% (200 Yards/250 Yards) x 80 Tons = 64

EXHIBIT M

INITIAL BASIS FOR RELATED PARTY PAYMENTS

EXHIBIT M

INITIAL BASIS FOR RELATED PARTY PAYMENTS

Single Stream Recyclables Processing and Marketing Fee\$50.00/Ton

Annual Adjustment at 80% of the Change in the "San Francisco-Oakland-San Jose Metropolitan Area Consumer Price Index [Urban Wage Earners; 1982-84 = 100]" between the monthly index in February of one year and February of the following year.

EXHIBIT N

CITY INSURANCE ENDORSEMENT FORMS

INSURER Specialty National
POLICY NO: 3XZ12635201
ENDORSEMENT NO:

ISO FORM CG 20 10 11 85 (MODIFIED)
COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY, PLEASE READ IT CAREFULLY

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

Name of Organization:

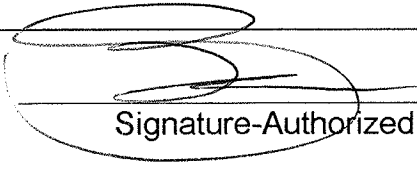
City of Rohnert Park
6800 Hunter Drive
P.O. Box 1489
Rohnert Park, CA 94927-1489

(If no entry appears above, the information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement).

WHO IS INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule but only with respect to liability arising out of "your work" performed for that insured.

Modifications to ISO for CG 20 10 11 85

1. The insured scheduled above includes the insured's elected or appointed officers, officials, employees and volunteers.
2. This insurance shall be primary as respects the insured shown in the schedule above, or if excess, shall stand in an unbroken chain of coverage excess of the Named Insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the Insured scheduled above shall be in excess of this insurance and shall not be called upon to contribute with it.
3. The insurance afforded by this policy shall not be canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Entity.
4. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insurance would be invalid under Subdivision (b) of Section 2782 of the Civil Code.


Signature-Authorized Representative

765 Baywood Drive, Suite 340

Address

Petaluma, CA 94954

CERTIFICATE OF INSURANCE**CITY OF ROHNERT PARK** (the "City")

ISSUE DATE (MM/DD/YY)

06/29/01

PRODUCER

Commercial Lines Unit
ABD Insurance & Financial Services
765 Baywood Drive, Suite 340
Petaluma, CA 94954

THIS CERTIFICATE OF INSURANCE IS NOT AN INSURANCE POLICY AND DOES NOT
AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES
BELOW.

COMPANIES**BEST'S
RATING**

COMPANY
LETTER **A** Specialty National A XV

COMPANY
LETTER **B** Great American A XII

COMPANY
LETTER **C** State Comp. Ins. Fund B+ XIII

COMPANY
LETTER **D** _____

COMPANY
LETTER **E** _____

INSURED

Rohnert Park Disposal, Inc.
P.O. Box 1916
Santa Rosa, CA 95402

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY
REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY
THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	ALL LIMITS IN THOUSANDS	
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR. <input type="checkbox"/> OWNER'S & CONTRACTOR'S PROT. <input type="checkbox"/> OTHER _____	3XZ12635201	07/01/01	07/01/02	GENERAL AGGREGATE	\$ 2000
					PRODUCTS-COMP/OPS AGGREGATE	\$ 2000
					PERSONAL & ADVERTISING INJURY	\$ 1000
					EACH OCCURRENCE	\$ 1000
					FIRE DAMAGE (Any one fire)	\$ 100
					MEDICAL EXPENSE (Any one person)	\$ 5
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS <input checked="" type="checkbox"/> GARAGE LIABILITY	3XZ12635201	07/01/01	07/01/02	COMBINED SINGLE LIMIT	\$ 1000
					BODILY INJURY (Per person)	\$
					BODILY INJURY (Per accident)	\$
					PROPERTY DAMAGE	\$
					EACH OCCURRENCE	\$ 10000
					AGGREGATE	\$ 10000
B	EXCESS LIABILITY <input checked="" type="checkbox"/> UMBRELLA <input type="checkbox"/> OTHER THAN UMBRELLA FORM	TUU3577989	07/01/01	09/04/01	X STATUTORY	
					EACH ACCIDENT	\$ 1000
					DISEASE-POLICY LIMIT	\$ 1000
					DISEASE-EACH EMPLOYEE	\$ 1000
C	WORKER'S COMPENSATION AND EMPLOYERS' LIABILITY	48127300	10/01/00	10/01/01	AMOUNT OF INSURANCE	\$
	PROPERTY INSURANCE <input type="checkbox"/> COURSE OF CONSTRUCTION					

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

RE: Refuse/Recycling Contract

THE FOLLOWING PROVISIONS APPLY:

1. None of the above-described policies will be canceled until after 30 days' written notice has been given to the City at the address indicated below.
2. The City, its officials, officers, employees and volunteers are added as insureds on all liability insurance policies listed above.
3. It is agreed that any insurance or self-insurance maintained by the City will apply in excess of and not contribute with, the insurance described above.
4. The City is named a loss payee on the property insurance policies described above, if any.
5. All rights of subrogation under the property insurance policy listed above have been waived against the City.
6. The workers' compensation insurer named above, if any, agrees to waive all rights to subrogation against the City for injuries to employees of the insured resulting from work for the City or use of the City's premises or facilities.

CERTIFICATE HOLDER/ADDITIONAL INSURED

(CITY)CITY OF ROHNERT PARK
6800 HUNTER DRIVE
P. O. BOX 1489
ROHNERT PARK, CA 94927-1489

AUTHORIZED REPRESENTATIVE

SIGNATURE

TITLE

PHONE NO.

Linda Barbera(707) 773-1801

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT**FOR** CITY OF ROHNERT PARK **(the "City")****SUBMIT IN DUPLICATE**

ENDORSEMENT NO.

ISSUE DATE (MM/DD/YY)

06/29/01

PRODUCER

Commercial Lines Unit
ABD Insurance and Financial Services
765 Baywood Drive, Suite 340
Petaluma, CA 94954

Telephone _____

POLICY INFORMATION:Insurance Company: Specialty NationalPolicy No.: 3XZ12635201Policy Period: (from) 07/01/01 (to) 07/01/02LOSS ADJUSTMENT EXPENSE ☐ Included in Limits☐ In Addition to Limits☒ Deductible ☐ Self-Insured Retention (check which) of \$ _____**NAMED INSURED**

Rohnert Park Disposal, Inc.
P.O. Box 1916
Santa Rosa, CA 95402

APPLICABILITY. This insurance pertains to the operation and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered:

CITY AGREEMENTS/PERMITS _____

TYPE OF INSURANCE☒ COMMERCIAL AUTO POLICY☐ BUSINESS AUTO POLICY☐ OTHER _____**OTHER PROVISIONS****LIMIT OF LIABILITY**\$ 1,000,000 per accident, for bodily injury and property damage.**CLAIMS:** Underwriter's representative for claims pursuant to this insurance.Name: Karl MoldremAddress: 765 Baywood Drive, #340Telephone: (707) 769-2900

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, it is agreed as follows:

1. **INSURED.** The City, its officers, officials, employees and volunteers are included as insureds with regard to damages and defense of claims arising from: the ownership operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Named Insured, or for which the Named Insured is responsible.
2. **CONTRIBUTION NOT REQUIRED.** As respects work performed by the Named Insured for or on behalf of the City, the insurance afforded by this policy shall: (a) be primary insurance as respects the City, its officers, officials, employees and volunteers; or (b) stand in an unbroken chain of coverage excess of the Named Insured's primary coverage. Any insurance or self-insurance maintained by the City, its officers, officials, employees and volunteers shall be excess of the Named Insured's insurance and not contribute with it.
3. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be cancelled, except after thirty (30) days prior written notice by receipted delivery has been given to the City.
4. **SCOPE OF COVERAGE.** This policy affords coverage at least as broad as:
(1) If primary, Insurance Services Office form number CA0001 (Ed. 1/87), Code 1 ("any auto"); or
(2) If excess, affords coverage which is at least as broad as the primary insurance forms referenced in the preceding section (1).

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY

CITY OF ROHNERT PARK
6800 HUNTER DRIVE
P.O. BOX 1489
ROHNERT PARK, CA 94927-1489

AUTHORIZED REPRESENTATIVE☒ Broker/Agent ☐ Underwriter ☐ _____

I, Linda Barbera (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____

(original signature required)

Telephone: (707) 773-1801Date Signed 06/29/01

**WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY
SPECIAL ENDORSEMENT**FOR CITY OF ROHNERT PARK (the "City")**SUBMIT IN DUPLICATE**

ENDORSEMENT NO.

ISSUE DATE (MM/DD/YY)

06/29/01

PRODUCER

Commercial Lines Unit
ABD Insurance and Financial Services
765 Baywood Drive, Suite 340
Petaluma, CA 94954

Telephone

POLICY INFORMATION:

Insurance Company: State Compensation Ins. Fund
Policy No.: 48127300
Policy Period: (from) 10/01/00 (to) 10/01/01

OTHER PROVISIONS**NAMED INSURED**

Rohnert Park Disposal, Inc.
P.O. Box 1916
Santa Rosa, CA 95402

CLAIMS: Underwriter's representative for claims pursuant to this insurance.

Name: Karl Moldrem
Address: 765 Baywood Dr. #340
Petaluma, CA 94954
Telephone: (707) 769-2900

EMPLOYERS LIABILITY LIMITS

\$ 1,000,000 (Each Accident)
\$ 1,000,000 (Disease - Policy Limit)
\$ 1,000,000 (Disease - Each Employee)

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, it is agreed as follows:

1. CANCELLATION NOTICE. This insurance shall not be cancelled, except after thirty (30) days prior written notice by receipted delivery has been given to the City.
2. WAIVER OF SUBROGATION. This Insurance Company agrees to waive all rights of subrogation against the City, its officers, officials, employees and volunteers for losses paid under the terms of this policy which arise from the work performed by the Named Insured for the City.

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY

CITY OF ROHNERT PARK
6800 HUNTER DRIVE
P.O. BOX 1489
ROHNERT PARK, CA 94927-1489

**AUTHORIZED
REPRESENTATIVE**☒ Broker/Agent ☐ Underwriter ☐

I, Linda Barbera (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature

(original signature required)

Telephone: (707) 769-2900

Date Signed 06/29/01

EXHIBIT O

SECTION 8.1.2 ADJUSTMENTS

**Exhibit 0-1
City of Rohnert Park**

SECTION 8.1.2 ADJUSTMENT FOR NET NEW CONSTRUCTION

**Analysis of Increased Costs Due to Customer Growth
Residential, Commercial and Multifamily Refuse Collection**

Note: These values shall be updated annually. The first year they will be updated to reflect Year 2 Costs shown on the Proposal Cost Sheets; thereafter, they will be updated to give effect to the adjustments in Sections 8.3 through 8.5.

Assumptions: (From Cost Proposal, Cost Sheets 6A and 6T, First Year)

Annual Direct Costs: \$310,000 (Average of First Two Years)

Direct Cost Per Hour: \$40 (\$310,000/7,800 hours)

Customer Accounts: 9,121

Accounts Per Route: 694

Routes: 2.5

Accounts per Minute: 1.5

Disposal Costs: \$353,570

Assumed TPY: 7,563

Assumed Tons per Account Per Year: 0.8

Assumed Disposal Rate Per Ton: \$46.75

Operating Ratio: 93%

Analysis:

Assume each Route Increases by 20 Customers/Day/Year:

20 Customers x 2.5 Routes = 50 Accounts/Day X 5 Days/Week = 250 Accounts

250 Accounts/1.5 Accounts/Minute = 166 Minutes/60 Minutes/Hour = 2.8 hours

2.8 Hours X \$40 Direct Cost/Hour = \$112/Week

\$112/Week X 52 Weeks/Year = \$5,824 Per Year Direct Cost

250 ACCOUNTS X 0.8 TPY/ACCOUNT = 200 TPY

200 TPY X \$46.75/Ton = \$9,350

Additional Cost for 250 Residential Accounts

Direct Cost: \$ 5,824

Operating Ratio \$ 438

Disposal Cost: \$ 9,350

Total Cost: \$15,612

250 Accounts/ 9,121 Initial Accounts = 2.7% of Initial Accounts

\$ 15,612/\$663,570 = 2.3% of 1st Year Residential Refuse Collection Cost

\$ 15,612/\$2,855,502 = 0.5% of Total 1st Year Cost

Average Annual Cost/Account

\$15,612/250 Accounts = \$62.45/Account

Revenue from Residential Accounts

Low: (2,131 accts.) 35 Gallons = \$10.00 * 12 = \$120

High: (1,022 accts.) 90 Gallons = \$19.95 * 12 = \$239.40

Most Frequent: (4,390 Accts.) 60 Gallons = \$13.00 * 12 = \$156

**Exhibit 0-2
City of Rohnert Park**

**Section 8.1.2 Adjustment for Net New Construction
Analysis of Increased Costs Due to Customer Growth
Commercial and Multifamily Bin Refuse Collection**

Note:

These values shall be updated annually. The first year they will be updated to reflect Year 22 Costs shown on the Proposal Cost Sheets; thereafter, they will be updated to give effect to the adjustments in Sections 8.3 through 8.5.

Assumptions: (From Cost Proposal, Cost Sheets 6I and 6T, First Year)

Annual Direct Costs: \$288,252 (Average of First Two Years)
Direct Cost Per Hour: \$51 (\$288,252/5,616 hours)
Customer Accounts: 302
Stops Per Route Day: 153
Routes: 1.4
Minutes Per Stop: 3.2
Disposal Costs: \$527,808
Assumed TPY: 11,290
Assumed Tons Per Yard Per Year: 2.72 (Refer to Exhibit 0-2.1)
Assumed Disposal Rate Per Ton: \$46.75

Analysis:

Assume 7 – 3 Yard/3 Week Customer Are Added
Customers * 3 Stops/Wk = 21 Stops/Wk
21 Stops/Week * 3.2 Minutes/Stop = 67.2 Minutes = 1.12 Hours/Wk
1.12 Hours/Week * 52 Weeks = 58.24 Hours Annually
58.24 Hours Annually * \$51 per Hour = \$2,970 Annually
Profit @93% Operating Ratio = \$224
Total Annual Direct and Profit Expense = \$3,194

Average Annual Direct + Profit/Stop = \$152 (\$3,194/(21 Stops/Wk))

7– 3Yd/3 Wk Accounts X2.72 TPY/Yard = 171.4 Tons per Year
171.4 TPY * 46.75 = \$8,011 Per Year

Average Annual Disposal Cost Per Yard Per Week = \$382 (\$8,011/21 Yards/Wk)
--

21 Stops/Wk/ 1,285 Initial Stops/Wk = 1.7% of Stops/Wk

\$11,205/\$841,383 = 1.3% of 1st Yr. Comm'l. Ref. Collect. (Direct, Profit & Disp.) Cost
\$11,205/\$2,855,502 = 0.4% of Total 1st Year Cost

Revenue from Commercial Bin Accounts

7– 3 YD/3Wk * 348.28 = \$2,437.96/Month
\$2,437.96/Month * 12 = \$29,255.52

Exhibit 0-2.1
City of Rohnert Park
Section 8.1.2 Adjustment for Net New Construction
Analysis of Increased Costs Due to Customer Growth
CONVERSION OF BIN YARDS TO TONS

Assumptions:

Request for Proposal Attachment 2E – Subscription Volumes
 Proposal Cost Sheet 6I – Disposal Volume

Analysis:

Size	Frequency	No. of Commercial Accounts	No. of Multifamily Accounts	Total Yards
1.5	1	64		96
2	1	41	28	138
2	2	11	7	72
2	3	1		6
2	4	3		24
3	1	25	21	138
3	2	10	41	306
3	3	14	6	180
3	4		2	24
4	1	37	57	376
4	2	37	118	1,240
4	3	26	31	684
4	4	7		112
4	5	6		120
4	6	4		96
6	1	10	6	60
6	2	6		144
6	3	9		162
6	4	2		48
6	5	3		90
6	6	1		36
				4,152
				52
				215,904
				11,290
				0.052 Tons/Yard
				52 Weeks
				2.72 Tons/Yard/Year